



ILLICIT FINANCIAL FLOWS IN KENYA:

Mapping of the Literature and
Synthesis of the Evidence

August 2018

pasgr.org
PARTNERSHIP FOR AFRICAN SOCIAL
& GOVERNANCE RESEARCH

This research report has been produced by the Partnership for African Social and Governance Research (PASGR)



Author: Tiberius Barasa, MA

Editor: Martin Atela, PhD

The study was funded by a generous grant from the Ford Foundation and is licensed under a Creative Commons Attribution 3.0 Unported license based on work produced at PASGR. The views expressed do not necessarily reflect Ford Foundation's or PASGR's official policies.

For permissions beyond the scope of license contact the Partnership for African Social and Governance Research (PASGR)

Published in Nairobi, Kenya

First published: August 2018

© Partnership for African Social and Governance Research (PASGR)

Cover photo by:videblocks.com

Partnership for African Social & Governance Research (PASGR)

6th Floor, I & M Building

2nd Ngong Avenue, Upper Hill

P.O. Box 76418-00508 Nairobi, Kenya

Email: research@pasgr.org

Tel: +254 (0) 20 2985000; +254 (0)729 111031 or +254 (0) 731 000 065

www.pasgr.org

Contents

List of Tables, Boxes and Figures	ii
Acronyms	iii
Executive Summary	v
1.0 Introduction	1
1.1 Background	1
1.2 The Concept of Illicit Financial Flows	1
2.0 The Magnitude of Illicit Financial Flows in Kenya	4
2.1 Context of IFFs in Kenya	4
2.2 The Magnitude of IFFs in Kenya	7
2.3 Determinants and Enablers of IFFs in Kenya	8
2.4 International Financial Centres and IFFs	13
2.5 Implications of IFFs on Kenya's Development	14
3.0 Institutional, Policy and Legal Frameworks for Tackling IFFs	19
3.1 Instruments and Legal Frameworks	19
3.2. Key Institutions and Policy Framework	19
3.3 Civil Society Organisations Initiatives	22
3.4 International Instruments	23
3.5 Key Challenges to Institutional, Policy and Legal Frameworks	23
4.0 Conclusion and Recommendations	25
4.1 Conclusion	25
4.2 Recommendations	26
References	28



List of Boxes

Box 1: Vulnerabilities in Kenya's Financial Systems	5
Box 2: Vulnerabilities in Kenya's Financial Institutions	6
Box 3: The Effects of MNCs-Induced Illicit Financial flows in Kenya	16
Box 4: Policy, Legal Frameworks and Administrative Requirements to fight IFFs	19
Box 5: Central Bank of Kenya Efforts to Curb Illicit Financial Flows	21
Box 6: UN Instruments Against Illicit Financial Flows	24

List of Tables

Table 1: Financial Secrecy in Africa	8
Table 2: Examples of Corruption Scandals Involving Illicit Financial Flows in Kenya	10
Table 3: Government Budget and Public Debt as Percentage of GDP	10
Table 4: Kenya's Multidimensional Poverty Index Relative to Selected Countries	17
Table 5: Kenya's 2015 Gender Inequality Index Relative to Selected Countries	18

List of Figures

Figure 1: Kenya's Fiscal Deficit as a Percentage of GDP	6
Figure 2: Kenya's Debt Service 1980-2016 (KES Billions)	15
Figure 3: HDI Trends for Kenya, Ghana and Sao Tome and Principe, 1990-2015	17

Annexes

Annex 1: Channels & Enablers of Illicit Financial Flows	36
--	----

Acronyms

AML	-	Anti-Money Laundering
AML/CFT	-	Anti-Money Laundering and Countering Financing of Terrorism
AUCPC	-	African Union Convention on Preventive and Compating Corruption
BEPS	-	Base Erosion and Profit Shifting
CBK	-	Central Bank of Kenya
COSs	-	Civil Society Organisations
EITI	-	Extractive Industries Transparency Initiative
ESAAMLG	-	Eastern and Southern Africa Anti-Money Laundering Group
FATF	-	Financial Action Tax Force
FIUs	-	Financial Intelligence Units
FRC	-	Financial Repository Center
FSIV	-	Financial Secrecy Index Value
GDP	-	Gross Development Product
GFI	-	Global Financial Integrity
GII	-	Gender Inequality Index
HNWI	-	High Networth Individuals
IFC	-	International Financial Centre
IFFs	-	Illicit Financial Flows
INCSR	-	International Narcotics Control Strategy Report
KDF	-	Kenya Defense Forces
KES	-	Kenya Shilling
KRA	-	Kenya Revenue Authority
KYC	-	Know Your Customer
LMICs	-	Low and Middle Income Countries
MLAT	-	Mutual Legal Assistance Treaty
MNCs	-	Multinational Corporations

MVTS	-	Money or Value Transfer Service
MPI	-	Multidimensional Poverty Index
NIFC	-	Nairobi International Financial Center
OECD	-	Organisation for Economic Cooperation and Development
PEPS	-	Politically Exposed Persons
POCAMLA	-	Proceeds of Crime and Anti-Money Laundering Act
SDG	-	Sustainable Development Goals
SSA	-	Sub-Saharan Africa
STR	-	Suspicious Transaction Report
TJN	-	Tax Justice Network
UK	-	United Kingdom
UN	-	United Nations
UNECA	-	United Nations Economic Commission for Africa
UNCTAD	-	United Nations Conference on Trade and Development
UNODC	-	United Nations Office on Drugs and Crime
VAT	-	Value Added Tax

Executive Summary

Illicit Financial Flows (IFFs) are a persistent challenge in developing countries, particularly in Sub-Saharan Africa (SSA). IFFs account for huge sums of money transferred out of SSA countries illegally, stripping these countries of resources that could be used to finance much-needed public services such as security, justice, education and health. For instance, it is estimated that Kenya has been losing an average of KES 40 billion every year through illicit financial flows since 2011 as government, local firms and multinationals engage in fraudulent schemes to avoid tax payments. This synthesis brings together the evidence on IFFs and interrogates common themes, practices and policies on IFFs and associated tax reforms to tackle IFFs in Kenya. It analyses the evidence on nature, magnitude, determinants and implications of IFFs and assesses to what extent institutional policy and legal frameworks have succeeded in curbing IFFs. The paper adopts the Global Financial Integrity (GFI) Research Institute's definition of IFFs as 'cross-border transfers of funds that are illegally earned, transferred, or utilized.' The synthesis encompasses published and grey literature on IFFs and relevant policy, legal and administrative frameworks.

In Kenya, tax evasion through IFFs occur mainly through mis-invoicing, transfer pricing, trade in contraband goods, corruption and trafficking of persons and drugs. IFFs take many forms including those done through grand corruption scandals involving the transfer of illicit money by the ruling political elites since independence. Key actors involved include officials of government agencies such as the military, police and the Kenya Revenue Authority (KRA). Another important group of actors involved in IFFs are multinational corporations (MNCs) who dodge income tax on the hefty pay perks for their expatriates through mis-invoicing and transfer pricing. For instance, while some flower firms in the Netherlands make huge profits contributing \$250 million a year to their flower market, their subsidiaries in Kenya report losses. It is estimated that Kenya could be losing much more through tax evasion by the foreign firms whose employees may not be listed on the KRA's i-Tax platform.

IFFs in Kenya are sustained by four main factors: 1) the existence of a vulnerable financial system that allows huge financial outflows averaging KES 40 billion annually; 2) reduced tax revenue which contributes to increased budget deficit and rising national debt; 3) constrained social and economic development; and 4) weak institutional, legal, policy and administrative frameworks to fight IFFs. The features that make Kenya's financial system vulnerable to IFFs include: a cash-based informal financial system; weak banking, regulatory and supervisory frameworks; low levels of compliance in preventive measures; weak international cooperation in complying with preventive measures; weak institutional, technical and human capacity; inadequate mechanisms that do not facilitate transparency; and non-transparency in the financial system.

Kenya has been losing an average of KES 40 billion every year through illicit financial flows since 2011

Another important group of actors in IFFs are MNCs who dodge income tax on the hefty pay perks for their expatriates and carry out mis-invoicing and transfer pricing.

While some flower firms in the Netherlands make huge profits contributing \$250 million a year to their flower market, their subsidiaries in Kenya report losses.

The enablers of IFFs are a heterogeneous network of professionals from organisations and individuals who flout and exploit loopholes in both national and international laws to facilitate cross-border IFFs. The actors involved in IFFs effectively use the counsel and assistance of a hub of experts and professionals like bankers, lawyers, notaries, chartered accountants, wealth managers, bookkeepers, auditors and brokers to hide their illegal practices. The situation is worsened by lack of accurate data which often excludes some clandestine forms of IFFs such as the proceeds of bribery, contraband goods, corruption and trafficking of drugs, people and firearms.

Reviewed evidence points to severe implications of IFFs on Kenya's economic, social and political development agenda. The practice of illegally hiding income from tax authorities and sending it abroad impedes government efforts to mobilize domestic resources. Some of the loans that have been guaranteed by the government flow immediately and directly into foreign private accounts. This exacerbates government debt and forces the country to depend on foreign aid. Kenya's foreign and domestic debts are alarming, reaching KES 4.6 trillion in 2017 as the country struggles to service it. The reduction in government revenue and the subsequent decline in spending on public services worsen social development outcomes in key areas such as health and education.

Kenya has adopted several initiatives to tackle IFFs. Key among these is joining global regimes against IFFs such as the Global Forum on Transparency and Exchange of Information for Tax Purposes; the Base Erosion and Profit Shifting Project (BEPS); and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Kenya has also established several legal and administrative frameworks and requirements, even though the existence of these frameworks has not helped much in curbing IFFs because there has been little enforcement. The main institutions mandated to fight IFFs in Kenya -the Central Bank of Kenya (CBK), the Kenya Revenue Authority (KRA) and the National Treasury- face numerous challenges limiting their effectiveness. Such challenges include: the vulnerability of Kenya's financial sector due to the country's strategic position in the region which see it attract both well-intentioned and ill-intentioned investors; weak inter-agency cooperation between the financial sector regulators, law enforcement agencies and the financial institutions; weak laws and internal controls governing financial institutions; and limited engagement with international bodies tackling IFFs.



Effective containment of IFFs in Kenya requires collaboration between the different arms of government, the private sector, and the international community. The focus of the collaboration should be to strengthen preventive measures, surveillance systems, IFF detection and recovery procedures.

Policy measures should aim at strengthening institutions to enhance the rule of law, meeting contractual

obligations and property rights protection for agents in the economy. In addition, there is need for further multidisciplinary research that addresses research questions regarding the strengths and weaknesses of existing methods to ascertain the volume and channels of IFFs. The research should identify means of complementing existing data and strengthening methodological approaches to derive more precise estimates of IFF volumes. The research should also address the main incentives and regulatory issues involved in trade-related IFFs; roles, responsibilities and capacities of key stakeholders along the value chain to effectively curb IFFs. The most promising policy responses and cooperation frameworks should be strengthened or established and linked to regional and global efforts. There is need to create awareness on available international instruments and established legal obligations in the field of IFFs as well as online toolkits for curbing IFFs. Kenya should actively seek and strengthen international financial and technical cooperation in combating corruption and in reforming its fiscal systems.



Source: Central Bank of Kenya

1.0 Introduction

1.1 Background

Increased globalization of financial markets brings to light the significance of illicit financial flows (IFFs) (GFI, 2013). While there are difficulties in measuring the exact scale of IFFs originating in developing countries, there is a common agreement that IFFs have been worth more than official development assistance from OECD donor countries (Herkenrath, 2014). They account for huge sums of money illegally transferred out of SSA countries, stripping these countries of resources that could be used to finance much-needed public services such as security, justice, education and health. IFFs weaken the financial systems and economic potential of SSA countries. The impact of IFFs is severe given the small resource base and markets that most of these countries have (OECD, 2013). IFFs are therefore considered one of the most persistent challenges in developing countries, particularly in Sub-Saharan Africa (SSA).

This paper synthesizes published and non-published literature on IFFs and identifies common themes, practices and policies on IFFs in Kenya. The synthesis highlights available evidence and identifies gaps in research that need immediate attention. The study assesses the implications of IFFs on Kenya's socio-

economic development and the institutional policy and legal framework for curbing IFFs. The synthesis adds knowledge to existing literature on the conceptual understanding of IFFs and their impact on development policy agendas. In this introductory section, we present conceptual issues that are important in defining IFFs and highlight the difficult in defining the concept. Section 2 presents the magnitude of IFFs in Kenya and highlights the channels, enablers, estimates, determinants and their implications on the development of Kenya. Section 3 interrogates the institutional, policy and legal frameworks for curbing IFFs in Kenya. Section 4 presents conclusions and recommendations for policy uptake.

1.2 The Concept of 'Illicit Financial Flows'

The concept of illicit financial flows is not widely discussed in most of the available scientific literature. Most of the literature provide comprehensive theoretical and empirical writings referring more to the concept of capital flight. Capital flight denotes financial transfers taking place under the portfolio choice model in neoclassical literature, for reasons of profit making or for

While there are difficulties in measuring the exact scale of IFFs originating in developing countries, there is a common agreement that IFFs have been worth more than official development assistance from OECD donor countries



fear of political risks (Herkenrath, 2014). The conventional economic wisdom equates IFFs to capital flight, while purporting that they result from rational reallocation of capital from developing countries in response to the favorable risk–return investment opportunities in the developed world and investors’ desire for portfolio diversification (Sheets 1996; Collier, Hoeffler, and Pattillo 2001; Le and Zak 2006). In this regard, the terms are used inter-changeably throughout the paper.

In effect, wealthy individuals and multinational companies usually believe that the risk-adjusted returns on assets invested abroad are higher than those in developing countries. This is because developing countries are prone to macroeconomic policy distortions, such as overvalued exchange rates, huge fiscal deficits, unfair taxation of capital gains, and interest rate controls under financially repressed markets (Ajayi 1995; Lensink, Hermes, and Murinde 1998). Capital flight refers to the movement of funds abroad in order to secure better returns, often in response to an unfavorable business climate in the country of origin (UNECA 2013). Capital movements are rationally motivated and seem to take place in reaction to investment-inhibiting conditions and, are thus treated to some extent as morally justified.

Some authors have questioned whether capital flight does in fact occur mainly for morally legitimate reasons (see for instance Ndikumana 2013). Ndikumana argues that the enormous capital outflows from the African continent can hardly be explained any longer by insufficient investment opportunities in the countries of origin or as a reaction to political risks. He believes

IFFs weaken the financial systems and economic potential of SSA countries. The impact of IFFs is severe given the small resource base and markets that most of these countries have.

that local investment opportunities are too many and the risks too negligible. Hence, the main reasons for continuing capital flight are illicit motives such as tax evasion and the concealment of corruption Ibid (pg. 7). There is no conclusive evidence for portfolio choice motive in the literature (Herkenrath, 2014). This lack of evidence supports the views of both Ndikumana (2013) and Herkenrath (2014) that to a large extent, in contexts such as Africa, capital flight is driven by illicit motives and cannot be addressed merely by relying on policies aimed at raising domestic return on investment. It seems clear in the literature that the originators of capital outflows do not react primarily to harsh investment conditions but play a significant role in helping to trigger these conditions. It is also clear that the terminological shift from the concept

of capital flight to that of IFFs underscores the shared responsibility of those industrialised countries which, as tax havens¹, actively facilitate and encourage such flows (Baker, 2008).

Despite the vagueness of the concept of IFFs, a conceptual consensus has gradually emerged in recent years that defines IFFs as cross-border capital transactions that conceal and facilitate illegal activities. There are various definitions of IFFs, some of these generated by methods, practices and crimes aiming to transfer financial capital out of a country in contravention of national or international laws (OECD 2013). IFFs can also be looked at in terms of outcomes - as financial flows that have a direct or indirect negative impact on (long-term) economic growth in the country of origin (Blankenburg and Khan 2012). The problem with this definition is that the impact of a financial flow must already be known

¹Tax havens are also referred to as secrecy jurisdictions and are defined as those territories that offer favorable tax regimes and bank secrecy laws designed to attract foreign investors. They have no or nominal tax rates, along with other features such as lack of effective exchange of tax information with other countries and/or lack of transparency in the tax system. For more on tax havens, see Hines 2004; OECD, 1998; and TJN UK 2008).



The originators of capital outflows do not react primarily to harsh investment conditions but play a significant role in helping to trigger these conditions. It is also clear that the terminological shift from the concept of capital flight to that of IFFs underscores the shared responsibility of those industrialised countries which, as tax havens, actively facilitate and encourage such flows



before it can even be deemed to be illicit. It is almost impossible to gauge the impact of a phenomenon when that phenomenon cannot be circumscribed beforehand. There are no international comparative datasets with IFFs estimates that correspond to this definition by Blankenburg and Khan.

This paper adopts a conceptual understanding that defines IFFs with reference to illegal activities. It takes the definition by the Global Financial Integrity (GFI) research institute as 'cross-border transfers of funds that are illegally earned, transferred, or utilized' (GFI, 2013). This definition, adopted by several international organisations, views IFF acts as illegal because the funds acquired through illegal activities and/or are used for illegal purposes.

This paper therefore considers the following cross-border illegal activities (also identified by UNODC, 2017) to constitute illicit financial flows: corruption, extortion and kidnapping; offensive tax avoidance; tax evasion; transfer mispricing; money laundering; criminal proceeds; market abuse; hiding wealth in offshore havens; dodging customs duties and domestic levies; drug trafficking; trafficking in persons; smuggling of migrants; production and sale of counterfeit goods; illicit trade in firearms; and trafficking in natural resources and wildlife. The operational principle is that the transfers in question may take place through registered channels but mostly through unregistered channels because their background or purpose is illegal.

2.0 The Magnitude of Illicit Financial Flows in Kenya

2.1 Context of IFFs in Kenya

Kenya, like most countries in Sub Saharan Africa, is grappling with the challenge of IFFs in a context of low average income, patron-client political relations and domestic and global financial systems that facilitate capital flight from Africa. At the domestic level, a high presence of foreign banks and underdeveloped financial markets, weak banking regulatory and supervisory frameworks, capital controls, and the take-off of mobile banking are providing conducive context for capital flight (Massa 2014). On the global side, factors that facilitate IFFs include opaque banking systems, secrecy jurisdictions or tax havens, new payment methods, financial derivatives, hedge funds and private equity funds (ibid). While these general factors may facilitate IFFs in many countries in Africa and in other regions around the world, some of them may not apply in the case of Kenya. For instance, there is no evidence that the take-off of mobile banking in Kenya is being used to transfer large amounts of money abroad, even though it has the potential to be used to engage in capital flight activities, especially if not well regulated and monitored. The Kenyan financial system has distinct features which makes it vulnerable to IFFs. These are summarized in Box 1.

In early 2018, the National Treasury Cabinet Secretary acknowledged that the government loses a significant amount of tax revenues through MNCs (Leite, 2012; Xinhua, 2018). The Cabinet secretary also acknowledged that MNCs tend to over-invoice imports and under-invoice exports to reduce their tax liabilities. This ultimately reduces the government's revenue collection base and increases the budget deficit. This acknowledgement is supported by the International Narcotics Control Strategy Report 2018 (INCSR) which warned that Kenya remains vulnerable to money laundering and financial fraud. The report noted that "money laundering occurs in the formal and informal sectors, deriving from domestic and foreign criminal operations. Criminal activities include transnational organized crime, cybercrime, corruption, smuggling, trade invoice manipulation, illicit trade in drugs and counterfeit goods, trade in illegal timber and charcoal, and wildlife trafficking" (INCSR, 2018). INCSR identified the vulnerabilities in the financial institutions (see Box 2).



The Cabinet secretary also acknowledged that MNCs tend to over-invoice imports and under-invoice exports to reduce their tax liabilities.

Box 1: → Vulnerabilities in Kenya's Financial Systems

1. **Cash-based informal financial systems:** Financial inclusion is limited in Kenya. Only a small section of the population have bank accounts, insurance policies and other forms of financial securities. These hamper efforts to trace illicit financial flows from Kenya.
2. **Weak banking regulatory and supervisory frameworks:** This largely hinders the effective implementation of initiatives aimed at reducing illicit financial flows from Kenya.
3. **Low level of compliance to preventive measures:** Carrying out due diligence, in particular, the identification and verification of beneficial owners of corporate entities, remains a significant challenge.
4. **Weak international cooperation in complying with preventive measures:** Kenya has not fully implemented Anti-money Laundering and terrorism laws.
5. **Lack of institutional, technical and human capacity:** These hamper financial sector regulators' ability to curtail the movement of illicit financial outflows from financial institutions in the country.
6. **Non-existence of necessary infrastructure:** Infrastructure is required to support regulators efforts to combat illicit financial flows such as Financial Intelligence Units (FIUs), beneficial ownership registries or asset recovery units.
7. **Lack of the vital skills:** These skills are required for tracking illicit financial flows, including the ability to profile money laundering risks and analyse suspicious transactions.
8. **New technologies:** The International Financial Centre uses sophisticated technologies that also facilitate illicit financial flows.
9. **Inadequate mechanisms** for facilitating transparency Kenya has not adopted mechanisms such as the Kimberley Process for diamonds or the Extractive Industries Transparency Initiative (EITI) that can help improve transparency.
10. **A non-transparent financial system:** It is difficult to determine who ultimately owns and controls, corporate entities that have established business relationships with financial institutions.

Source: Adapted from Njoroge, 2016.

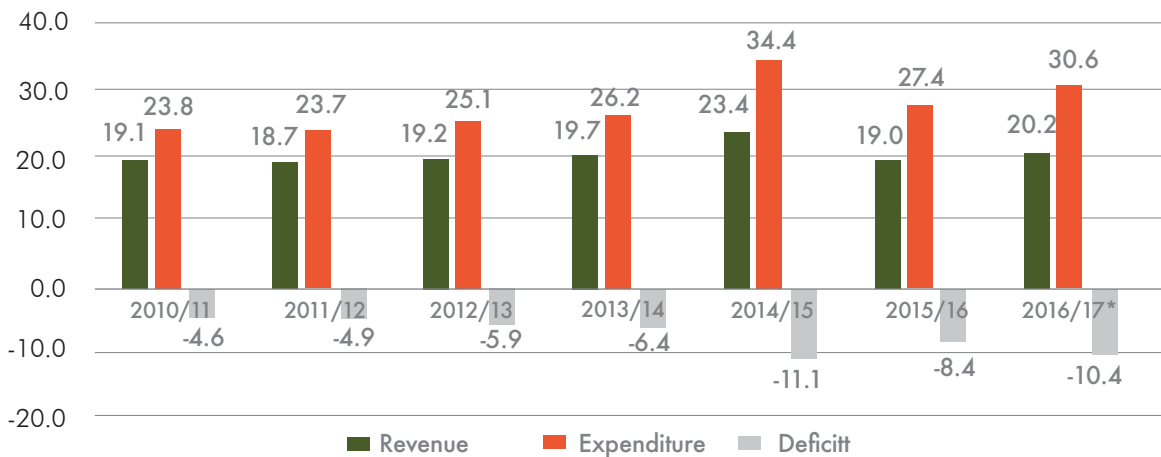
Box 2: → Vulnerabilities in Kenya’s Financial Institutions

“The financial institutions engage in currency transactions connected to international narcotics trafficking, involving significant amounts of U.S. currency, which is derived from illegal sales in the United States and in Kenya. Banks, wire services, and mobile payment and banking systems are increasingly available in Kenya. Nevertheless, unregulated networks of hawaladars and other unlicensed remittance systems facilitate cash-based, unreported transfers that the government cannot track. Foreign nationals, including refugee populations and ethnic Somali residents, primarily use the hawala system to transmit remittances internationally. Diaspora remittances to Kenya totaled U.S. \$1.21 billion between January and September 2017. There are about 165,900 mobile-money agents in Kenya, most working through Safaricom’s M-Pesa system. There are also over 14 million accounts on M-Shwari, a mobile lender. These services remain vulnerable to money laundering activities. Kenya is a transit point for the region and for international drug traffickers. Kenya’s proximity to Somalia makes it an attractive location for laundering certain piracy-related proceeds, and there is a black market for smuggled and grey market goods. Goods reportedly transiting Kenya are not subject to customs duties, but authorities acknowledge many such goods are actually sold in Kenya. Trade in goods is often used to provide counter-valuation in regional hawala networks”.

Source: INCSR, 2018.

As of early 2018, Kenya’s tax revenue to GDP stood at 20.2 percent while expenditure at 30.6 percent, thus, creating a deficit of about 10.4 percent (see Figure 1).

Figure 1: Kenya’s Fiscal Deficit as a Percentage of GDP



Source: Were, 2017

It is estimated that since 2011, Kenya has been losing an average of KES 40 billion annually through IFFs as government, local firms and multinationals engage in fraudulent schemes to avoid tax payments.

Kenya missed its revenue targets in 2017 by KES 54.8 billion and is likely to fall short by a wider margin in the financial year 2018. Actual receipts for the period between July 1 and August 31, 2017 reached KES 251 billion, down from KES 291.8 billion recorded over a similar period in the previous year .

2.2 The Magnitude of IFFs in Kenya

The actual volume of IFFs in Kenya is unknown. Available evidence is anecdotal and most tend to underestimate figures. For instance, it is estimated that between 2002 and 2011 Kenya lost more than KES 160 billion in IFFs (Wafula, 2015). Trade mispricing, payments between parent companies and their subsidiaries, and profit-shifting mechanisms designed to hide revenues are some of the common channels used by the generators of IFFs. IFFs are directed through mis-invoicing of trade as exports and imports are booked at different values to avoid taxes or to hide large transfers of money (Amadala, 2017). Lack of accurate data means that the prevailing estimates are unreliable and often exclude some forms of IFFs that by nature are secret, such as proceeds of bribery, corruption and trafficking of drugs, people and firearms. It is estimated that since 2011, Kenya has been losing an average of KES 40 billion annually through IFFs as government, local firms and multinationals engage in fraudulent schemes to avoid tax payments (Ibid).

The period between 2011 and 2018 witness an increase in losses incurred by Kenya as a result of IFFs. In 2017 for example, Kenya lost KES 240 billion through IFFs as compared to KES 160 billion in 2011. This is part of the evidence showing that IFFs is a serious development constraint in Kenya at the time the country is struggling to meet its revenue targets. Kenya missed its revenue targets in 2017 by KES 54.8 billion and is likely to fall short by a wider margin in the financial year 2018. Actual receipts for the period between July 1 and August 31, 2017 reached KES 251 billion, down from KES 291.8 billion recorded over a similar period in the previous year (Reuters, 2017). It is also worth noting that the above corruption scandal have taken pace in a context of a new constitutional dispensation in Kenya,

meaning these reforms have not slowed the pace of corruption and IFFs, as epitomized by the Goldenberg scandal in which US\$ 2.1 billion was lost (Kenya Forum, 2013). During President Kibaki's regime (2002 – 2012), the improvement in political rights and media freedom, as well as the declining arbitrary powers of the executive, have been associated with declines in the level of IFFs.

Nonetheless, corruption and associated IFFs remain a challenge for the country (for instance the cases of Anglo Leasing and Tokyo Embassy Property Scams). During Uhuru's presidency (since 2013) the country has continued to witness a peculiar tendency by the executive branch to claim arbitrary powers with the enactment of several legislations limiting civil liberties particularly, media freedom and the independence of non-governmental organisations. Corruption has risen as institutions of accountability are undermined or remain weak. Most of the stolen money through corruption ends up leaving the country as the culprits fear being traced, discovered and/or having the stolen money either shared with other corrupt officials or recovered. In the case of Kenya, new laws and regulations have been inadequate to address IFFs; there is clear need for political will, tax reforms and accountability measures which provide sanctions and encourage compliance to deal with IFFs.

As shown in Table 1, Kenya is the most secretive jurisdiction in Africa with a secrecy score of 80.05 percent (Tax Justice Network, 2018). Kenya registered a financial secrecy score of 80 per cent, sixth highest in the world after Vanuatu (88.6), Bahamas (84.5), Paraguay (84.3), Maldives (81.1) and Bolivia (80.3). This strongly suggests that Kenya is a corridor for IFFs including tax evasion and money laundering.

Table 1: Financial Secrecy in Africa

Rank	Jurisdiction	FSI Value	FSI Share	Secrecy Score	Global Scale Weight
27	Kenya	378.35	1.19%	80.05	0.04%
38	Liberia	277.29	0.87%	79.70	0.02%
49	Mauritius	223.47	0.70%	72.35	0.02%
50	South Africa	216.44	0.68%	56.10	0.18%
75	Tanzania	128.92	0.41%	73.40	0.00%
77	Seychelles	125.26	0.40%	75.20	0.00%
95	Ghana	68.85	0.22%	61.75	0.00%
103	Botswana	39.45	0.12%	68.73	0.00%
106	Gambia	34.51	0.11%	76.63	0.00%

Source: Tax Justice Index, 2018.

The USA and Switzerland are the countries with the highest FSIV in the world scoring 1590 and 1398 respectively. Despite the availability of some data on the magnitude of IFFs and its activities in Kenya, accurate data is not available and the current estimates do not capture data on some forms of illicit financial flows. Studies that endeavor to demonstrate the exact volumes in disaggregated channels or forms of IFFs as well as the impact of IFFs on human development index will assist in improving data accuracy and improving policy frameworks for combating illicit financial flows.

2.3 Determinants and Enablers of IFFs in Kenya

2.3.1 The Channels and Enablers of IFFs

A variety of channels and enablers or actors/gatekeepers generate IFFs in Kenya. For expositional purposes, we identify seven distinct groups, although some organisations or entities and individuals may participate in more than one of these channels (see Annex 1). The enablers are a heterogeneous network of professionals from organisations or entities and individuals that flout and use loopholes in both national and international laws to generate and drive

the cross-border outflow of IFFs. The entities or High Net Worth Individuals (HNWI) effectively use the counsel and assistance of a hub of experts and professionals like bankers, lawyers, notaries, chartered accountants, wealth managers, bookkeepers, auditors and brokers to hide this trail of money. Waris (2014) argues that with Kenya being an aid-recipient country, the establishment of an IFC is problematic as some features of IFCs are likely to undermine the achievement of crucial goals pursued by donors (e.g. tax collection, domestic revenue generation, and financial integrity and transparency) when they assist LMICs. This raises the question of how donors should respond to plans for the creation of an IFC in an aid-recipient country.



Source: Intradebook

Despite the availability of some data on the magnitude of IFFs and its activities in Kenya, accurate data is not available and the current estimates do not capture data on some forms of illicit financial flows.

2.3.2 Determinants of IFFs

Political Will

The root cause of all IFFs is not necessarily poor policy or capacity constraints in administration, but lack of political will. Tax evasion, mis-invoicing, transfer pricing, corruption, trafficking of persons and drugs flourish in the absence of the political ambition to build a legitimate and effective state. Such effectiveness, including the effectiveness of tax systems, derives from formal and informal institutional arrangements or political settlements that establish state legitimacy, promote prosperity, and raise public revenue. The commitment to these arrangements distinguishes illicit from illegal. It requires that political leaders and taxpayers perceive the need for effective tax systems to provide the state with the resources necessary to enforce their own property rights, deliver political stability, and promote economic growth. The extent and form of tax evasion derive from the political consensus to tax effectively and develop the administrative capacity to do so. This, in turn, shapes and reflects the intrinsic willingness to pay taxes (tax morale) by taxpayers.

Strength of Political Institutions

To contain all forms of IFFs including tax evasion, the weak legitimacy of the state must be addressed because IFFs can be a consequence of weak legitimacy of the state which permits corruption and rent seeking from

unconstrained leaders and officials, in a context of extractive political institutions (Sachs and Warner 1995; Clague et al. 1996; Rodrik, Subramanian, and Trebbi 2002; Acemoglu et al. 2003; Acemoglu, Verdier, and Robinson 2004). Evidence from a recent empirical study supports the view that the extent of arbitrary executive powers is positively associated with illicit financial outflows and concludes that weak political institutions enable illicit financial flows. In particular, rent extraction from Kenya is the result of an unrestrained executive branch and weak/illegitimate state institutions (Letete and Sarr 2017). The study demonstrated that Kenya continues to be characterized by corruption and debt-fueled capital outflows, even though these conditions stifle its economic development (ibid). According to Letete and Sarr (2017), constraining the executive's powers is likely to reduce the magnitude of illicit financial flows from Kenya.

Political Patronage and Corruption

Evidence from the late 1970s to the early 21st century further points to the role of high level corruption and rent seeking sustained by an entrenched system of political patronage which results in the transfer of illicit money by the ruling political elites. Corruption and the illicit capital outflows from Kenya have been a cause for concern for majority of ordinary Kenyans who remain poor, despite increasing debt acquired in their names by the ruling political elites (see Table 3).



Corruption and the illicit capital outflows from Kenya have been a cause for concern for majority of ordinary Kenyans who remain poor, despite increasing debt acquired in their names by the ruling political elites.



Table 2: Examples of Corruption Scandals Involving IFFs from Kenya

Scandal	Estimated Amount Involved
Goldenberg Scandal	US\$ 2.1 billion**
Helicopter Servicing Contract	KES 360 million*
Navy Ship Deal	KES 4.1 billion*
Contracting Hallmark International Scandal	US\$ 3 million*
The Construction of Nexus	US\$ 36.9 million *
The Passport Equipment System Deal	GBP 20 million*
Education Scandal	US\$ 1 million*
Grand Regency Scandal	GBP 5 billion*
Moi Scandal	GBP 1 billion*
2009 Triton Oil Scandal	US\$ 98.7 million*
Anglo Leasing	KES 4.4 billion***
Tokyo Embassy Property Scam	KES 1.57 billion**
National Youth Service Scam 1 (2015)	KES 791 million***
Eurobond 1 (2016)	KES 215 billion***
National Youth Service Scam 2 (2018)	KES 9 billion**
Maize and Fertilizer Scam (2018)	KES 1.9 billion****

Source: *Report on Corruption in Kenya, 2005 by WikiLeaks; ** Kenya Forum, 2013; ***Wafula, P., 2016; ****Murbi, 2015.

IFFs and corruption are claimed to have depleted the already meager public resources, resulted in suboptimal investment and rising debt levels (see Table 4), and undermined tax moral accountability between citizens and the State.

Table 3: Government Budget and Public Debt as % of GDP

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17*
Revenue	18.7	18.3	18.7	19.1	18.7	19.2	19.7	23.4	19.0	20.2
Government Expenditures	23.1	22.3	23.5	23.8	23.7	25.1	26.2	34.4	27.4	30.6
Recurrent	17.4	16.1	17.3	16.9	16.3	18.1	16.1	17.4	15.8	15.7
Development	5.7	6.0	6.2	6.8	7.4	6.8	6.3	12.4	7.5	11.0
Public Debt	37.7	39.6	40.8	43.1	41.7	42.9	48.4	49.6	54.2	51.5
Domestic	18.6	19.4	21.9	22.2	21.5	23.3	25.3	24.3	27.9	26.0
External	19.1	20.2	18.9	21.0	20.2	19.6	23.0	25.4	26.3	25.5
Total Interest	2.1	2.0	2.1	2.2	2.2	2.7	2.5	2.9	3.0	3.4
GDP at current mkt price (FY) bn	2,317	2,673	3,017	3,448	3,994	4,503	5,072	5,811	6,508	7,435

Source: Were, 2017

The Kenyan government is denied billions of shillings in taxes yet some of its agencies, including the military, police and KRA, have been reported to be the epicenter of this illegal trade.

The active involvement of the KDF and other Kenyan state agencies in illicit trade makes the Kenyan state a co-producer of illicit practices, thus effectively setting the state against itself. This illicit trade amounts to \$400 million (KES 40 billion) worth of annual revenue shared between KDF, Al-Shabaab, local businessmen, politicians, the police and KRA officials.

Legal and Institutional Framework

The central argument emerging from the literature is that the exploitation of discretionary power is permitted by weak political, administrative, and legal institutions (Bardhan 1997; Andvig et al. 2001; Aidt 2003). Under this condition, IFFs arise from the desire to hide illegally accumulated wealth abroad and not necessarily due to interest rate differentials between countries or macroeconomic policy distortions (Kar and Cartwright-Smith 2008, 2010; Heggstad and Fjeldstad 2010). The evidence supports the argument that, the situation in which foreign debt and capital flight are highly correlated, is a result of extraction of resources by elite groups stealing from their countries and concealing the proceeds overseas. Accordingly, IFFs from Kenya sometimes result from corruption among the political class including unscrupulous business gurus.

A case study of sugar smuggling along the trade corridor between Kismayu in Somalia and Nairobi in Kenya revealed the involvement of militants, Kenyan Defence Forces (KDF), bureaucrats, politicians, businessmen, and truck drivers (Rasmussen, 2017). Sugar smuggling in Northern Kenya is informed by decades of political marginalisation of the Northern territories by the Kenyan central government. Corruption and structural neglect of domestic sugar production in Western Kenya is also influenced by struggles over political power in Nairobi. In contrast to the sugar that comes in through Mombasa, which is imported by licensed traders, the one from Somalia is contraband and is mostly from Brazil.

The Kenyan military, its Somali allies and Al-Shabaab militants are cooperating on the trade in a move that has serious security consequences for both Kenya and Somalia. The Kenyan government is denied billions of shillings in taxes yet some of its agencies, including the military, police and KRA, have been reported to be the epicenter of this illegal trade. The KDF's involvement undermines its legitimacy. It also gives the trade an important role in escalating security concerns and instability on both sides of the border. It is ironic that the Kenyan government sets up the rules of taxation and official passage across the border, hence defining illicitness as non-compliance with these rules. Yet the active involvement of the KDF and other Kenyan state agencies in illicit trade makes the Kenyan state a co-producer of illicit practices, thus effectively setting the state against itself. This illicit trade amounts to \$400 million (KES 40 billion) worth of annual revenue shared between KDF, Al-Shabaab, local businessmen, politicians, the police and KRA officials (Rasmussen, 2017).

The Role of Multinational Corporations

The principal actors in the global political economy and financial systems are the MNCs and private sector organisations (Okoth, 2015). MNCs are companies with their parent headquarters located in one country and subsidiary operations in a number of other countries. MNCs view the world as a single entity and their impact transcends national boundaries. They make decisions not in terms of what is best for the home or host country of operations, but rather what is best for the corporations as a whole on an international basis. The basic principle on which these corporations operate is that they consider the entire world their marketplace. They organise production and marketing of products with little regard for national interest in order to maximise profits (Guguyu, 2015). Thus, it is always highly likely that their involvement in IFFs is huge and are often challenged by

organisational transparency requirements. MNCs rarely disclose information on the profits their subsidiary companies are making. As acknowledged by the KPMG East Africa, “It is not just a perception that multinationals are fleecing governments through transfer pricing; it is a reality. All the East African countries are trying to control that” (Kinuthia, 2015). Organizational transparency is fundamentally important because it allows local stakeholders to know which companies are operating in their territories, are bidding for government licenses or contracts, or have applied for or obtained favorable tax treatment. The implementation of a comprehensive range of transparency (anti-corruption) policies and management systems is fundamental in efforts to prevent and remediate IFFs by MNCs and private sector organisations.

As many of the recent corporate scandals have shown, acts of corruption within organisations are often aided by (lack of transparency within organisations) the use of opaque company structures and secrecy jurisdictions. Transparency International (2016) believes that public reporting by companies on their anti-corruption programmes allows for increased monitoring by stakeholders and the public at large, thereby making companies more accountable.

Despite MNCs and private sector organisations being aware of the benefits of corporate reporting on a range of corporate responsibility issues, including their anti-corruption programmes, their use of voluntary sustainability reporting guidelines such as those provided by the Global Reporting Initiative continues to be inadequate and ineffective (Transparency International, 2014).

Tax evasion by multinational companies is a key avenue for illicit capital flight (Kiarie, 2011). Multinationals are denying Kenya billions of shillings in revenue by dodging income tax on the hefty pay perks for their expatriates. An employment relationship gone sour blew open the lid that kept the secrets of a multinational firm that has evaded close to KES 1 billion in taxes. A senior employee of a road construction firm who was taken to court by the employer to gag him from revealing secrets of the company turned around and laid the scheme bare. Solel Boneh International (SBI) Holdings, in a case first mentioned on December 5, 2012 sought interim orders prohibiting its former finance manager from disclosing its trade secrets and other confidential information (Okoth, 2015). The former finance manager would later ask for special damages including the release of the taxes withheld during the six years he had worked at the firm after he failed to obtain tax clearance. It then emerged that the company had not been deducting or remitting the compulsory income tax from his pay perks, which were cleverly divided into two to keep off the taxman’s net. SBI paid the former finance manager a net monthly salary of US\$9,750 and a gross monthly local salary of KES 383,000, according to documents presented in court (Ibid). It is also possible that were it not for the contractual fall out between the firm and former finance manager, it would have been difficult to detect SBI’s tax evasion schemes. As Njiraini (2015) confirmed,

“such schemes are not strange, particularly in the hotel and construction industries. The taxman is banking on cross-border sharing of information and third-party data to curb the fraud. It is obviously going to become bigger and bigger as Kenya establishes itself as a regional hub because we have more expatriates coming in. We have fairly significant successes in curbing these cases.

Organizational transparency is fundamentally important because it allows local stakeholders to know which companies are operating in their territories, are bidding for government licenses or contracts, or have applied for or obtained favorable tax treatment.

Multinationals are denying Kenya billions of shillings in revenue by dodging income tax on the hefty pay perks for their expatriates.

An employment relationship gone sour blew open the lid that kept the secrets of a multinational firm that has evaded close to KES 1 billion in taxes.



What is more important is that we develop the capacity to the level that companies locating regional offices here know we are capable of detecting these issues” (Njiraini, 2015).

MNCs in the flower industry are also involved in IFFs activities. Most flower firms based in Naivasha, Kenya are subsidiaries of Dutch-based companies from the Netherlands which, is recognized as a leading tax haven. There are studies that have shown that the Netherlands tax system has similarities with tax havens since it allows the creation of special vehicles (foundations, trusts etc.) that are usually used for tax planning and avoidance (Nyabiage, 2010). KRA contacted Flora Holland, the world’s largest flower marketer based in the Netherlands to understand the operation of the fresh flower market. Flora Holland informed KRA that Kenyan flower firms contribute \$250 million a year in the flower market in Holland (Njiraini, 2010). Mr. Njiraini in a statement delivered to journalists indicated that there have been cases where MNCs report losses in Kenyan subsidiaries while their parent firms are making huge profits, noting

Kenyan flower firms contribute \$250 million a year in the flower market in Holland

there have been cases where MNCs report losses in Kenyan subsidiaries while their parent firms are making huge profits

Kenya could be losing much more through tax evasion by the foreign firms whose employees may not be captured on KRA’s i-Tax net.

that KRA was investigating possible abuse of transfer pricing policies by these firms (Ibid).

Kenya hopes to hook multinational tax cheats through the Global Forum on Tax Information Exchange which focuses on the corporate tax that multinationals channel to countries where they can either pay less tax or avoid paying it at all (OECD, 2018). The forum allows tax authorities, central banks and other agencies to cooperate in sharing tax information on multinationals. However, despite the existence of such a platform, addressing the specifics of evasion of income tax by the firms, particularly on what they pay expatriates, may still remain an uphill task. Kenya could be losing much more through tax evasion by the foreign firms whose employees may not be captured on KRA’s i-Tax net. The Tax Justice Network Africa estimated that in 2015, Kenya was losing KES 639 billion annually in tax evasion by MNCs (Tax Justice Network Africa, 2015). However, available documents and statistics from such companies could only trace about KES 146 billion lost in trade mis-invoicing between 2002 and 2011. The money lost through IFFs by MNCs ends up in tax savings in multinational headquarters and subsidiaries, while data from local firms are manipulated to read losses (Mwambwa, 2015).

2.4 International Financial Centres and IFFS

President Uhuru Kenyatta in July 2017 signed a law establishing Nairobi International Financial Centre (NIFC) thereby making Kenya a financial secrecy jurisdiction. The amount lost in IFFs in Kenya is equivalent to 15 per cent of Kenya’s GDP (Amadala, 2018). This figure is likely to double when the NIFC begins to operate. A review of existing evidence suggests that the establishment of an IFC in Kenya will most likely escalate the problem of IFFs.

The establishment of NIFC could be a setback for Kenya’s efforts to fight illicit financial flows.

This is because, even though they are envisioned to provide ideal conditions for the financial services industry and to encourage activities that can improve a country's economy (Waris 2014), IFCs may also facilitate IFFs including money laundering, tax evasion, tax avoidance, and other harmful practices. Legal and regulatory arrangements determine what types of capital a financial Centre will attract (Ibid). Kenya will not be the first country in Africa to establish International Financial Centre (IFC). IFCs have been operating in Africa since 2000 in South Africa, Mauritius, Seychelles, Djibouti and Algeria. Botswana established one in 2003 while Ghana tried establishing one but failed due to strong opposition from civil society and the general public. IFCs operate in secrecy by establishing corporate structures that allow the real owners of companies to hide their identities and have granted tax exemptions, either broadly or through agreements with individual companies.

Waris (2014) argues that with Kenya being an aid-recipient country, the establishment of an IFC is problematic as some features of IFCs are likely to undermine the achievement of crucial goals pursued by donors (e.g. tax collection, domestic revenue generation, and financial integrity and transparency) when they assist LMICs. This raises the question of how donors should respond to plans for the creation of an IFC in an aid-recipient country.

2.5 Implications of IFFs on Kenya's Development

“IFFs usually force governments concerned to resort to flight-driven external borrowing and inversely foreign loans also serve to trigger debt-fueled capital flight. Kenya's debt, both foreign and domestic currently stand at KES 4.6 trillion.”

The literature on the implications or consequences of illicit financial flows on Kenya shows that IFFs have severe economic, social and political consequences to the country's development agenda particularly, the Vision 2030 and the Sustainable Development Goals (SDG). IFFs have direct implications on Kenya's security because of their links with corruption, organized crime, illegal exploitation of natural resources, fraud in international trade, drugs counterfeiting and tax evasion which are as harmful as the diversion of money from public priorities (World Bank 2017). Activities such as illegally hiding income from tax authorities and sending it abroad impedes government efforts to mobilize domestic resources.

On the economic front, IFFs have contributed to the widening of the funding deficits for infrastructure and social policy measures for poverty reduction in Kenya (African Development Bank 2012; Ndikumana and Boyce 2003; Beja 2006; and Ndikumana 2015), making it difficult to develop infrastructure and fund social policy measures for poverty alleviation.

IFFs have direct implications on Kenya's security because of their links with corruption, organized crime, illegal exploitation of natural resources, fraud in international trade, drugs counterfeiting and tax evasion which are as harmful as the diversion of money from public priorities.

On the economic front, IFFs have contributed to the widening of the funding deficits for infrastructure and social policy measures for poverty reduction in Kenya.



The case of Kenya in which loans contracted or guaranteed by the government flow immediately and directly into foreign private accounts confirms Ndikumana and Boyce (2003) and Beja (2006) observation that IFFs usually force governments concerned to resort to flight-driven external borrowing and inversely foreign loans also serve to trigger debt-fueled capital flight. Kenya’s debt, both foreign and domestic currently stand at KES 4.6 trillion (see Table 4).

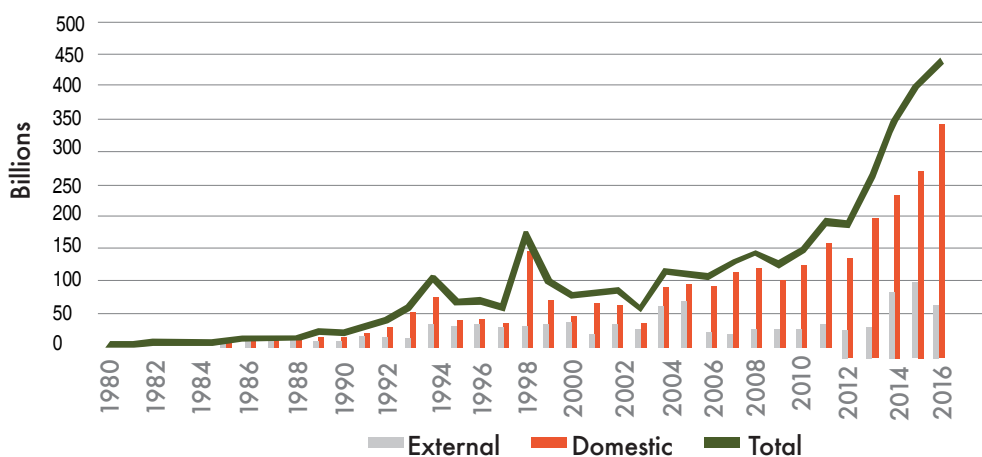
The increase in the amount of debt held has been blamed for the increased cost of debt servicing from about KES 19 billion in 1990 to KES 400 billion at the end of 2015 (Were 2017). Figure 2 captures this evidence by showing how much of the country’s revenue is going to servicing debt. In the first nine months of the 2015/16 financial year, the government spent KES 4 out of every KES 10

collected to settle debts. More recently, Kenya’s debt-service to revenue-ratio stood at 34.7 percent against a threshold of 30 percent (Ibid).

Ndikumana (2015) and Nkurunziza (2015) have demonstrated that GDP growth rates in most African countries including Kenya could have been substantially higher if these countries had been able to retain and invest the money that left the country through IFFs over the past decades.

The negative social impact of IFFs is also documented in literature. IFFs deplete government revenue due to the embezzlement of public funds and reduction of the tax base as private wealth is illicitly transferred out of the country (Ndikumana, 2015). A reduction in government revenue and the subsequent decline in spending on public services, worsen social development outcomes such as health and education.

Figure 2: Kenya’s Debt Service 1980 – 2016, KES (billions)



Source: The Elephant, 2017



A reduction in government revenue and the subsequent decline in spending on public services, worsen social development outcomes such as health and education. Kenya continues to report high rate of maternal and child mortalities as well as poor education and health sectors plagued by labour unrest with demands for better terms, working conditions and remunerations.



Kenya continues to report high rate of maternal and child mortalities as well as poor education and health sectors plagued by labour unrest with demands for better terms, working conditions and remunerations.

IFFs deny government the much needed resources to tackle some of these challenges. Quantitative and distributional effects of IFFs on several African countries reveal that IFFs slow down growth and undermine the provision of social services by enriching elites while disproportionately eating into resources that could support delivery of services needed by the poor (Ndikumana 2015).

Consequently, IFFs are likely to worsen income inequality and disparities in human development; and that efforts to accelerate growth without dealing with distributional effects of IFFs are likely to yield suboptimal results.

IFFs practices by multinational corporations' affect Kenya in many ways as summarized in Box 3 below. The negative impact of IFFs is also evident in the country's human development record. The United Nations (UN) Human Development Index Reports have consistently shown poor scores for Kenya with marginal improvement in a few areas (Masha, 2013; 2017).

Box 3: → The Effects of MNCs-Induced Illicit Financial Flows in Kenya

MNCs-induced illicit financial flows:

1. Undermine development and exacerbate inequality and poverty;
2. Disadvantage smaller domestic firms and transfer money that could be put towards poverty eradication into the hands of the rich;
3. Distort decision-making in favour of projects that benefit the few rather than the many;
4. Increase debt that benefits the MNC, not the country;
5. Bypass local democratic processes;
6. Damage the environment;
7. Circumvent legislation;
8. Promote weapons sales;
9. Increase the prices of infrastructure and development projects;
10. Increase Kenya's external debt as the government borrows money from international institutions to fund these project;
11. Result in cuts in spending on health, education and public services; and
12. Promote the implementation of costly long-term projects that do not benefit ordinary Kenyans.

Source: Adusei (2009)

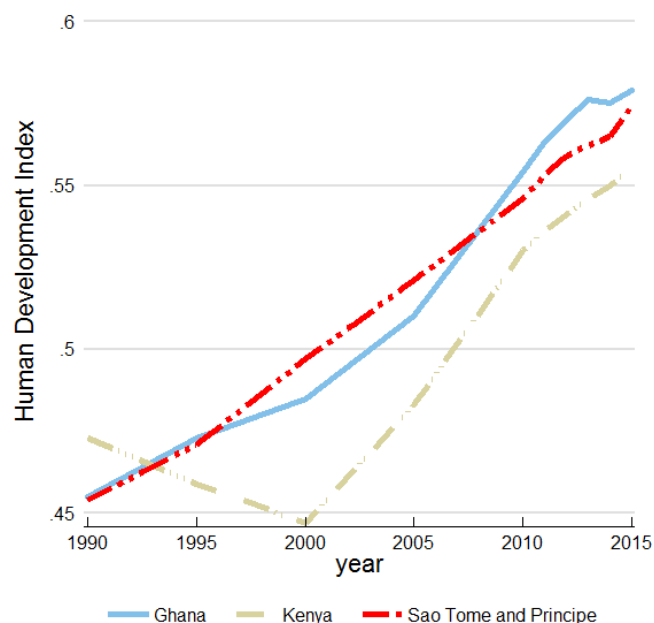
The UNDP Human Development Index Report (2016) reviewed Kenya’s HDI progress for 10 years from 1990 to 2015 and found out that Kenya’ HDI had increased marginally.

Kenya has achieved lower HDI progress compared with countries with similar context such as Ghana and Sao Tome and Principe. For instance, during the period between 1990 and 2015 Kenya, Ghana and Sao Tome and Principe experienced different degrees of progress toward increasing their HDIs (see figure 3). Kenya’s 2015 HDI of 0.555 is below the average of 0.631 for countries in the medium human development group although, above the average of 0.523 for countries in SSA.

Using a multidimensional poverty index (MPI) to measure poverty in Kenya, the UNDP Report (2016) also shows that in Kenya, 36.0 percent of the population (16,170 thousand people) are multidimensionally poor. The breadth of deprivation in Kenya, which is the average deprivation score experienced by people in multidimensional poverty, is 46.1 percent. The MPI for Kenya, which is the share of the population that is multi-dimensionally poor, adjusted by the intensity of the deprivations, is 0.166. Cameroon and Tanzania have MPIs of 0.260 and 0.335 respectively.

In Table 4, multidimensional poverty is compared with income poverty which measured by the

Figure 3: HDI Trends for Kenya, Ghana and Sao Tome and Principe, 1990-2015



Source: UNDP, 2016.

percentage of the population living below US\$1.90 per day. The table shows that while income poverty only tells part of the story, the multidimensional poverty headcount is 2.4 percentage points higher than income poverty. What this means is that individuals living above the income poverty line may still suffer deprivations in education, health and other living conditions.

Table 4: Kenya’s Multidimensional Poverty Index Relative to Sected Countries

	Survey year	MPI value	Head-count (%)	Intensity of deprivations (%)	Population share (%)			Contribution to overall poverty of deprivations in (%)		
					Near poverty	In severe poverty	Below income poverty line	Health	Education	Living standards
Kenya	2014	0.166	36.0	46.1	32.0	10.7	33.6	32.2	12.3	55.5
Cameroon	2011	0.260	48.2	54.1	17.8	27.1	24.0	31.3	24.5	44.2
Tanzania	2010	0.335	66.4	50.4	21.5	32.1	46.6	28.2	16.9	54.9

Source: UNDP, 2016.

The contributions of deprivations in each dimension to overall poverty gives a comprehensive picture of people living in multidimensional poverty in Kenya.

Gender inequality is also high in Kenya compared to other countries in SSA. Gender inequality index (GII) in Kenya reflecting gender-based inequalities in three dimensions of reproductive health, empowerment, and economic activity shows that Kenya had a GII of 0.565 ranking 135 out of 159 countries in 2015 (UNDP 2016). This score is low compared to other countries in SSA. The UNDP measures reproductive health by maternal mortality and adolescent birth rates; while empowerment is measured by the share of parliamentary

education compared to 34.1 percent of their male counterparts. Maternal mortality is also very high. For instance, for every 100,000 live births, 510 women die from pregnancy related causes; and the adolescent birth rate is 90.9 births per 1,000 women of ages 15-19. Female participation in the labour market is also low at 62.1 percent compared to 72.1 for men.

Despite the above evidence on the impact of IFFs on Kenya's development agenda, there is little literature regarding the relevance of meeting the country's development goals including the sustainable development goals (SDGs) in light of existing patterns and effects of IFFs.

Table 5: Kenya's 2015 Gender Inequality Index Relative to Selected Countries

	GII value	GII Rank	Maternal mortality ratio	Adolescent birth rate	Female seats in parliament (%)	Population with at least some secondary education (%)		Labour force participation rate (%)	
						Female	Male	Female	Male
Kenya	0.565	135	510	90.9	20.8	27.8	34.1	62.1	72.1
Cameroon	0.568	138	596	104.6	27.1	31.7	37.9	71.0	81.1
Tanzania	0.544	129	398	118.6	36.0	10.1	15.3	74.0	83.3
Sub-Saharan Africa	0.572	—	551	103.0	23.3	25.3	33.9	64.9	76.1
Medium HDI	0.491	—	164	40.8	19.9	40.4	57.6	37.2	79.4

Source: UNDP, 2016

seats held by women and attainment in secondary and higher education by each gender; and economic activity is measured by the labour market participation rate for women and men.

The GII is usually interpreted as the loss in human development due to inequality between female and male achievements in the three GII dimensions.

Table 5 shows that in Kenya, 20.8 percent of parliamentary seats are held by women, and 27.8 percent of adult women have reached at least a secondary level of

education compared to 34.1 percent of their male counterparts. Little is known about the government's plans to tackle SDG No 16:4 in particular which calls on countries to significantly reduce IFFs and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime by 2030.

It would be important for stakeholders to Create awareness of the available international instruments and established legal obligations in the field of IFFs. Similarly, the use of online toolkits for curbing IFFs can help enhance the knowledge on IFFs and empower various policy actors to contribute effectively to the fight against IFFs.

3.0 Institutional, Policy and Legal Frameworks for Tackling IFFs

3.1 Instruments and Legal Frameworks

3.1.1 National Instruments

Kenya has several legal frameworks and administrative requirements (see Box 4) to address IFFs, international tax avoidance and support tax information exchange with other members (Ibid). However, the existence of

these frameworks has not helped much in curbing IFFs because there has been little compliance.

3.2 Key Institutions and Policy Framework

The main institutions tasked with curbing IFFs in Kenya are the Central Bank of Kenya (CBK), the Kenya Revenue Authority (KRA) and the National Treasury. Their mandates are established by acts of parliament and are very specific on how each of them should function.

Box 4: Policy, Legal Frameworks and Administrative Requirements to Fight IFFs

1. The constitution of Kenya 2010
2. Leadership and Integrity Act, 2012
3. Ethics and Anti-Corruption Commission Act, 2011
4. Anti-Corruption and Economic Crimes Act, 2003
5. Public officer Ethics Act, 2003
6. Public Procurement Disposal and Regulation Act, 2008
7. Proceeds of crime and Anti-money Laundering Act, 2009
8. Public Finance and Management Act, 2013
9. Public Audit Act, 2003
10. Kenya Revenue Authority Act CAP 469
11. Witness Protection Act, 2006
12. Value Added Tax Act, Income Tax Act, EACM Act and other revenue laws
13. United Nations Convention Against Corruption (UNCAC)
14. African Union Convention on Preventing and Combating Corruption (AUCPC)
15. United Nations Convention Against Trans Organized Crime (UNTOC)
16. Kenya Revenue Code of Conduct
17. Conflict of Interest Policy



Kenya has several legal frameworks and administrative requirements (see Box 4) to address IFFs, international tax avoidance and support tax information exchange with other members (Ibid). However, the existence of these frameworks has not helped much in curbing IFFs because there has been little compliance.



3.2.1 The Central Bank of Kenya

The CBK's main mandate is to formulate and implement monetary policy that promotes price stability, foster liquidity, solvency and stability of the banking sector, issue currency notes and coins and provide banking services to the government, commercial banks and other financial institutions (CBK, 2018). The Central Bank of Kenya established guidelines on Anti-money laundering and countering the financing of terrorism (AML/CFT). Other similar measures have been taken at the national level through the Proceeds of Crime and Anti-Money Laundering Act, 2009; the Proceeds of Crime and Anti-Money Laundering Regulations 2013; and Guidance note on Cybersecurity, 2017 which, has been strengthened by Cybersecurity Act, 2018. As the country becomes more digitized, new forms of threats and crime emerge. These crimes present challenges to the authorities in terms of investigations, prosecutions and judicial adjudication since the old legal frameworks do not adequately apply.

Laws and regulations themselves are not a guarantee of success in the fight against illicit financial flows. Institutions have a duty to unwaveringly apply and implement the laws and regulations. Weak application and implementation of laws, regulations and policies on IFFs have continued to undermine the fight against IFFs. The Bank adopted other measures as summarised in Box 5.

These measures are useful for curbing IFFs. For instance, the POCAMLA legislation provides a comprehensive

framework to address AML issues and authorizes appropriate sanctions for money laundering crimes while, the Office of the Director of Public Prosecutions has used ancillary provisions in the POCAMLA to apply for orders to restrain, preserve, and seize proceeds of crime in Nairobi (INCSR, 2018). In 2016, the Kenyan judiciary established the Anti-Corruption and Economic Crimes Division in the High Court. Moreover, Kenya's constitution requires public officials to seek approval from the Ethics and Anti-Corruption Commission (EACC) prior to opening a bank account in a foreign country (National Council of Law Reporting, 2010).

In March 2017, Kenya enacted the Proceeds of Crime and Anti-Money Laundering (Amendment) Act 2017, a legislation which includes new legal sanctions for economic crimes and measures to identify, trace, freeze, seize, and confiscate crime proceeds. It states that persons can be fined as much as U.S. \$47,400 (KES 5 million), and corporate bodies as much as U.S. \$237,100 (KES 25 million), with up to approximately U.S. \$94,900 in additional fines for failure to comply (POCAMLA, Act 2017). It also establishes an Assets Recovery Agency to handle all cases of recovery of crime proceeds while, extradition between the United States and Kenya is governed by the 1931 U.S. and U.K. Extradition Treaty. Although, the United States and Kenya do not have a bilateral Mutual Legal Assistance Treaty (MLAT); Kenya is a party to relevant multilateral law enforcement conventions that have mutual legal assistance provisions as both the U.S. and Kenya can also make and receive requests for assistance on the basis of domestic laws.



Weak application and implementation of laws, regulations and policies on IFFs continue to undermine the fight against IFFs.



Box 5: → Central Bank of Kenya Efforts to Curb Illicit Financial Flows

Measures:

1. Stepping up close collaboration with the Financial Repository Centre (FRC) and the Financial Intelligence Unit (FIU) to foster a culture of compliance in the banking sector by putting emphasis on the preventive measures outlined in the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA).
2. Clarifying reporting obligations under POCAMLA including the issuance of guidelines on large transactions (cash) conducted over the counter in banks.
3. Enhanced Anti-Money Laundering and Comparing of Financing of Terrorism supervisory framework with assistance from the International Monetary Fund (IMF).
4. Enhanced transparency on the part of banks to ensure public confidence. Transparency extends to disclosure by banks on their corporate governance and risk management structure. CBK has enhanced the disclosures by banks on their significant shareholders. Banks are now required to disclose on their websites details of significant shareholders who own 5 percent or more shareholding.

Lessons

1. Kenya's financial sector is very vulnerable given its strategic position in the region, facilitated by easy access through sea ports, airports and land. Kenya is a fast growing economy with high potential especially in the financial sector. It is therefore attractive to both well-intentioned and ill-intentioned investors.
2. Inter-agency cooperation between the financial sector regulations, law enforcement agencies and the financial institutions has a positive effect in stemming illicit financial flows.
3. The perpetrators of money laundering are very smart and sophisticated, ready to take advantage of any existing loopholes in the law and weaknesses in the internal controls of financial institutions.
4. Regular interaction with international bodies tasked with the responsibility of preventing money laundering is key in shaping or improving a country's institutional, legal and regulatory frameworks in combating illicit financial flows.
5. Overall, there is need for government, legislators, the judiciary and the private sector to come together to combat illicit financial flows.
6. Investment should be made to strengthen preventive measure; enhance surveillance detection and recovery procedures.

Source: Njoroge, 2016

Despite the CBK's initiatives in limiting IFFs, a number of challenges remain. These include: the vulnerability of Kenya's financial sector due to the country's strategic position in the region attracting both well-intentioned and ill-intentioned investors; weak inter-agency cooperation between the financial sector regulators, law enforcement agencies and the financial institutions; weak laws and internal controls of financial institutions; and weak interaction with international bodies tackling IFFs. According to Njoroge (2016) fighting IFFs requires collaboration between the Government, legislatures, the judiciary, private sector, and the international community. It will also involve strengthening preventive measures, surveillance systems, detection and recovery procedures. However, Kenya's banking and financial sectors are highly sophisticated thus making the country's financial system even more vulnerable and difficult to regulate (Agutu, 2017). Policy measures advanced by other contributions in the literature emphasise measures that address the underlying problems in IFFs such as corruption and tax evasion (Acemoglu et al. 2003; Loayza et al. 2007; Shirley, 2008). They stress that the measures should aim at creating the right economic environment by strengthening institutions to enhance the rule of law, electoral accountability, contract enforcement and property rights protection for agents in the economy.

3.2.2 Kenya Revenue Authority

The mandate of KRA is to assess, collect and account for all revenues in accordance with specific laws. The authority also advises on matters relating to the administration of and collection of revenue under the written laws. It guards against entry and exit of prohibited goods and services as well as safeguarding territorial security and integrity, trade facilitation and promotion of investment through effective administration of tax laws (KRA Act Cap 469). In addition to the legal and administrative frameworks, policy instruments used by KRA to fight illicit financial flows include KRA's Anti-corruption Policy;

KRA's brochure for entrenching ethics and integrity which, aims to combat corruption, tax evasion and unethical practices which negatively affect revenue collection; KRA's Second ICT Strategy which aims at assisting KRA achieve excellence in revenue administration through organisational renewal, innovation and enhanced staff productivity geared towards customer focus; KRA's Tax Amnesty of Foreign Income which gives tax amnesty on voluntary declaration of taxable income earned outside Kenya for the year of income ending on or before 31st December, 2016. The amnesty period commenced on 1st January, 2017 and has been extended to 30th June 2019 (KRA, 2018).

3.2.3 The National Treasury

The National Treasury of Kenya is mandated to formulate, implement and monitor macro-economic policies involving expenditure and revenue; manage the level and composition of national public debt, national guarantees and other financial obligations of national government; formulate, evaluate and promote economic and financial policies that facilitate social and economic development in conjunction with other national government entities; and mobilize domestic and external resources for financing national and county government budgetary requirements (National Council of Law Reporting, 2010; the Public Management Act 2012 and the Executive Order No.2/2013).

3.3 Civil Society Organisations Initiatives

There are also other initiatives from civil society organisations (CSOs). One such initiative is the "Stop the Bleeding" campaign launched in Nairobi by united Pan African organisations (Trust Africa, 2015). The campaign is informed by UN Economic Committee for Africa and African Union's High Level Panel Report on illicit financial flows.

The report noted that Africa loses over US\$50 billion a year in the form of tax avoidance by multi-nationals, corruption and criminality and that stopping of IFFs will make money available for domestic use and will reduce the burden of tax that makes it difficult for women to lead fulfilling lives. The Campaign observed that Kenya uses the regressive form of tax policies as it relies heavily on the Value Added Tax (VAT) on common goods hence leaving the tax burden on the poorer members of the society as it applies to everyone regardless of their income. Regrettably, a large proportion of these are women who usually operate in the informal business. All these micro enterprises are heavily taxed, leaving women to bear the brunt of heavy taxation (administered by both central and county governments) worsening their economic status. The campaign demands that governments in Africa need to take action to put an end to tax holidays for big business and unfair tax incentives; make sure foreign companies pay better wages; and improve public services such as education, healthcare, housing and water.

The Kenyan CSOs also joined the Nigerian and Ghanaian CSOs to demand that the beneficiaries of IFFs be publicly named. The CSOs pressed upon African governments to start naming beneficiaries of IFFs from the continent to stop the practice and asked business entities to commit to increased transparency and business integrity by unveiling their Beneficial Owners (Daily Trust, 2017). Apart from speedy implementation of the recommendations of the High Level Panel on IFFs, the CSOs also advised African countries to strengthen the capacity of their institutions, particularly financial institutions, revenue authorities and other public sector organisations responsible for the different levels of negotiations in the extractive sector and in public procurement to put in place clear plans to manage corruption, tax avoidance, tax evasion and other financial abuse risks. They also resolved to make the Beneficial Ownership Information on IFFs available and easily accessible to citizens of their respective countries in an open data format without compromising the security and safety of beneficial owners.

3.4 International Instruments

Kenya has joined some of the global forums that are championing the fight against IFFs. These include the Global Forum on Transparency and Exchange of Information for Tax Purposes; Base Erosion and Profit Shifting Project (BEPS); and Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Standard Reporter, 2016). Other laws and regulations that Kenya's financial system is subject to are the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) and other banking regulations such as Kenyan Financial Reporting Center (FRC) to which financial institutions and entities are required to report to, the Know Your Customer (KYC) which Kenya's Financial Intelligence Units (FIU) are subject to and Suspicious Transaction Report (STR) rules which are aimed at enhancing due diligence procedures in place for politically Exposed Persons (PEPs) (INCSR, 2018). Kenya is also a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), a Financial Action Task Force (FATF) regional body.

Kenya may also draw on several International instruments establishing legal obligations to combat illicit financial flows. At UN level, the key instruments which establish legal obligations in the field of illicit flows are explained in Box 6.

3.5 Key Challenges to Institutional, Policy and Legal Frameworks

While Kenya has made strides in implementing an AML framework, key challenges remain to achieving comprehensive, effective implementation of anti-IFFs particularly, AML laws and regulations. Kenya should fully satisfy its commitments on good governance, anti-corruption efforts, and improvements to its IFFs and AML regime. Despite some progress, Kenya has not yet fulfilled all her commitments to join the Egmont Group, the international standard-setter for FIUs.

Box 6: → UN Instruments against IFFs

1. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (Vienna Convention). This includes provisions on money laundering and international cooperation.
2. United Nations Convention against Transnational Organized Crime 2000 (Palermo Convention). This requires countries to criminalize money laundering, and includes frameworks for extradition, mutual legal assistance and law enforcement cooperation.
3. International Convention for the Suppression of the Financing of Terrorism 1999. This requires states to criminalize the financing of terrorism, and adopt powers to freeze and seize funds intended to be used for terrorist activities.
4. United Nations Convention against Corruption 2003 (Merida Convention). This requires measures to prevent and criminalize corruption, provide international cooperation and asset recovery on corruption cases.
5. In addition a number of UN Security Council Resolutions have introduced measures to counter illicit financial flows, in particular by establishing targeted financial sanctions regimes applied to Al Qaida and other terrorist groups.

Source: UN, 2016.

The Egmont Group was created with the goal of serving as a center to overcome the obstacles preventing cross-border information sharing among FIUs (INCSR, 2018). Although the FRC receives STRs from some Money or Value Transfer Service (MVTs) providers, this sector is more challenging to supervise for IFFs and AML compliance. The tracking and investigation of suspicious transactions within the mobile payment and banking systems remain difficult as criminals could potentially use illicit funds to purchase mobile credits at amounts below reporting thresholds. Also, lack of rigorous enforcement in this sector, coupled with inadequate reporting from financial institutions and other reporting entities, increases the risk of abuse of laws and regulations.

It is an uphill task to demand bank records or seize an account as police must obtain a court order by presenting evidence linking the deposits to a criminal violation. To make it even more difficult, confidentiality of this process is not well maintained as it allows account holders to be tipped off thus, providing an opportunity to move assets. Other challenges such as cumbersome bureaucracies also hinder the investigation and prosecution of these crimes.

The government, should allocate adequate resources to agencies such as the police, anti-corruption commission and other relevant agencies to enable them to build sufficient institutional capacity and investigative skills to conduct complex financial investigations independently. An automated system would improve the FRC's efficiency and ability to analyze suspicious transactions.

4.0 Conclusion and Recommendations

4.1 Conclusion

This paper is a synthesis of published and unpublished literature on IFFs in Kenya and the various tax reforms practices and policies, including the key stakeholders involved. The synthesis highlights what is already known about the phenomenon from existing evidence and has identified gaps in research that need. It has also assessed the implications of IFFs on Kenya's socio-economic development and the institutional policy and legal framework for curbing IFFs. Despite the vagueness of the concept of IFFs, a conceptual consensus has gradually emerged that defines IFFs as cross-border capital transactions that conceal and facilitate illegal activities. IFFs constitute cross-border transfers of funds that are illegally earned, transferred, or utilised.

Key Findings:

- i. Despite the availability of some data on the magnitude of IFFs and associated activities in Kenya, accurate measurement remain problematic. Available data does not capture the full volume of public funds that leave the country through IFFs. The current estimates in literature only serve to raise the alarm on IFFs and demonstrate how they impact negatively on human development in Kenya.
- ii. Tax evasion through IFFs occur mainly through mis-invoicing, transfer pricing, trade in contraband goods, corruption, and trafficking of persons and drugs. IFFs takes many forms including those done through grand corruption scandals involving the transfer of illicit money by the ruling political elites since independence.
- iii. Key actors involved include officials of government agencies such as the military, police and the Kenya Revenue Authority (KRA). Another import group of actors in IFFs are the MNCs such as flower firms who dodge income tax on the hefty pay perks for their expatriates and carry out mis-invoicing and transfer pricing.
- iv. Kenya - which has since engaged several MNCs through its mega infrastructural projects and other public-private partnerships - could be losing much more through tax evasion by the foreign firms whose employees may not be caught on KRA's i-Tax net.
- v. Lack of political will to build a legitimate and effective state and by extension an effective tax regime is the main factor that fuels tax evasion through IFFs in Kenya. This evidence points to the link between weak institutions and incentives for rent extraction and looting.
- vi. The implications of IFFs on Kenya's economic, social and political development agenda are quite severe. These range from hindering government efforts to mobilize domestic resources to some of the loans that have been guaranteed by the government flowing immediately and directly into foreign private accounts consequently, complicating government indebtedness and forcing the country to depend on foreign aid.

The effect of a reduction in government revenue and the subsequent decline in spending on public services worsen the poverty situation in the country and the social development outcomes such as health and education.

Despite the above evidence on the impact of IFFs on Kenya's development agenda, there is little evidence that policy actors are aware and actually appreciate the magnitude of this impact. Perhaps particularly relevant to this study is SDG target 16:4 which calls on countries to reduce IFFs and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime by 2030. The Kenya government has been ineffective in combating IFFs partly because of uncoordinated financial institutions, loopholes in its several pieces of legislations and inadequate resources allocated to its relevant agencies and institutions. CSOs have also raised their voice in condemning IFFs however, they are yet to design a comprehensive strategy for fighting IFFs. The role of the private sector particularly, MNCs and private sector organisations in combatting IFFs has not received much attention in the literature. This is despite their significant influence in facilitating IFFs in Kenya.

Despite some progress in collaborating with international agencies and utilization of the international instruments for curbing IFFs, Kenya is yet to fulfill all of its commitments to implementing and enforcing these instruments and joining some of the important forums such as the Egmont Group. The way forward, will require, Kenya particularly the state, to fully comply with its commitments on good governance, anti-corruption efforts, and improvements to its IFFs and AML regime; the government, to allocate adequate resources to relevant agencies to enable them build sufficient institutional capacity and investigative skills to conduct complex financial investigations independently and the government to adopt an automated system to improve the FRC's efficiency and ability to analyze suspicious transactions.

4.2 Recommendations

4.2.1 Policy Recommendations

- i. The government should strengthen the tax system, surveillance, and collection of tax to prevent tax evasion and illicit capital flight. In this regard, these efforts could focus strengthening KRA's and other governmental organisations' systems in the areas of customs, revenue and banking regulation and supervision. Donors should make specific efforts aimed at recovering and repatriating stolen assets from Kenya back to the country. These reforms should be supported by the political leadership. Anti-IFFs efforts should be driven and supported by the highest political office and should receive full government support.
- ii. Government, CSOs and International community should create awareness on the available international instruments and established legal obligations in the field of IFFs as well as existing online toolkits for curbing IFFs. This can empower various actors and stakeholders to contribute significantly and more effectively to the fight against IFFs.
- iii. Combating IFFs should involve multiple policy areas including cross-sectoral and cross-national responses encompassing a wide range of actors to design and implement different policies and actions at different levels of government. In this regard, it would be useful for the government to involve MNCs and private sector organisations in designing and implementing strategies for curbing IFFs in Kenya. The government should institute clear frameworks and guidelines that enable and require organisational transparency and support MNCs and other private sector actors to use and demonstrate strong commitment to these.

- iv. Reform the government policy intervention for curbing IFFs to make them effective. This can be achieved by: enhancing coherence and targeting the contextual factors that permit IFFs to blossom in Kenya; supporting vertical coherence (coherence with and between national and international normative frameworks); and allowing horizontal coherence (identifying critical, prioritised interactions across economic, social and environmental areas). These reforms should be supported by awareness creation among citizens about the nature, forms, magnitude, impact and risks of IFFs to human development in Kenya.
- v. Engage with international partners especially the Offshore Financial Centres, which facilitate IFFs to take internationally agreed counter-measures in their own spheres of influence including automatic exchange of information in tax matters, extended administrative assistance allowing for supplementary requests for information in addition to the tax data automatically shared, the systematic registration and disclosure of the effective economic beneficiaries of companies, trusts, and foundations, and the detailed breakdown of corporate group accounts by country and project.

4.2.2 Further Research

Further research on IFFs is needed. This research should address the strengths and weaknesses of existing methods to ascertain more precise estimates of volume and channels of IFFs; the main incentives and legal or regulatory issues involved in trade-related IFFs; the roles, responsibilities and capacities of key stakeholders along the value chain to effectively curb IFFs; identify the most promising policy responses and; suggest the kind of cooperation frameworks to be strengthened or established at the national, regional and global levels.

The studies should take a multidisciplinary approach drawing on disciplines such as economics, law, political science, and political economy analysis. The studies should engage in intensive process-tracing across multiple sources of data to be able to uncover the key drivers behind IFFs in relation to both push factors, out of Kenya and pull factors, into financial hubs. Moreover, the research should examine the mechanisms, strategies and policy innovations through which IFFs can effectively be curtailed with due regard to the specific institutional, regional, political and economic conditions prevailing in Kenya (all vulnerabilities).

References

- Acemoglu, D., S. Johnson, J. A. Robinson, and Y. Thaicharoen.** 2003. "Institutional Causes, Macroeconomic Symptoms: Volatility, Crises and Growth." *Journal of Monetary Economics* 50 (1): 49–123.
- Adusei, L.A.** 2009. Multinational Corporations: The New Colonisers in Africa. In Pambazuka News. Retrieved from: <https://www.pambazuka.org/governance/multinational-corporations-new-colonisers-africa> on 23 May 2018.
- Aidt, T. S.** 2003. "Economic Analysis of Corruption: A Survey." *The Economic Journal* 113 (491): F632–F652.
- African Development Bank, December 2012.** African Economic Brief: Diaspora Bonds: Some Lessons for African Countries.
- Agutu, N., 2017.** The Star News Paper. March 6, 2017. Kenya's advanced finance systems a hub for fraud - US report. Retrieved from: https://www.the-star.co.ke/news/2017/03/06/kenyas-advanced-finance-systems-a-hub-for-fraud-us-report_c1519118 on 23 May 2018.
- Ajayi, S. I.** 1995. "Capital Flight and External Debt in Nigeria." AERC Research Paper 35, African Economic Research Consortium, Nairobi.
- Allen, K.** 2006. Traffickers' drugs haven in Kenya. BBC News. May, Tuesday 9, 2006. Retrieved from: <http://news.bbc.co.uk/2/hi/africa/4753377.stm> on 29 July 2018.
- Alesina, A., and G. Tabellini.** 1989. "External Debt, Capital Flight and Political Risk." *Journal of International Economics* 27 (3): 199–220.
- Ali, A., and B. Walters.** 2011. "On the Causes of Capital Flight from Sub-Saharan Africa." Center for the Study of African Economies, Conference Papers, University of Oxford. <https://www.csae.ox.ac.uk/conferences/2011-EdiA/papers/679-Ali.pdf>
- Amadala, V.** 2018. Kenya tops illicit financial activities in Africa – report. The Star. February 5, 2018. Retrieved from: URL: https://www.the-star.co.ke/news/2018/02/05/kenya-tops-illicit-financial-activities-in-africa-report_c1708642 on 21 May 2018.
- Andvig, J. C., O.-H. Fjeldstad, I. Amundsen, T. Sissener, and T. Søreide.** 2001. "Corruption. A Review of Contemporary Research." Report R 2001:7, Chr. Michelsen Institute, Bergen, Norway.
- Anyanzwa and Oligo,** 2015. Kenya, Uganda, Tanzania to tighten laws on transfer pricing. The East African. Saturday May 2, 2015. Retrieved from: <http://www.theeastafrican.co.ke/business/Kenya--Uganda--Tanzania-to-tighten-laws-on-transfer-pricing/2560-2704074-117ps6/index.html> on 29 July 2018.
- Baker, R.** 2008. 'Illicit Financial Flows: A Note on Concepts', Preface to Kar, D. and D. Cartwright-Smith, *Illicit Financial Flows from Developing Countries: 2002-2006* (Washington, D.C.: Global Financial Integrity).

- Bardhan, P. 1997.** "Corruption and Development: A Review of Issues." *Journal of Economic Literature* 35 (3): 1320–46.
- Beja, E. Jr. 2006.** Revisiting the Revolving Door: Capital Flight from Southeast Asia, UN DESA Working Paper No. 16 (ST/ESA/2006/DWP/16).
- Blankenburg, S., and M. Khan. 2012.** "Governance and Illicit Flows." In *Draining Development? Controlling Flows of Illicit Funds from Developing Countries*, edited by P. Reuter, P., 21–68, Washington, DC: International Bank for Reconstruction and Development, The World Bank.
- Carbonnier, Gilles. 2018.** Curbing Illicit Financial Flows from Resource-rich Developing Countries: Improving Natural Resource Governance to Finance the SDGs URL: Retrieved from: <http://graduateinstitute.ch/home/research/centresandprogrammes/ccdp/ccdp-research/clusters-and-projects-1/curbing-illicit-financial-flows.html> on 23 May 2018.
- Caxton Kinuthia, director in-charge of the tax services department at KPMG East Africa** (The East African Saturday May 2 2015).
- Cerra, V., M. Rishi and S. C. Saxena (2008)** 'Robbing the Riches: Capital Flight, Institutions and Debt', *The Journal of Development Studies*, 44(8), pp. 1190-1213.
- Cheung, Y.-W., and X. Qian. 2010.** "Capital Flight: China's Experience." *Review of Development Economics* 14 (2): 227–47.
- Clague, C., P. Keefer, S. Knack, and M. Olson. 1996.** "Property and Contract Rights in Autocracies and Democracies." *Journal of Economic Growth* 1 (2), 243–76.
- Collier, P., A. Hoeffler, and C. Pattillo. 2001.** "Flight Capital as a Portfolio Choice." *World Bank Economic Review* 15 (1): 55–80.
- Corporate, 2011.** Price that poor countries pay for illegal exit of illicit capital from their economies. *Business Daily*, Sunday, August 14, 2011. Retrieved from: <https://www.businessdailyafrica.com/corporate/Price-to-pay-for-illegal-exit-of-illicit-capital-/539550-1218826-tk6d2hz/index.html> on 29 July 2018.
- Jimoh, A. 2017.** Ghana, Kenya, Nigeria CSOs want illicit financial flows beneficiaries exposed. *Daily Trust*, February 7, 2017. Retrieved from: URL: <https://www.dailytrust.com.ng/news/general/ghana-kenya-nigeria-csos-want-illicit-financial-flow-beneficiaries-exposed/184336.html> on 23 May 2018.
- Epstein, G., 2005.** *Capital Flight and Capital Controls in Developing Countries*. Cheltenham: Edward Elgar Publishing.
- Froberg and Waris. 2011.** *Bringing the Billions Back: How Africa and Europe can end illicit capital flight*. Stockholm: Global Studies.
- GFI (Global Financial Integrity). 2013.** *Explore the Data: Illicit Financial Flows from Developing Countries 2002-2011. How to Read the Report's Findings* (Washington, D.C.: GFI). Retrieved from: ULR: <http://iff.gfintegrity.org/iff2013/explanation2013.html> on 23 April 2014.

Guguyu, O. 2015. Global firms accused of evading tax in developing countries. Daily Nation. Monday June 8 2015. Retrieved from: <https://www.nation.co.ke/lifestyle/smartcompany/Global-firms-accused-of-evading-tax-in-developing-countries/1226-2744744-aswssd/index.html> on 23 May 2018.

Guguyu, O. 2018. Fear as Kenya's borrowing hurtles towards Greece-like debt crisis. Standard Media. Tuesday, February 20, 2018. Retrieved from: URL: <https://www.standardmedia.co.ke/business/article/2001270355/fear-as-kenya-s-borrowing-hurtles-towards-greece-like-debt-crisis> on 23 May 2018.

Heggstad, K., and O.-H. Fjeldstad. 2010. "How Banks Assist Capital Flight from Africa: A Literature Review." CMI Report R 2010: 6, Chr. Michelsen Institute, Bergen, Norway. Commissioned by NORAD's Anti-Corruption Project (ANKOR).

Herkenrath, Marc. 2014. "Illicit Financial Flows and their Developmental Impacts: An Overview", International Development Policy. Retrieved from: URL: <http://journals.openedition.org/poldev/1863> on 17 May 2018.

Hines, J. R. Jr. 2004. "Do Tax Havens Flourish?" In Tax Policy and the Economy, vol. 19, edited by James M. Poterba, 65–100. Cambridge, MA: MIT Press.

Kaminsky, G. L. 2009. "Financial Centers: Lessons from History." Paper presented at Central Bank of Nigeria, Abuja, 4–6 May. Retrieved from: URL: <http://www.cenbank.org/cbnat50/papers/session6/financial-centers-kaminsky.pdf> on 17 May 2018.

Karanja, F. 2018. Businessman charged with tax evasion amounting to Sh 11 billion. Standard Digital. Saturday, April 7th 2018. Retrieved from: <https://www.standardmedia.co.ke/business/article/2001275966/businessman-charged-with-sh11b-tax-evasion> on 29 July 2018.

Kar, D., and D. Cartwright-Smith. 2008. "Illicit Financial Flows from Developing Countries: 2002–2006." Technical report, Global Financial Integrity (GFI), Center for International Policy, Washington, DC. 27

Kar, D., and D. Cartwright-Smith. 2010. "Illicit Financial Flows from Africa: Hidden Resource for Development." Global Financial Integrity (GFI), Center for International Policy, Washington, DC.

Kenya Forum. April 25, 2013. The Goldenberg Scandal – The End of a sorry saga? Retrieved from: URL: <http://www.kenyaforum.net/2013/04/25/the-goldenberg-scandal-%E2%80%93-the-end-of-a-sorry-saga/> on 21 May 2018.

Kenopalo, 2012. More on Drug Trafficking in Kenya (Complete Edition): Tag Archives: drug trafficking in Kenya, May 30, 2012. Retrieved from: <https://kenopalo.com/tag/drug-trafficking-in-kenya/> on 29 July 2018.

Kenya Revenue Authority (KRA), 2018. Integrity policies; Tax Amnesty on Foreign Income; and Second ICT Strategy. Retrieved from: <http://www.revenue.go.ke/> on 12 June 2018.

Murbi, H. 2015. Here is a list of top 20 corruption scandals under Uhuru's watch, billions stolen. Kenya Today. December 9, 2015. Retrieved from: URL: <https://www.kenya-today.com/politics/list-20-corruption-scandals-uhuru-watch-billions-stolen> on 21 May 2018.

Kiarie, J. 2011. Capital flight as Cash is stashed in foreign banks. Standard Digital. December 10, 2011. Retrieved from: <https://www.standardmedia.co.ke/business/article/2000048102/capital-flight-as-cash-is-stashed-in-foreign-banks> on 21 May 2018.

- Le, Q. V. and P. J. Zak. 2006.** 'Political Risk and Capital Flight', *Journal of International Money and Finance*, 25, pp. 308-329.
- Lensink, R., N. Hermes and V. Murinde. 2000.** 'Capital flight and political risk', *Journal of International Money and Finance*, 19(1), pp. 73-92
- Lensink, R., N. Hermes, and V. Murinde. 1998.** "The Effect of Financial Liberalization on Capital Flight in African Economies." *World Development* 26 (7): 1349–68.
- Letete, E.M., 2015.** Essays on institutions and economic development in Kenya (Doctoral dissertation, University of Cape Town).
- Letete E. and M. Sarr. 2017.** "Illicit Financial Flows and Political Institutions in Kenya", Working Paper Series N° 275, African Development Bank, Abidjan, Côte d'Ivoire.
- Loayza, N. V., R. Ranciere, L. Servén, and J. Ventura. 2007.** "Macroeconomic Volatility and Welfare in Developing Countries: An Introduction." *World Bank Economic Review* 21 (3): 343–57.
- Massa, I. (2014)** 'Capital Flight and the Financial System' Overseas Development Institute (ODI) Working Paper 413. Retrieved from: URL: <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9392.pdf> on 13 June 2018.
- Masha, J. 2013.** Study: Kenya fares badly in human development. Standard Digital. Thursday, June 13, 2013. Retrieved from: URL: <https://www.standardmedia.co.ke/article/2000085846/study-kenya-fares-badly-in-human-development> on 22 May 2018.
- Musau, N. and Wesangula, D. 2017.** Drug barons exposed: Why Uhuru and Raila allies are not sleeping easy. Sunday, February 5th 2017. Retrieved from: URL: <https://www.standardmedia.co.ke/article/2001228327/drug-barons-exposed-why-uhuru-and-raila-allies-are-not-sleeping-easy> on 29 July 2018.
- Mwambwa, S. 2015 in Ochieng', L. 2015.** Kenya Losing over sh600 bn. in tax evasion annually. *Business Daily Friday* 22, 2015. Retrieved from: <https://www.businessdailyafrica.com/markets/Kenya-loses-over-Sh600bn-in-tax-evasion-annually/539552-2725658-abshad/index.html> on 13 June 2018.
- National Council of Law Reporting, 2010.** The Constitution of Kenya 2010. National Council of Law Reporting.
- Njiraini, J. 2015.** In Okoth, 2015. *Daily Nation*, Monday September 21, 2015. Dodgy Multinationals denying Kenya billions of shillings in revenue.
- Njiraini, J. 2010.** In Nyabiage, 2010. *Nation Media* Monday October 25 2010. Kenya loses Sh156bn in taxation tricks by flower firms
- Nyabiage, J. 2010.** *Nation Media* Monday October 25 2010. Kenya loses Sh156bn in taxation tricks by flower firms
- Wafula, C. 2015.** African countries losing billions through illicit financial flows: Mbeki. *Nation Media Group*. Tuesday September 15 2015. Retrieved from: URL: <https://www.nation.co.ke/news/Kenya-lost-Sh160bn-in-illicit-financial-flows/1056-2872266-p5q18kz/index.html> on 13 June 2018.

Ndikumana, L. 2015. "Capital Flight from Africa and Development Inequality: Domestic and Global Dimensions". Amherst: Department of Economics and Political Economy Research Institute, University of Massachusetts.

Ndikumana, L., and J. K. Boyce. 2003. "Public Debts and Private Assets: Explaining Capital Flight from Sub-Saharan African Countries." *World Development* 31 (1): 107–30.

Ndikumana, L., and J. K. Boyce. 2011. "Capital Flight from Sub-Saharan Africa: Linkages with External Borrowing and Policy Options." *International Review of Applied Economics* 25 (2): 149–70.

Ndikumana, L., and J. K. Boyce. 2012. "Capital Flight from Sub-Saharan African Countries: Updated Estimates, 1970–2010." PERI Research Report, October, Political Economy Research Institute, University of Massachusetts, Amherst. Retrieved from: URL: http://www.peri.umass.edu/fileadmin/pdf/ADP/SSAfrica_capitalflight_Oct23_2012.pdf on 13 June 2018.

Njoroge, P. 2016. "The role of banks and the securities markets in curbing the movement of illicit financial flows". Remarks by Dr. Patrick Njoroge, Governor of the Central Bank of Kenya, at the 2nd Annual General Meeting and Conference of African Organization of Public Account Committees (AFROPAC), Nairobi, 30 August 2016.

Nkurunziza, J. D. 2015. Capital Flight and Poverty Reduction in Africa. In I. Ajayi and L. Ndikumana (Eds.), *Capital Flight from Africa: Causes, Effects and Policy Issues* (pp. 81-110). Oxford, UK: Oxford University Press.

North, D. C. 1987. "Institutions, Transaction Costs and Economic Growth." *Economic Inquiry* 25 (3): 419.

North, D. C. 1990. *Institutions, Institutional Change and Economic Performance*. Cambridge, MA: Cambridge University Press.

OECD (Organisation for Economic Co-operation and Development) (2018). Global Forum on Transparency and Exchange of Information for Tax Purposes. Retrieved from: <http://www.oecd.org/tax/transparency/kenya-becomes-the94th-jurisdiction-to-sign-the-mac.htm> on 28 July 2018.

OECD (Organisation for Economic Co-operation and Development) (2013) Measuring OECD responses to illicit financial flows (Paris: OECD). Retrieved from: URL: http://www.oecd.org/dac/SLM2013_issue%20paper%20illicit%20flows.pdf on 28 July 2018.

OECD (Organisation for Economic Co-Operation and Development). 1998. *Harmful Tax Competition: An Emerging Global Issue*. Paris.

Okoth, E. 2015. Dodgy Multinationals denying Kenya billions of shillings in revenue. *Daily Nation* Monday September 21, 2015. Retrieved from: <https://www.nation.co.ke/lifestyle/smartcompany/How-multinationals-fleece-Kenya-through-tax-evasion/1226-2879578-tebr98/index.html> on 28 July 2018.

Omondi, 2018. Bag of tricks used by companies use to avoid paying tax Standard Digital. Monday, April 9th 2018. Retrieved from: <https://www.standardmedia.co.ke/business/article/2001276138/bag-of-tricks-used-by-companies-use-to-avoid-paying-tax> on 29 July 2018.

- Rasmussen, J. 2017.** "Sweet Secrets: Sugar Smuggling and State Formation in the Kenya–Somalia Borderlands. DIIS Working Paper 2017: 11". Copenhagen: Danish Institute for International Studies.
- Reuters. Oct. 12, 2017.** Victorian Amadala. Kenya losing Sh40 billion in illicit financial flows.
- Reuter, P., ed. 2012.** Draining Development? Controlling Flows of Illicit Funds from Developing Countries. Washington, DC: World Bank.
- Rodrik, D., A. Subramanian, and F. Trebbi. 2002.** "Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development." NBER Working Paper No. 9305, National Bureau of Economic Research Cambridge, MA.
- Sachs, J. D., and A. Warner. 1995.** "Economic Reform and the Process of Global Integration." *Brookings Papers on Economic Activity* 26 (1): 1–118.
- Shaxson, N. 2015.** Stop the bleeding: new African tax justice campaign. Tax Justice Network Africa, July 3, 2015. Retrieved from: URL: <https://www.taxjustice.net/2015/07/03/stop-the-bleeding-new-african-tax-justice-campaign/> on 25 May 2018.
- Sarr, M., E. Bulte, C. Meissner, and T. Swanson. 2011.** "On the Looting of Nations." *Public Choice* 148 (3–4): 353–80.
- Sheets, N. 1995.** "Capital Flight from the Countries in Transition: Some Theory and Empirical Evidence." *International Finance Discussion Papers Number 514*, Board of Governors of the Federal Reserve System (US). <https://ideas.repec.org/p/fip/fedgif/514.html>
- Sheets, N. 1996.** "Capital Flight from the Countries in Transition: Some Empirical Evidence." *Journal of Policy Reform* 1 (3): 259–77.
- Shirley, M. M. 2008.** "Institutions and Development." In *Handbook of New Institutional Economics*, edited by C. Ménard and M. M. Shirley, 611–638. Berlin: Springer-Verlag.
- Schneider, F, and Enste, D., 2002.** Hiding in the Shadows: The Growth of the Underground Economy. *International Monetary Fund*. Retrieved from: <https://www.imf.org/external/pubs/ft/issues/issues30/index.htm> on 29 July 2018.
- Standard Reporter, 2016.** Kenya makes strides in tackling illicit financial flows URL: In Standard Digital. Wednesday February 17, 2016. Retrieved from: <https://www.standardmedia.co.ke/business/article/2000192006/kenya-makes-strides-in-tackling-illicit-financial-flow> on 8 June 2018.
- The Standard, 2017.** Work to improve Kenya’s poor human development record. In Standard Digital. Thursday, May 4 2017. Retrieved from: URL: <https://www.standardmedia.co.ke/article/2001238499/work-to-improve-kenya-s-poor-human-development-record> on 22 May 2018.
- Tax Justice Network. 2018.** Financial Secrecy Index 2018: Narrative report on Kenya. Accessed online at: Retrieved from: URL: <http://www.financialsecrecyindex.com/database/Kenya.xml#b122> on 25 May 2018. The AU/ECA, 2015. IFFs track it stop it main report: Report of the High Level Panel on Illicit Financial Flows from Africa. Retrieved from: URL: https://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf on 25 May 2018.

The World Bank. 2017. Illicit Financial Flows (IFFs). The World Bank July 7, 2017. URL: Retrieved from: <http://www.worldbank.org/en/topic/financialsector/brief/illicit-financial-flows-iffs> on 23 May 2018.

Transparency International, 2016. The Benefits of Anti-Corruption and Corporate Transparency. Working Paper. Berlin: International Secretariat.

Trust Africa. 2015. Africa: The billions that got away. Mail and Guardian Africa. Our campaign seeks to end Illicit Financial Flows from Africa URL: Retrieved from: <http://stopthebleedingafrica.org/ebook/> on 21 May 2018.

Trust Africa. 2015. Stop the Bleeding: Campaign to End Illicit Financial Flows from Africa. Retrieved from: URL: <http://stopthebleedingafrica.org/stop-the-bleeding-campaign-launched-in-nairobi-2/> on 23 May 2018. TJN UK (Tax Justice Network UK). 2008. "Tax Havens Creating Turmoil." Evidence submitted to the Treasury Committee of the House of Commons. Retrieved from: URL: http://www.un-ngls.org/cfr/upload/1234518529_80.47.24.143_CreatingTurmoil.pdf on 23 May 2018.

UNECA, 2013. Making the most of Africa's Commodities: Industrializing for Growth, Jobs and Economic Transformation. Addis Ababa, Ethiopia: UNECA.

United Nations, Coherent Policies for Combatting Illicit Financial Flows, United Nations Office on Drugs and Crime (UNODC) and Organization for Economic Co-Operation and Development (OECD), Issue Brief Series from the Inter-Agency Task Force on Financing for Development, July 2016.

United Nations Office on Drugs and Crime, World Drug Report 2017 (ISBN: 978-92-1-148291-1, eISBN: 978-92-1-060623-3, United Nations publication, Sales No. E.17.XI.6). Retrieved from: URL: http://www.unodc.org/wdr2017/field/Booklet_5_NEXUS.pdf on 23 May 2018.

UNCTAD (United Nations Conference on Trade and Development), 2016. Some countries losing up to 67% of commodity exports to misinvoicing. United Nations Conference on Trade and Development. <http://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1277> on 29 July 2018.

UNODC (United Nations Office on Drugs and Crime), 2018. Drug Trafficking Patterns to and from Eastern Africa. United Nations Office on Drugs and Crime. Retrieved from: <https://www.unodc.org/easternafrica/en/illicit-drugs/drug-trafficking-patterns.html> on 29 July 2018.

Wafula, P. 2016. Audit: Sh 215 b Eurobond Cash Unaccounted for. Standard Digital. Thursday, September 8, 2016. Retrieved from: URL: <https://www.standardmedia.co.ke/article/2000215138/audit-sh215b-eurobond-cash-unaccounted-for> on 21 May 2018.

Waris, Attiya. 2014. "The Creation of International Financial Centres in Africa: The Case of Kenya". Bergen: U4 BRIEF September 2014 No 8 Chr. Michelsen Institute.

Wahome, M. 2014. Rich Kenyans stash wealth abroad, shows new report. The Business Daily, Wednesday, February 19, 2014. Retrieved from: <https://www.businessdailyafrica.com/markets/Rich-Kenyans-stash-wealth-abroad--shows-new-report/539552-2213812-2pvgdtz/index.html> on July 23, 201

Watima, T. 2018. Kenya among African states addicted to debt. Business Daily. Monday, March 5, 2018. Retrieved from: URL: <https://www.businessdailyafrica.com/analysis/columnists/Kenya-among-African-states-addicted-to->

debt/4259356-4329578-b47dx3/index.html on 23 May 2018.

Were, A. 2017. Debt and Taxes: Kenya is living large on borrowed money. The Elephant. December 7, 2017. Retrieved from: URL: <https://www.theelephant.info/features/2017/12/07/debt-and-taxes-kenya-is-living-large-on-borrowed-money/> on 23 May 2018.

Xuequan, M. 2018. Kenya to enhance surveillance of illicit financial flows. In Xinhua, Tuesday, January 25, 2018.

Annex 1: Channels and Enablers of Illicit Financial Flows

Channels	Enablers and their activities
1. Informal/ underground banking channels (Njoroge 2016)	Exclusive banking systems and financial institutions are heavily cash-strapped. Public trust in banking structures or the state itself is not high and there is huge reliance on personal relationships, bonds and networks to transfer funds. Alternative private channels of banking exist and are actively used for money laundering. These channels are widely used by criminals, corrupt officials and the general public to move large sums of funds within and across borders. These laundering channels range from informal methods to complex tools (Waris, 2011). For example, the Hawala system navigates transfer of money through trustworthy intermediaries. The Tax Justice Network also estimate that more than \$1 in every \$6 in the World is not subject to tax creating a huge pool of a shadow economy hidden from the tax authorities.
2. Corporate vehicles and service providers (Njoroge 2016)	A secrecy jurisdiction also commonly known as tax haven provides multiple legal and financial services, arrangements and layers of anonymity in all forms to hide illicit finance. The existence of these structures and channels incentivize enablers of IFFs in Kenya to move funds to secrecy jurisdictions. The secrecy caters to ensure both onshore and offshore financing by concealing the identity of the true owner of the legal entity (company, trust, foundation, limited liability partnership, cooperative society, association). MNCs move funds from Kenya, to low tax jurisdictions such as Mauritius, Switzerland and other offshore countries through transfer pricing, trade mis-invoicing or other methods. HNWLs, politically exposed persons (PEPs), smugglers, the corrupt and terrorists' alike use shell (unregistered) companies to mask their money, assets and operations from prying authorities. Financial institutions have been found guilty of not following due diligence procedures and conducting proper background checks to solicit in tax avoidance deals at the behest of MNCs and corrupt individuals.
3. Offshore wealth (Wahome, 2014)	The use of tax havens have corporatized concealing of private wealth from tax and regulatory authorities, a person's own family, business associates and competitors. Offshore wealth has been understood as the assets held by an investor in a country without having legal residence in the country. Estimates of undeclared private wealth accumulated in tax havens amounts to billions of Kenya shillings. Moreover, the existence of trust laws has allowed a person to divert inheritance laws. Identification of the geographical origins of wealth of some high profile individuals and public officials continues to remain a challenge due to the lack of data. The motivation behind declaring only a portion of wealth in some cases is the assumed security over assets offshore or fund management services provided in offshore financial Centres.

<p>4. Corruption (Corporate, 2011)</p>	<p>Most of IFF activities are usually engineered by economic and political elites, who exploit their privileged positions to acquire and channel funds abroad through rent-seeking. Rent-seeking refers to increasing one's share of wealth without contributing to an economic activity that generates value. This includes bribery in both the public and private sector. The High Level Panel report on IFFs (2015) argues that the main purpose of corrupt activities is beyond generating more IFFs. Money laundering helps corrupt politicians avoid accountability whilst in power. Anti-money laundering (AML) policies are primarily focused towards addressing IFFs that emerge from drug and human trafficking, terrorism, illicit weapon trade, theft of public funds etc. Corrupt officials particularly, Senior Officers in government earn their bribes through a variety of activities such as charging for rights that should be freely available, improper contract awards, extortion for not imposing proper criminal sanctions. The volume of funds determine whether the funds are moved overseas or are invested in the country. The Goldenberg and Anglo leasing scams are some of the examples of corruption through which Kenya lost billions of money.</p>
<p>5. Tax evasion (Karanja, 2018)</p>	<p>Illicit financial flows motivated from tax evasion occur in the form of forged tax returns, transfer pricing and misinvoicing by MNCs and private business organisations, manipulation of rents by corrupt bureaucrats or public officials (rent scraping) where a share of the profit go into their investments. The growing involvement of multinationals in developing countries has put transfer pricing high on the agenda for governments and international organisations that seek to promote growth, development and trade. For example, in 2005, the Kenya Revenue Authority lost a court case, which compelled the Ministry of Finance to develop transfer pricing legislation. The case involved Unilever Kenya Ltd, which had manufactured and sold various household goods to Unilever Uganda Ltd. Both companies are part of the UK-based Unilever group and related parties under section 18 of the then Kenyan Income Tax Act (Anyanzwa and Olingo, 2015). Tax evasion in Kenya has contributed to a large share of the shadow economy and lowered compliance thus, encouraging willful dodging of taxes (Schneider and Enste, 2002). Either lack of reporting or false reporting on income or profits has also increased due to fear of being discovered by tax authorities. There is no doubt that Kenyan society is very corrupt thus, the more corrupt a society is the more opportunities available to evade taxes. Tax evasion or tax avoidance reduce tax revenue and public investment. Loss of tax undermines political stability in a country. Theft of public resources with the collusion of political actors is a common phenomenon in Kenya as external borrowing by the government has often directly translated to the accumulation of private assets abroad by public officials. The government's Eurobond 1 and 2, remain mysterious.</p>

<p>6.Trade related (Omondi, 2018)</p>	<p>MNCs are the main actors in international or World trade relations, commanding almost 80 percent of the world trade. This trade occurs between MNCs and their subsidiaries or related companies in the global value chains. A 2016 study by the UN Conference on Trade and Development (UNCTAD) argued that trade misinvoicing of goods results in “some countries losing 67 percent of the value of their exports” (UNCTAD, 2016). A discrepancy reported in over or underpricing of goods and services in trade receipts of exports and imports is called trade misinvoicing. Other practices like double invoicing allows companies to produce two different invoices of goods at different sides of the border in the same supply chain. Kenya also has trade-related tariffs, quotas, rules concerning foreign ownership. IFFs have been used to evade such rules by falsifying import-export invoices on the basis of their price, quantity or quality. Importation of counterfeit goods is also a common phenomenon in Kenya.</p>
<p>7.Crime related (Allen, 2006)</p>	<p>Criminal earnings arise from organized crime which operate as a shadow economy through local power structures, underground money laundering and trans-border trade networks (Kenopalo, 2012). These networks are comprised of small brokers, public actors, politicians, informal money transfer channels that work in coherence with each other acting as a close-knit business (Musau and Wesangula, 2017). A 2011 report by the United Nations Office of Drugs and Crime (UNODC) found that drug trafficking constitutes the largest share of illicit funds originating from criminal activities, almost 0.9 percent of the global GDP in 2005 (UNODC, 2018). Drug traffickers, human smugglers and other illegal market enterprises generate large revenues which in most cases leave the country to secrecy jurisdictions.</p>

Source: Author’s analysis

HNWIs, politically exposed persons (PEPs), smugglers, the corrupt and terrorists alike use shell (unregistered) companies to mask their money, assets and operations from prying authorities.

Most of IFF activities are usually engineered by economic and political elites, who exploit their privileged positions to acquire and channel funds abroad through rent-seeking.

Tax evasion in Kenya has contributed to a large share of the shadow economy and lowered compliance thus, encouraging willful dodging of taxes

Partnership for African Social & Governance Research (PASGR)

6th Floor, I & M Building

2nd Ngong Avenue, Upper Hill

P.O. Box 76418-00508 Nairobi, Kenya

Email: research@pasgr.org

Tel: +254 (0) 20 2985000;

+254 (0) 729 111031 or

+254 (0) 731 000 065

www.pasgr.org