



ECA POLICY BRIEF

Unmasking governance and the roles of international players in corruption in Africa

1. Governance matters

The April 2016 revelations in the “Panama Papers” brought into renewed focus the efforts of many Africans over the past few years to draw the attention of world leaders and policymakers to the catastrophic effects of illicit financial outflows bleeding the continent. The Panama Papers confirm two major facts: first, the widespread use of offshore banking for the purposes of tax avoidance and other illegal activities; and second, the magnitude of these secret financial transactions. What is shocking to many observers in Africa is the sheer scale of the money transfers: almost 215,000 offshore shell companies, more than 14,000 clients, more than 11 million documents with billions of dollars hidden behind them.¹

On 2 April 2014, just a few days before the Panama Papers were released, the United Nations Economic Commission for Africa (UNECA) launched its African Governance Report IV, entitled Measuring Corruption in Africa – The International Dimension Matters. The evidence disclosed in the Papers is in line with five key messages of this report:

¹ International Consortium of Investigative Journalists, “Explore the Panama Papers key figures”. Available from <https://panama-papers.icij.org/graphs/>. Accessed on 15 August 2016.

- There is a need to rethink current measures to curb corruption in Africa, as they are not based on an understanding of the true extent of the problem
- The roles of international players involved in corrupt practices, including illicit financial flows (IFFs), as in the case of the Mossack Fonseca company and its diamond dealings in Africa, are not adequately acknowledged
- There is a need to enhance social inclusion, especially income equality, through governance reforms to ensure a fair tax system
- Efforts to fight the externalization of resources via IFFs will enhance the continent’s domestic resource mobilization efforts and fiscal space
- There is a paramount need to reform international cooperation, especially in efforts to enforce asset recovery, eliminate tax avoidance/evasion and end the protection of suspect financial transactions. This Policy Brief reflects on the issue of measuring corruption in Africa and why the international dimension matters.

2. What are the problems with current measures of corruption?

Policymakers in Africa need to take cognizance of the limitations of current perception-based measures of corruption, which fail to provide credible assessments of the dimensions of the problem generally, and particularly in Africa. The definitional ambiguity surrounding the concept of corruption

is particularly unsettling when attempts are made to measure it. The type of definition chosen to describe corruption will influence the conceptual, methodological and empirical framework adopted to analyse it. It is unsurprising that the drafters of the United Nations Convention against Corruption experienced difficulties when trying to come up with a definition of corruption: "... it was decided that the text of the Convention would not include a definition of corruption, as this is a polyvalent and changeable term that means different things to different people, and above all because it is an evolving concept."²

Since the late 1990s, a large number of indicators have surfaced seeking to explain one or multiple dimensions of corruption, both in developing and in developed countries. One common feature that all of these measures share is the similarity in the methods they adopt to gather and analyse data. These include surveys of firms, public officials and individuals, as well as the views of outside observers in NGOs, multilateral donors and the private sector. These data sources are used either individually or in aggregate measures, by combining information from many such sources.

Some key limitations of these measurements need to be highlighted in this regard:

- **Current indicators do not present a reliable picture of corruption** in Africa, since they are perception-based. For any indicator of corruption to be strong and reliable, the sample must be homogeneous. The standard practice is that the different indicators used in the various corruption indices are gathered from surveys administered to a limited sample of people
- **Most of the data are of a quality which is not useful for policymaking.** Generally, data on reported cases of corruption tend to relate to the response of criminal justice systems rather than the true extent and nature of the crime itself. Given the difficulty in collecting data on factual experiences of corruption, methods based on expert assessments and on re-elaboration of available data (i.e. composite indices) have remained prominent.

- **The data do not capture the international dimension of corruption**, although the phenomenon is not just an African problem.

3. The international dimension of corruption in Africa

The role of outsiders in perpetrating corrupt practices in Africa cannot be ignored. The international dimension of corruption in Africa is driven primarily by the behaviour of foreign firms and other international stakeholders. Foreign companies often take advantage of weak and ineffective institutional mechanisms in order to gain undue advantage or secure political privileges.

Foreign intervention is an intrinsic part of the policy landscape in many African countries, which comes through conditionality frameworks, often tied to official development assistance (ODA) packages. Certainly, ODA remains critical to financing the continent's structural transformation agenda. Specifically, it has been used to support anti-corruption initiatives in many African countries, notably by strengthening the judiciary and national anti-corruption agencies and improving State accountability. In fact, the public policy literature advocates that foreign assistance should contribute to reducing corruption in the recipient country.

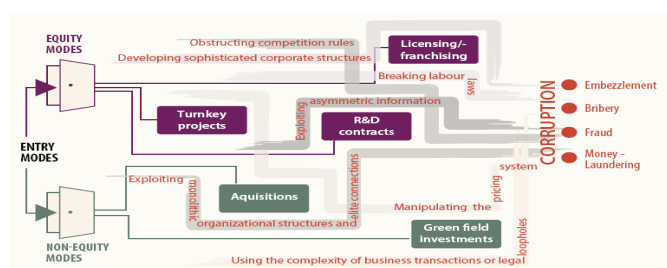
However, ODA flows have also influenced the evolution of corruption in Africa. Specifically, foreign assistance is a conduit by which certain political elites in recipient countries engage in rent-seeking behaviour. The development literature has reached scathing conclusions on foreign assistance, observing that aid can make States less accountable, and that vested interests can arrange for ODA to be channelled to specific activities, incentivizing domestic corruption.

Another dynamic of the international dimension of corruption relates to cross-border corruption. While there is no clear definition, cross-border corruption is a serious concern given "its potential to interact with domestic corruption, often with the effect of intensifying both and making reform more difficult. In its causes as well as in its consequences, cross-border corruption has much in common with domestic varieties; countries that have serious internal

² Antonio Argandoña, "The United Nations Convention against Corruption and its impact on international companies", *Journal of Business Ethics*, vol. 74, No. 4 (November 2006).

corruption problems are likely to be particularly vulnerable to cross-border forms as well”.³

Generally, cross-border acts include: collusion between suppliers and public officials within the international supply chain; money-laundering; customs tariff avoidance; and bribery in international transactions⁴ (see figure 1). The African Governance Report notes that in 2014, following investigation by the United Kingdom’s Serious Fraud Office and a three-year trial, the Smith & Ouzman company was convicted of bribing foreign public officials in Kenya and Mauritania.⁵ In early 2015, two subsidiaries of Goodyear Tire & Rubber Company, based in Angola and Kenya, allegedly paid bribes to public officials in order to increase sales, in breach of the United States Foreign Corrupt Practices Act.⁶ The report notes that between 1995 and 2014, out of a total of 1,080 firms involved in cross-border corruption, 1,075, or 99.5%, were non-African (see table 1).



Source: Adapted from Aurora A. C. Teixeira and Marlene Grande, “Entry mode choices of multinational companies (MNCs) and host countries’ corruption: A review”, *African Journal of Business Management*, vol. 6, No. 1 (July 2012).

Table 1: Number of cases of cross-border corruption by foreign firms

| Years | Total number of cases | |
|------------------|-----------------------|--------|
| | Rest of the world | Africa |
| 1995-1999 | 135 | 0 |
| 2000-2004 | 383 | 3 |
| 2005-2009 | 350 | 0 |
| 2010-2014 | 207 | 2 |
| Total, 1995-2014 | 1 075 | 5 |

Source: Measuring Corruption in Africa: The International Dimension Matters. African Governance Report IV. United Nations publication, Sales No. E.16.II.K.2.

Illicit financial flows (IFFs) are important elements of the international dimension of corruption affecting the African continent. IFFs originate from three broad types of activities: commercial activities, criminal ones and corruption. However, corruption is also intrinsically linked to commercial and criminal sources of IFFs. Illicit financial outflows which derive from commercial activities “have several purposes, including hiding wealth, evading or aggressively avoiding tax, and dodging customs duties and domestic levies”. Among the criminal activities that may give rise to IFFs, of particular relevance in Africa are “trafficking of people, drugs and arms [and] smuggling, as well as fraud in the financial sector, such as unauthorized or unsecured loans, money laundering, stock market manipulation and outright forgery”.⁷

An intricate network of African and international financial institutions facilitates IFF practices. This network is made up of an interconnection of different jurisdictions, characterized by varying degrees of financial secrecy, as well as informal institutions. In addition, there is the ancillary presence of some foreign firms (multinational corporations), which are also perpetrators of IFFs.

While media outlets seem to be obsessed with naming government officials and famous names in the Panama Papers scandal, in Africa the story has been welcomed as giving this issue deserved attention. By every estimate, Africa has been the most victimized part of the world as a result of the huge sums of money leaving the continent and destined for offshore

³ Michael Johnston, “Cross-border corruption: points of vulnerability and challenges for reform”, in *Corruption and Integrity Improvement Initiatives in Developing Countries*. UNDP Programme in Accountability and Transparency, New York, and OECD Development Centre, Paris.

⁴ J. Médard, La corruption internationale et l’Afrique sub-saharienne: un essai d’approche comparative ». *Revue Internationale de Politique Comparée*, vol. 4, No. 2 (1997).

⁵ Caroline Binham, “SFO gets first conviction of company for foreign official bribes”, *Financial Times*, 22 December 2014.

⁶ Alix Partners, “Cross-border M&A: Bribery and corruption issues in international transactions”. Available from <http://www.alixpartners.com/en/Publications/AllArticles/tabid/635/articleType/ArticleView/articledid/1699/Cross-Border-MA.aspx>. Accessed on 15 August 2016.

⁷ United Nations Economic Commission for Africa, *Illicit Financial Flows: Report of the High-Level Panel on Illicit Financial from Africa, commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development* Addis Ababa, n.d.

banks using various tax loopholes and illegal means. Global Financial Integrity, a respected research group based near Washington D.C., estimates that the volume of these transactions could reach as much as US\$ 1.1 trillion per year, mainly affecting developing and emerging economies.⁸ Africa's share of the total lost to illicit financial flows is estimated to be between US\$ 50 and 60 billion a year. This amount far exceeds the combined foreign aid and direct investment flowing into African countries. The effect of such financial outflows is particularly felt by the poorer nations of the continent.

4. How should African and global leaders respond to curb the growing problem of illicit financial outflows and related corrupt practices in Africa?

Given the prominence of its international dimension, the problem of corruption in Africa cannot be tackled by crafting policies which are exclusively domestically oriented. At a minimum, there is a need to improve the transparency of the international financial system and to augment the capacity of States to tackle the IFF problem. Increased international cooperation is also a necessity to allow African governments to play a more proactive role in fighting cross-border corruption. African countries should:

- **Ensure that the public can access national and subnational budget information**, and that processes and procedures for budget development and auditing are open and transparent to the public
- **Implement the Special Declaration on IFF adopted at the 24th African Union Summit held in January 2015 in Addis Ababa**, committing them to combating IFFs, and call for similar action at the global level
- Require financial institutions to **subject accounts held by certain persons to greater scrutiny and monitoring**, including senior government officials, politically exposed persons, leaders of political parties and executives of State-owned enterprises and multinational corporations

- Demand that the global community take all necessary steps to **eliminate secrecy jurisdictions, introduce transparency in financial transfers and crack down on money-laundering**
- Require global governance bodies such as the IMF, the United Nations and the World Bank and continental institutions like the African Development Bank and the African Peer Review Mechanism to **adopt a more coherent and visible role in tackling IFFs**
- **Enhance cooperation** by governments, development partners and civil society to curb and finally eradicate illicit financial outflows from Africa.

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⁸ Global Financial Integrity, "Massive leak of secret documents from Panamanian firm reveal movement of billions of dollars in suspect transactions", 3 April 2016. Available from <http://www.gfintegrity.org/press-release/massive-leak-secret-documents-panamanian-firm-reveal-movement-billions-dollars-suspect-transactions/>.