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Kenya II: Methodological & procedural issues

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1 Introduction

Capturing sufficient and adequate information is necessary for this study in order to try and address the research topic. To this effect, data collection largely involved qualitative and quantitative methods.

This chapter links with the methodological chapter contained in the introductory part of our research (I/II) as well as the difficulties which the research partners encountered in their respective cultural and country context (I/III).¹ At that stage we also want to remind the reader of our cross-referencing system covering all contributions to this research at <http://tinyurl.com/tjp-referencing>.

Following are some more specific information for the proceeding of the Kenyan country study both regarding the main methodological instruments applied as well as existing and encountered challenges and limitations.

2 Literature review

The first methodological tool was the review of literature. There is comparatively literature on the subject of taxation in Kenya. Mostly this include: reports, books, online publications, pamphlets, brochures research papers to mention but a few, often by academics and NGOs from home and abroad. Therefore, the thrust of work here included analyzing what has already being done in the area of taxation especially information related to the research topic and drawing specific references or examples to these findings.

The topic of taxation is technical as compared to other topics such as education, politics or even democracy. As a result, there is likely to be less literature on the subject of taxation in Kenya as there is on other topics. Further, there are not many organisations working on the

¹ See (Alt & al., 2016c) (Tendet & al., 2015)

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issues of taxation as compared to other matters such as governance, politics, education and health.

Although literature might be limited on the subject, networks among academics and civil society were established with other likeminded organisations working on similar topics and as such information was provided.

At times also publications from other African Countries, e.g. from a series of Country Studies by the Tax Justice Network (on Ghana or Sierra Leone) or other Revenue Collecting Agencies (e.g. Zambia or Uganda RA) provided helpful insights.

Last not least, literature was given or recommended for reading by informants and conversation partners to this project (see below#).

3 Media

Every now and again, there are quality reports on tax-related issues in newspapers and other media. The media in Kenya is diverse and open to a good and controversial discussion of political affairs. This is, among other reasons, due to certain affiliations to government and opposition parties or to ownership by private and corporate wealth holder. Investigative zeal by quite a number of them digs out information which otherwise would remain hidden by government and other influential stakeholder involved. It is, therefore, at times helpful, to draw insights from various sources and to compare them in order to approach the “truth between the lines”.

4 Interviews with informants

As explained in I/II, formal and informal interviews with key stakeholder have a prominent role in this research. On the whole, getting in touch and having people talk about these issues was not as easy as it was initially anticipated. Hence the number of conversation partner, especially those who permitted anonymous quotes, is comparably small and stands as follows:

- Academics: 2
- NGO background: 2
- KRA and other revenue collecting agencies: 4 (→ what about the proof reader? Is it included here?)
- GIZ: 4
- Tax consultants: 1
- Church: 1

However, following discussions regarding the study design, quality was considered to be more important than quantity, and indeed with all those mentioned above, several contacts and conversations could be established, some of the even accompanying the project from its inception to its end.

The value of talks with the informants above was both direct and indirect: Indirect insofar that they explained laws, operations, its strength and deficits to the researcher which then emerged into some form of background knowledge, i.e. it was not agreed to quote from those

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encountered, but nevertheless of some use. Direct insofar that quotes were permitted, at times they were verified and cross-checked with the source before incorporating in the text.

Ideally, the information obtained during interviews was transcribed or summarized, analyzed by the researcher or the team and lastly a justifiable opinion arrived at after consideration of different views.

Beyond the above mentioned more contacts were tried to be established but were eventually abandoned.

In some instances the informants would be unwilling to share a certain quantity or quality of information which then could be quoted in the research for a number of reasons. These include fear of being seen as opposing official government tax policy with and fear of being 'misquoted' or misrepresented especially for individuals working in public institutions.

With the scarcity of information in Kenya, some informants would want to be compensated to release information. This compensation could take the form of cash – which is where the money provided by the “Hospitality Fund” of this research had come in. Then, of course, the question arises how trustworthy an information is which was obtained that way or whether the interviewee was merely interested in obtaining money while telling the researcher what he thought he wanted to hear.

5 Problems encountered

The Kenyan study ran into a number of difficulties which were not anticipated. To start with, the first researcher quit his job after two years without providing for a satisfying handover of information. That way a number of interview notes simply disappeared or could be reconstructed only with great efforts, partly by re-interviewing persons concerned.

Next: Compared with Germany and Zambia, the number of people willing to talk about Kenyan tax law and tax administrations and/or provide documents, statistics or other material relevant for the study was the smallest of all three country studies. The greatest restraint could be observed regarding everything pertaining to the work of the Kenyan Revenue Authority. For example: Annual Reports, which contain the basic information about work, performance, efficiency, problems encountered of tax administrations and which were readily provided by the Bavarian and Zambian Tax Authority could not be obtained from KRA. It could not be established why this extreme high amount of secrecy and reluctance exists in Kenya. These problems seem to be encountered also from other researchers: The ICPAK mentioned an “asymmetry in fiscal information” (ICPAK, 2016, p. 8) and received research relevant revenue data rather from the Kenya National Bureau of Statistics than KRA.

An expert in the field replied to a mailed question of that kind “Hmmm, that needs an entire conversation”, but, at the same time was not willing to enter into it. Our research team was heartened that we are not the only NGO encountering difficulties of that kind: When Tax Justice Network Africa wanted to obtain insight into the tax treaty between Kenya and the tax haven of Mauritius, this could only be achieved via legal proceeding and a court verdict.

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6 Verification

Parts of the chapter concerning Tax Laws and Tax Administration were proof-read by a tax expert who checked upon accuracy submitted comments and additional information.

7 Scope and focusing of the research

In the methodological part II/10 we report about problems the research team encountered when trying to bring potential topics and material into a form which is manageable, but at the same time does not omit anything of relevance and interest for one's own country.

Regarding Kenya, it has been concluded in the course of the research that the original intention, namely to exclude business taxation related issues since those are covered by other expert organization, will not work: Given the export oriented economic structure, the attempts of the government to attract FDI and tax avoidance and evasion options arising from there we felt the need to deal with these issues at least to some extent.

Another topic occurring only during the research has been the issue of IFFs and its relevance for Kenya. But: Given the complexity of issues linked to this topic, here, too, the question was of how to bring it into a manageable shape. This discussion will be given in chapter IV/## of the Country Report, introducing the issue of IFFs in the Kenyan context.

At the same time, the team found that issues pertaining to the informal sector are not the most pressing issues for examination. Even though informal sector employing amounts to almost 80% of the Kenyan workforce, most working here earn little and are at the verge of starvation. Of course, there are those who could be moved into the tax net. But: Efforts to put into place to facilitate this are not in proportion with gains which, given comparable efforts, could be reaped in other areas, especially with private, corporate and criminal wealth holder. This is why we state the problem, admitting that we are aware of it, and refer at the same time to those who elaborate on those issues.

8 Publication

As originally intended (see I/II/11.2), there will be a short, simplified and technical version of every report:

- The short version will have the character of an Executive Summary, i.e. capturing most important insights for busy expert-reader.
- The simplified version addresses an interested, but non-expert readership. It selects important issues and explains it in a way that non-experts get to understand crucial issues at hand.
- The technical version contains a lot of material collected in literature review, interviews and material which has been recommended to the researchers by colleagues. It addresses an expert readership which knows its way round legal, administrative and academic issues. In some places, passages are categorized as "Excursus": It contains context material of which the researchers think that some readers are interested to know about, perhaps, because they want to know the background or criteria which prompted the researchers to make some choices. Those

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“Excursus” chapters are NOT essential reading to get the point of our findings and can be skipped by those who only want to know about the proper research results.

9 Bibliography

Alt, J., & al. (2016c, March 2). *Methods, Resources and Scope of the Project*. Retrieved from Tax Justice & Poverty - Introduction: <http://tinyurl.com/tjp-02methods-scope>

Institute of Economic Affairs. (2012). *A Citizen's Handbook on Taxation in Kenya*. Nairobi: Institute of Economic Affairs. Retrieved from Institute of Economic Affairs.

Tendet, E. K., & al. (2015, June 13). *Differences in culture and working environment*. Retrieved from Tax Justice & Poverty: <http://tinyurl.com/tjp-13culture>

Waris, A., & al. (2009). *Taxation and State Building in Kenya: Enhancing Revenue Capacity to Advance Human Welfare*. Nairobi: Kenya.