

VI Overlapping Core Issues

Authors: Jörg Alt SJ, Andrew Simpasa SJ, Mwamba Mutale SJ

Table of Content

VI Core Issues	1
1 Revenue Trends.....	2
2 Estimates of Costs and Losses	3
3 Deficits arising from the Informal/Shadow Economy	4
3.1 Common and different features	4
3.2 Common and different responses	5
4 Deficits arising from IFFs	5
4.1 Concealment of private, corporate and criminal wealth.....	6
4.2 Systemic issue?.....	6
4.3 Tax administrations and IFFs	7
5 Core Issues related to taxation and SSC policy.....	8
5.1 Secrecy, transparency and privacy concerns	8
5.2 Corruption, Lobbyism, Entanglement	8
5.3 Tax competition vs. tax cooperation.....	10
5.4 Tax presents for private and corporate wealth holder	10
5.4.1 Example: Taxation of real property	12
5.5 The shift of tax burden and the issue of SSCs.....	12
5.6 The issue of personnel	14
5.6.1 Facts and figures.....	14
5.6.2 Control deficits	14
5.6.3 IT options	14
5.6.4 The Costs benefit argument.....	15
5.7 Taxation and other policy goals.....	16
5.8 Simplicity and Complexity and the question of tax justice	17
5.9 Fighting aggressive tax avoidance and tax evasion.....	18
5.10 Enhancing compliance: Morals, enforcement or leaks?	19

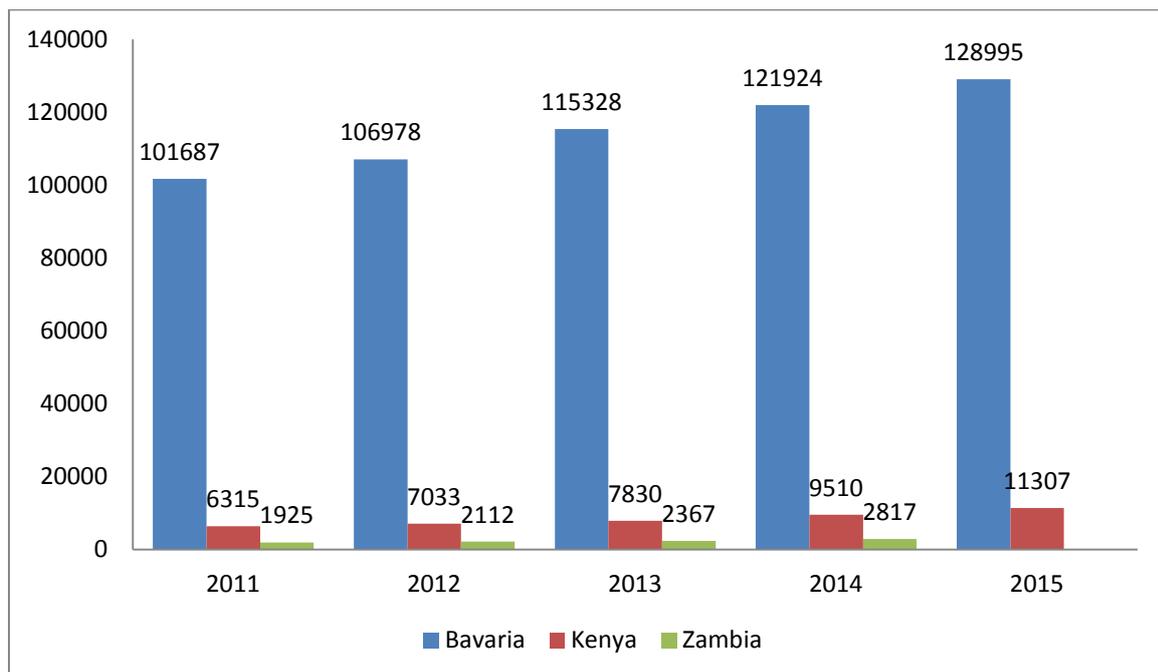
5.11	Different needs of developed and developing countries.....	19
5.12	Keeping up the imbalance of power	20
6	Additional Core Issues relating to dependency and poverty.....	22
6.1	Government dependence and debt overhang.....	22
6.2	Intergenerational Social Security Deficits	22
6.3	Dependency, education and empowerment	22
6.4	Ownership and participation.....	22
7	Conclusion.....	23

Having considered country specific case studies for Germany, Kenya and Zambia, it is time to draw some conclusions regarding results and core issues emerging from our work. Given the nature of this research project, e.g. in terms of complexity, the term “overlapping core issues” signifies observations arising from our research, seen to be important enough to be stated at this juncture. They represent issues of common and/or comparable importance for Germany, Kenya and Zambia alike, even though the context may be very different. This chapter also considers some framework issues related to national tax administration since the three countries are no longer isolated or totally sovereign in their decisions, but subject to many influences and dynamics outside their control which need to be understood. In a picture: While the country reports report symptoms, this part asks: What are the causes or “conditions of possibility” for that?

1 Revenue Trends

The good news is that revenue collection in our countries is on an upward trend as far as the absolute amount of money collected is concerned. When looking at the following figure, please be aware that Bavaria is just one of Germany's 16 states, whereas for Kenya and Zambia the nationally collected revenue is given:

Figures 1 Revenue collection Bavaria, Kenya, Zambia, 2011-2015, in million USD¹



The upward trend continued for Kenya and Germany also in 2015 and is projected to continue for Germany until 2020.

So all is good and well? Not really, because the conditions have to be considered under which these results came together and, having done that in part IV and V of this report, one may wonder how much revenue could have been collected if tax laws and tax administrations investigative and enforcement instruments had been better equipped to face the world as it is. This applies most importantly for the two African states which can be shown when comparing the “Tax quota” of the three countries. At the same time, the low tax quota in relationship to GDP indicates that there is plenty of room for improvement in particular for Kenya and Zambia: In 2010, this quota for Germany was at 22.2% (2017: 22.7%), for Kenya 15.7% (2015: 16.3%) and Zambia 13.2% (n.a.).² This illustrates: for the African states exists some room for improvement.

2 Estimates of Costs and Losses

Obviously, in all three countries are costs and losses which need to be netted against the collected revenue. First, there are direct costs of collecting taxes and SSCs. Here, of course, the costs of tax administration comes in, which has already to do with considerations of tax justice: The collection of indirect taxes is cheap, but burdens in our opinion unduly poor and low income households. The collection of direct taxes from private and corporate wealth

¹ Attention: Distortion due to conversion from amounts given Euro, KSh and ZMW into USD for the sake of comparability with current exchange rates of 15 December 2017!

² See: <http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/steuerquote-in-deutschland-steigen-auf-rekordhoch-14612028.html> and <http://wko.at/statistik/laenderprofile/lp-kenia.pdf>

holder is expensive (because, e.g., it involves audits) – but it puts the burden upon those who have the ability to pay. Those costs are known and detailed in the country reports.

But there are losses as well: Due to aggressive tax avoidance, tax evasion, the informal economy and the wide range of IFFs. How much those losses are is much more difficult to determine since it takes place outside the observation of statisticians and authorities. Hence: Even though macroeconomic calculation might provide some indicators, the determination of losses is most of the time and at best “intelligent guesswork”.

Even more difficult to determine are indirect effects of IFFs on states and economies since the damaging effect is not merely the “disappearance” of money across borders but the loss of that money for useful consumption or investment into infrastructure or businesses. And here one needs to consider that, in absolute terms, the outflow from developing countries might be low in absolute terms, but with a higher overall loss: Those outflows are relatively larger due to the fact that developing countries generally collect lower revenue and that the potential contribution of wealthy individuals and businesses weigh even more heavy if they do not occur: While the 2,6 billion Euro held in offshore jurisdictions from European wealth-holder amounts to only 10% of overall wealth, the 500 billion USD held offshore from Africa withdraw 30% of wealth from the taxman.³

There are two areas commonly known to be the cause of huge losses for state treasuries which were therefore also in focus of this research: The Informal/Shadow Economy and IFFs.

3 Deficits arising from the Informal/Shadow Economy

First of all, there are limits to the collection of revenue due to the extent of the Informal/Shadow Economy. As indicated in III/1.2, there are major differences between the Kenyan and Zambian Informal Economy and the German Shadow Economy. Because of those differences far-reaching incomparability, only some observations shall be given.

3.1 Common and different features

In all three countries, tax defaulting within the Informal/Shadow is rather that of the ordinary, individual taxpayer or small and medium enterprises – the latter partly not-registered (due to the absence of proper/attractive procedures, as in Africa) or temporary fake businesses with the intention to hide its true nature of business right from the beginning as in Germany.

It would be interesting to examine the impact of privatization and deregulation in the three countries upon the development of the Informal/Shadow Economy: It seems to us that those destroyed in all three countries regular, quality jobs by initiating a spiral downwards of undercutting competitors with ever cheaper labour and/or declining labour standards.

One common background for the existence of these forms of employment in all three countries is the real or perceived fact that the costs of labour is too high (combination of wage+tax+SSC) which is why one wants to cut down on it by avoiding payments. Another common issues is the extent to which cash payments are done instead of registered financial transfers via accounting and bank accounts and, thirdly, a major problem of authorities to deal

³ Table on p. 140 of Zucman, G. (2014) Taxing across borders: Tracking Personal Wealth and Corporate Profits. In: *Journal of Economic Perspectives*, Vol.28, Nr. 4, pp. 121-148. Retrieved from <http://gabriel-zucman.eu/files/Zucman2014JEP.pdf>

adequately with issues at hand is the invisibility of that which is going on here – and the best laws are those based upon empirical knowledge and not those based upon theoretical assumptions.

A major difference in our three countries is the size of those sectors which also shows in the different emphasis of products and services on offer: While it is mainly focused on products and services which require a lot of human labour in Germany, the range of products and services in Kenya is far wider. Another aspect is that in Kenya and Zambia businesses in the informal sector can be of considerable size and turnover, which is why they, as well as their owner, represent a considerable potential tax base – if they could be found and identified.

3.2 Common and different responses

While a major response in Germany to the Shadow Economy are checks and controls by the authorities this is not even attempted in Kenya and Zambia due to the lack of personnel. There are also major attempts to limit the size of this segment in Germany, e.g. via recent legislation regarding legal Minimum Wage, the reform of the conditions of temporary employment or the discussion to reduce the amount to which products and services can be paid in cash. However: The effectiveness of the two former depends on enforceability, i.e. the amount of checks and controls, regarding the latter discussion is still ongoing. A big difference between the actors in the German Shadow Economy and the Kenyan and Zambian Informal Economy is that the German nationals do not really have an interest to leave this segment or to cooperate with the authorities in fighting this segment. It might be different with Non-Germans working here, many of which probably gladly would exchange their situation into a legal position, together with the obligation to pay taxes. Then, of course, since there is a market function of demand and supply, those regularized would then be replaced by a new wave of illegal immigrants, willing and prepared to work for the wages paid in the informal segment.

Regarding Africa, there is certainly a lot which can be done via educating people in the purpose of (and benefit in) taxation and the provision of clear and simple tax procedures, e.g. online. This, combined with information and training, will probably increase compliance if, of course, there is trust of the people in the general fairness and efficiency of the states taxation system as a whole. And here, doubts are justified in all three countries (see, e.g., below 5.3, 4 and 5)

Regarding all three countries one needs to be aware that there is a function and value far beyond the question of (non-)taxation both within the Informal and the Shadow Economy: It provides jobs for a range of people which otherwise would be unemployed – even though this fact applies rather to nationals in Kenya and Zambia and to non-nationals in Germany. Notwithstanding: This should not be endangered by taxation for various reasons. To find solutions here, however, implies labour market and employment policies even more than taxation policies, in Germany even involving other states due to international wage gaps and migration options.

On that background, and because diagnoses and solutions regarding the Informal/Shadow Economy are so different for Germany, Kenya and Zambia, no common position has been taken for the Tax Justice & Poverty research as such, but for the individual countries only.

4 Deficits arising from IFFs

Next there are deficits in revenue collection due to IFFs and it has to be recalled that this term denotes a wide range of issues from trade mispricing to tax evasion, money laundering and

terrorist financing. Diverse as these phenomena are, there are common denominators regarding their “conditions of possibility”:

4.1 Concealment of private, corporate and criminal wealth

Admittedly, a large number of Offshore constructions and their use are, as such, legal. When in the wake of Panama Paper MossFon was asked what they think of what they are doing, they rejected any suggestion that they are doing anything wrong, but that what they are doing is perfectly legal or at least not contradicting legal regulations and reflects “widely accepted behavior”.⁴

Questions arise at a close look. A first observation is that Offshore constructions are used by private, corporate and criminal holder of wealth alike. When asking, however, what the use of those Offshore constructions are in the first place, very little in terms of sensible explanation can be offered to those, who, as this research does, would not accept explanations such as “hiding assets from wives and children”, “preparing business transactions”, “tax planning” or the like. Most conversation partners from tax administrations or police have, as does Catholic Social Teaching, the opinion that those constructions cannot legitimately be used at least by citizens living in a working democratic state, based upon the rule of laws, with checks and balances in place. This certainly applies for Germany, one might question it for Kenya and Zambia.⁵

This leads to the first conclusion: Offshore constructions may be legally permitted, but their use is mostly illicit, illegal or criminal. But what to do against it?

Complexity of law and options provided by financial globalization and ICT technology offers too many options to those who want to cheat that administrations cannot cope adequately. Other institutions are also obliged to do checking, but they, too, reach their limits. As OECD admits: In spite of all efforts of the international community via FATF and possibly also BEPS and AEOI ‘some weaknesses still remain’ which is why ‘major Western banks and non-financial institutions can still receive, transfer and manage illicit funds from the developing world, *knowingly or unknowingly*.’ [Emphasis added] (OECD, 2013c, p. 23).

On that background it is not surprising that most insight into that which is going on here arises from CD and other leaks facilitated by Whistleblower

4.2 Systemic issue?

That which is revealed by leaks and Whistleblower offers a shocking insight into the working of modern capitalism. The Whistleblower of the Panama Paper data leak, John Doe, holds the opinion that the Offshore System which is used by corrupt politicians and criminals as well as tax dodgers points to a defeat of state regulation and democratic control. In his justification, explaining the reasons for acting the way he did, he pointed to the increasing wealth gap in the world and the states’ lack of interest to fight rising inequality. Such a system, he argues, is as such and systemically corrupt and no longer fulfills its purpose, i.e. creating jobs and

⁴ Statement Regarding recent Media Coverage. Retrieved 5 April 2016 from http://www.mossfon.com/media/wp-content/uploads/2016/04/Statement-Regarding-Recent-Media-Coverage_4-1-2016.pdf

⁵ One wonders, of course, whether the current situation of corruption in KEN and ZAM would still be such that they would justify the hiding of assets from authorities and politicians...

redistributing wealth. It is perverted into serving the interests of the some individuals and groups. And while Pope Francis argues “This economy kills”, John Doe characterizes the present legal-financial-economic system as “economic slavery” which ⁶

The collective impact of these failures has been a complete erosion of ethical standards, ultimately leading to a novel system we still call Capitalism, but which is tantamount to economic slavery.... But when it takes a whistleblower to sound the alarm, it is cause for even greater concern. It signals that democracy’s checks and balances have all failed, that the breakdown is systemic, and that severe instability could be just around the corner.

The interesting point to note is that often politicians and scholars in developed countries argue that developing countries are systemically corrupt which is why investment and engagement is not worth its while (Haldenwang, 2016). Insights into the Offshore System, however, facilitating IFFs across the world, widens the picture.

4.3 Tax administrations and IFFs

Tax administration, especially the investigative departments such as tax auditors, turnover tax special investigators or tax fraud investigators, are superbly placed to discover indications that IFFs might be at hand: Whenever they have time and capacities to check on-site at private homes or business offices books and accounts, the flow of money, credit and debit, expenses without service, funny companies held in the portfolio etc. might create an initial suspicion which then would lead to a closer investigation. In order to sensitize tax officials to this criminal dimension, handouts concerning specific and known constellations which might indicate criminal deeds have been prepared for investigative departments. At least in Germany applies that, if the tax official finds indications for money laundering, one of the major features of IFFs, here section 31b of the Fiscal Code exempts explicitly from the obligation to preserve tax secrecy.

There is a good and a bad side about those checks: The good is, that they (at least in Germany) are possible in the first place both in private homes of “people with considerable income” and businesses. The bad thing is: Since there is already not enough time to do the proper investigation of taxation related issues, there is even less time to follow up suspicious leads going into areas not related to the collection of taxes. The latter is why a number of conversation partner argue that leads are not followed and initial suspicions arise no alarm bells and no forwarding of the case to investigative departments.

But: Combating IFFs requires a lot of cooperation also with other departments and authorities, e.g. police, customs, Anti-Corruption units. Here it is useful that specific departments of tax administration, most importantly, from tax fraud investigation, have regular meetings with colleagues from the police and other officials working in the area. At the same time one might ask whether a centralization of those specialists fighting financial crime in all its forms into one institution only would not make sense since it would make investigation and prosecution more efficient.

⁶ John Does Manifesto. (2016, May 6). From: Süddeutsche Zeitung. Retrieved 20 May 2016 from <http://panamapapers.sueddeutsche.de/articles/572c897a5632a39742ed34ef/>

5 Core Issues related to taxation policy

5.1 *Secrecy, transparency and privacy concerns*

The lack of transparency which is an obvious feature of IFFs is, in the opinion of conversation partners to this research, also felt to be a main obstacle in the administration and execution of tax laws.

In all three countries there is a different “transparency” of tax subjects towards the authorities: Income of those dependently employed is transparent to tax administrations and if there is the feeling on part of tax subjects that they have been taxed too hard they have to argue their case towards tax administration. On the other hand, income of private and corporate wealth holder (or, in Zambia, Self-Employed) is withheld from and not reported to tax administrations.⁷ They declare their income towards administration, and if tax administration is of the opinion that the provided facts are inadequate or insufficient they have to check the books (if they have resources for doing so) and it is administration who has to prove their view regarding imposed tax towards private and corporate wealth holder.

And even if tax administration is able to check, there are a number of secrecy provisions which obstruct tax administrations work: In Germany, corporate and private wealth holders are still⁸ protected by the following secrecy provisions: Banking-, trade-, data-, social-, professional secrecy and finally the Corporate Veil are between the tax official and the “subject under examination”. Of course, they may “pierce” through those secrecies and veils, but only if they gain any justifiable initial suspicion of “foul play” in the first place and, regarding the checking of businesses in ZAM, if they obtain court permission to do so.

This is why tax officials do not really know how many millionaires live in Bavaria, Kenya and Zambia and only come to realize a persons’ wealth if they do an audit and check the books. And this knowledge is even more deficitary in Kenya and Zambia which have even less resources to do those checks.

Given, however, the damage revealed by all sorts of CD and other data leaks in the field of (tax related) IFFs, we agree with the former EU Commissioner Algirdas Semeta puts it after Luxemburg Leaks and the extent of damage this behaviour does to the public: ‘Tax transparency is more important than data privacy.’⁹ The question needs to be asked: If all that is known, why is so little happening?

5.2 *Corruption, Lobbyism, Entanglement*

Obviously, there are two dimensions for improvement: National and international. Nationally, the need is to employ more tax inspectors and give them more rights to do proper checks, the same applies internationally because the tax dodging game works only because there are so many options across borders while tax administrations are bound within their own

⁷ PP. 27ff. of Nalishebo S. and Halwampa A. (2014) Zambia Institute of Policy Analysis and Research (ZIPAR). Uncovering the Unknown - An Analysis of Tax Evasion in Zambia, Working Paper No. 18

⁸ At least some provisions are under review and negotiations in the course of the OECDs BEPS and AEOI initiatives.

⁹ Semeta, A. (2013, June 5) Offshore Leaks transformed tax policy. Press Release. Retrieved 2015, February 10 from <http://euobserver.com/economic/120382>

jurisdiction. On both levels, progress is obstructed by outside influence on legislation and administration due to corruption/bribery, lobbyism and other forms of entanglement.

Regarding corruption this research project is not so much concerned with petty corruption which exists at the lower level of administration. This is a problem, as also German business people confirm which are active in Africa, but it could be resolved with better payment of those civil servants. This works, as the German experience demonstrates: Civil servants are resisting temptation of accepting bribes here because, in case of discovery, they would not only be punished, but lose their generous package of social security.

While outright corruption of civil servants and holder of public and political office is not a serious problem in Germany, there are numerous cases in Kenya and Zambia. Nevertheless there are cases where conversation partners report outside interference into their work, and there is no secret about the fact that German businesses are still participating in bribing in order to obtain commercial advantages at home and abroad.

Nevertheless, we are concerned more about the so-called grand and political corruption, where goods and services are offered to the holder of high offices and political mandates in order to influence actions benefitting those who provide that good or service even if it is beyond the law (or if this influence is even used to change the law). Here is an overlap to formal and informal lobbyism of highly paid experts who also try to exert influence for the few rather than the many. Lobbyism exists in all three countries up to the level that certain private and corporate interest groups influence legislation: In Germany, for example, the 2016 reform of the Inheritance and Gift law, in Zambia, for example, the reform of mining taxation.

A final level of influence are various forms of “Entanglement”, i.e. private familiarity among members of national and global elites because of originating from the same village, tribe, school, university, military unit and with membership of the same clubs, houses in the same estate, possession of the same tastes, meetings at the same parties etc., which puts oneself into a position to ask for, and return, favours.

Entanglement is a particular “fuzzy” entity, but it is agreement among conversations partners from civil administration and the researchers of this team that it is here where the largest, because most opaque, problem exists. “Powergames” here are easily possible since members of the national and international elites, develop an increasingly coherent set of norms and values, live an increasingly enclosed live among their peers, separated from the remaining 99% of the population and therefore increasingly win the opinion that their way of doing things is not only the best, but the one without any real alternative. That way, democracy is abolished, as even IMF research demonstrates: ‘The notion is that, at least in democracies, political power is more evenly distributed than economic power, so that a majority of voters will have the power and incentive to vote for redistribution. However, as pointed out by’ numerous researchers ‘this need not be the case if the rich have more political influence than the poor.’ (Ostry, Berg, & Tsangarides, 2014, p. 8). Similar, the IMF’s 2017 Fiscal Monitor: ‘(B)etter-off individuals tend to have more political influence, for example, through lobbying, access to media and greater political engagement. Adanaz and Scartascini (2011) find that countries with historically more unequal income distribution often have political systems that are dominated by elites.’ (International Monetary Fund, 2017, S. 13)

5.3 Tax competition vs. tax cooperation

The previous gets even more urgent and complex when national interests expand into international interests and international practices and norms impact and put pressure upon national governments: A vicious circle, mutating into a downward spiral!

As it is in the case of “tax competition”, a consequence of financial and ICT globalization: Due to the “flexibility” of capital and options provided by secrecy jurisdictions and Offshore Dealer, private and corporate wealth holder of course try to place their taxable assets where they are taxed less or not at all. This implies that states are engaged in a spiral of undercutting their taxation targets and goals in the attempt to make it easier for private and corporate wealth holder to choose residence or establish a headquarter rather here than there.

This research is of the opinion that there is little good in tax competition for any of our countries: Profits for some are matched by losses for many at any given level of government. For example: Germany is not only competing with other states, even within Germany, within the framework set by national law, states compete with states, municipalities with municipalities, as the example Bavaria demonstrates in relationship to other states and the municipality of Monheim in relationship to other municipalities of North Rhine-Westphalia or Eschborn towards Frankfurt in Hesse. Tax competition does not affect the collection of revenue. It also effects staffing levels, the drafting (or blocking) or tax laws and reforms.

In the end, however, OECD, IMF and many others agree that this tax competition is overall damaging for all because the sum of losses likely ‘exceeds the gains. ... Tax competition can simply result in tax rates’ ending up too low.’ If states continue to compete with each other instead of coordinate their approach, ‘there would ... be a social loss suffered, since effective rates would be below the levels to which a collective decision would have lead. ... (T)he gains from closer cooperation might be considerable ... the fundamental issues should not be ducked.’ (International Monetary Fund, 2013a, p. 33).

Apart from the loss of revenue we argue that a state who always gives in to private and corporate wealth holder or even is impotent to stop them cheating on the bill, will also lose the respect of its citizens, both regarding the laws and the trust in the integrity and impartiality of its institutions. At the other side: A state who is treating everybody fairly and in accordance of ones ability to contribute, will increase this respect and trust – which is why taxation is so closely linked with representation and governance as such!

5.4 Tax presents for private and corporate wealth holder

In all three countries exists the problem that the top personal income tax rate does not really do justice to the spread of income, meaning that beyond the top rate, income may still rise steeply without this increase being captured by adequate tax rates. The top marginal rates are as follows:

- Germany is 45% for any income above EUR 254,447 (down from well over 50% between 1946 and 2001!)
- Kenya 30% for any income above KES 466,704
- Zambia 35% for any income above ZMW 5,900

And this in spite the fact that there are incomes much higher than that in all three countries, one should not forget that even in Kenya and Zambia live a number of Dollar-Millionaires!

Regarding the taxation of Corporate Income, tax rates have been lowered in Germany and Kenya: In Germany from 40% in 2000 to 15% from 2009 onwards, in Kenya from 45% in 1989/90 to the current 30%. An additional “unfairness” is that both rates, low as they are, are flat rates and no progressive rates as PIT, even for large corporations with high turnover or profits.¹⁰

In Zambia, CIT is with 35% as high as PIT, but it is also a Flat Tax and not progressive. The situation is further confused due to ups and downs not merely in tax rates, but even taxes as such. Most important here is the discussion surrounding the Windfall Tax (introduced 2008 and abolished 2009) and the Mineral Royalty (e.g. 8% and 20% in January 2015 and 9% in July 2015).

Regarding the taxation of private and corporate wealth assets, the situation is as follows:

	Germany	Kenya	Zambia
Wealth Tax	Suspended	None	None
Capital Income (interests)	25% Flat Tax	10-25%	25%
Capital Income (dividends)	25% Flat Tax	5-10%	15%
Capital Gains	25% Flat Tax	5%	None
Inheritance & Gift Tax	Yes, but riddled with holes	None	None
Real Property Taxation	Yes, but undergoing Reform	Yes	Yes
Real Property Transfer Tax	Yes, but undergoing Reform	Yes	Yes

In Germany, the wealth tax is suspended because the government did not amend the tax in accordance of a verdict of the Federal Constitutional Court, also the Inheritance and Gift Tax, the Real Property Tax and the Real Property Transfer Tax has to be reformed because the Federal Constitutional Court saw justice deficits in its current application.

In all our countries, the taxation of income from Capital and businesses privileged over income from labour: Its income is taxed lower than income from labour, violating the Principle of Ability to Pay. Accordingly, the share of revenue arising from taxed income on capital is decreasing, while the share of revenue arising from taxed income from labour is increasing – a first indication of a shift according to the new Principle of Inescapability.

In all our countries, additional pressure may arise because of tax competition among lower level of government: In Germany, for example the taxation of capital is regulated at the federal level, while the taxation of Inheritances & Gifts is regulated on state level. Even more confusing is the taxation of real property which will be discussed next.

Please note: These are legal tax rates. Whether they are being paid, or whether the tax burden is being lowered via aggressive tax planning or whether they are evaded and whether tax administrations are adequately equipped to prevent all this from happening needs to be discussed separately. Equally one has to be aware that even in the case of checks and audits and resulting obligations to do surplus or back payments it is not secured that this money is actually being paid and, in the case of Kenya and Zambia, there are not adequate officers to enforce those debts due to the general lack of personnel.

¹⁰ In Germany, this CIT is to be combined with a Local Business Tax which varies from municipality to municipality. For Kenya one must not forget that there are further tax presents for those investing in Export Processing Zones of 0% for the first ten, and 25% for the subsequent years.

5.4.1 Example: Taxation of real property

Since the taxation of real property is of specific importance to this research (see III/1.5), some specific remarks here: Problems regarding effective taxation of real property starts with the manifold responsibilities to regulate, assess and enforce it in the first place: In Germany, Real Property Taxation is with the responsibility of the states and municipalities, in Kenya with the counties, in Zambia with the municipalities. The entire setting entails the temptation both on the legal and the enforcement level to compete for attract private residents or corporate headquarters both with lower rates or lax enforcement.

Real property in Germany taxation has two wings: First, the taxation of real estate on which buildings are or can be built, second, income arising from leasing or renting. Both have their own difficulties for taxation: Regarding the tax bill for the value of real estate: here agreement on the valuation of the property is needed and here a large deficit is that the Standard Value, the most basic figure to calculate the tax, is of 1935 in former East Germany and of 1964 in the old Federal Republic. Given the fast changing market values of property especially in attractive cities it is obvious that tax bills here are behind its potential. Regarding taxation of income from rent: In Germany, the income can be netted against expenses for maintenance of real property so that the tax bill on income is very low, while the increase in value due to the maintenance is not taxed at all (no Wealth Tax!).

In Kenya and Zambia, taxation is attempted with Withholding Taxes on income of rent of 30% (Kenya) or 10% (Zambia, Lusaka City Council). Without adequate knowledge about the value of the estate and the overall income from rent and without adequate checks and controls, however, it is likely that only a fraction of dues is actually being paid.

The final problem is in all three states that authorities do not have adequate insight in the ownership of real estate, either, because registration procedures are deficient or because numerous options enable private and corporate wealth holder to hide ownership in share and shell companies – all options, by the way, facilitating money laundering as well. Without knowing the owner of real property (or the beneficial owner of Offshore Constructs), there is nobody in the first place to whom to address the tax bill. The only way, however, to look behind frontmen of Offshore Constructs and reveal ownership is transparency about beneficial owner and, ideally, central and universally accessible property register.

Regarding the property transfer tax: Here, too, the potential of taxation is far from being adequate: In Germany, the tax rate is, depending on the state, between 3.5% (Bavaria) and 6.5% (Schleswig-Holstein), differences being if it is simply real estate or whether houses are built on it already. In Kenya, a Stamp duty is levied at a flat rate of 4% on properties located in municipalities, and at a flat rate of 2% on properties located outside municipalities.. In Zambia, Tax rate is at 10% of the Realizable value: But here, as above, the actual tax depends on the accurate determination of the real estate value in the first place.

5.5 The shift of tax burden and the issue of SSCs

In all three countries one has to consider that the question of tax justice is not only about the absolute amount of PIT. The tax burden is a composite of direct and indirect taxes as well as SSCs. And here, a shift in the tax burden is discernible, i.e. from an earlier proportionally higher burden upon direct taxation to a presently proportionally higher burden upon indirect

taxation and SSCs. This shift can be best illustrated when looking at developments regarding Top PIT-Rates and Sales Tax/VAT rates:¹¹

	Germany		Kenya		Zambia	
	1975	2017	1974	2017	1970	2017
Top PIT Rate	56%	45%	65%	30%	45%	37.5%
Sales Tax or VAT full/reduced	11%-5.5%	19%-7%	10%	16%-0%	n.a. ¹²	16%-0%

The effects in Germany were: as follows: Since low and middle income households have less to spend, the burden of indirect taxation in relation to normal household spending for the lowest decile is around 14% of their spending, the burden for the richest decile is set at 4% (Beimann, Kambeck, & al, 2011, p. 10). In not too distant a past, tax revenue in Germany was composed of up to 60% from direct and 40% from indirect taxes. After the reform of Income and Corporation Tax, the situation is the other way around: 40% direct, 60% indirect (Wieland, 2013, p. 38).

In Kenya, the burden upon low income households especially due to VAT on basic means of nutrition is felt heart which leads to occasional Zero Rating and subsidizing, especially around election campaigns. This, however, is not seen to be an adequate solution.

In Zambia, low income urban households spend more than 50% of their earnings on food items only given that the average monthly income in informal employment where majority of low income households are found was around ZMW 1,545.70 as of 2012. (Central Statistical Office , 2013, p. 79). They are proportionally harder hit by the VAT rate of 16% as households above that income.

Equally, mandatory SSCs have a regressive effect since their payment burdens those having little proportionally more than those having more – which is even more true if SSC rates stop rising beyond a certain income level, as it is the case in Germany.

Given the “tax consensus” of neoliberal theory, particular rate reductions were granted to large businesses in the assumption that this will entice investment and create jobs. A simple presentation of developments in the area of Corporate Taxation is difficult since (a.) not only Corporate Profits were taxed, but also other gains such as Royalties and (b.) taxation did not only occur on the national, but also local level, (c.) taxation was determined not only nationally, but also via DTAs. It can safely be asserted that the tax burden upon TNCs was comparatively lower than that on SMEs, especially since large companies had numerous avenues to do tax planning, that way lowering tax base and profitability.

Zambia here was particularly hit due to its fiscal stability arrangements with TNCs and other reforms in corporate taxation. For example, after reduction of mineral royalties, mining firms have begun receiving tax VAT refunds to the tune of 600 million United States dollars. To make up for lost revenue, government either increase indirect taxation or borrows externally.

¹¹ Regarding historic figures see for Kenya <https://abacus.co.ke/kenyas-tax-history-iii-independent-kenya/> . For Zambia: Office of National Development and Planning, First National Development Plan, 1966-1970 p. 14. For Germany: Chapter V of Country Report.

¹² Low, and only for Luxury Goods. See Irving Kaplan: Zambia – A country Study. American University 1979, p. 208

5.6 The issue of administration and personnel

5.6.1 Facts and figures

In all three countries, the number of tax officials does not seem to be up to the challenges provided by a growing population, a growing number of businesses and a growing importance of international trade, involving an increasing number of tax planning options for tax avoidance, tax evasion and all sorts of IFFs. The figures are as follows:

Tabelle 1 Size of country, number of tax officials

	Germany/Bavaria	Kenya	Zambia
Actual Number tax officials (2013)	14,633 (Bavaria)	4,700	1,450
Should-be number of tax officials (2013)	16,477 (Bavaria)	n.a.	1,482
Relation of tax officials to 1000 citizens (2010)	1.15 (Bavaria)	0.104	0.099
Taxes % of GNI	36.7% (2013, Germany)	19.88% (2012)	20.03% (2013)

When looking at this chart it should be difficult to deny that there is a link between the number of people working for tax administration on the one side, and revenue collected on the other. At the same time: While numbers at tax administrations are sinking, stagnant or hardly increasing, this is, at least in Germany, very different in the case of the private sector, regarding tax lawyers or tax consultants: They are at the best way to surpass the number of people working on the states side. In all three countries, both state and private sector compete for bright young people and all too often better working and payment conditions of the private sector is getting the price. Similar motivations underlie changes from tax administration into the private sector which is a larger problem in Kenya and Zambia than Germany.

In all three countries conversation partners to this study voice frustration regarding their training, most importantly in the area of international business transactions or IT.

5.6.2 Control deficits

Not surprisingly, in all three countries the research states deficits between areas potentially and de facto in need of controls and auditing and those on-site checks de facto conducted.

Next, if on-site, conversation partners report of “dragging the feed” of those being checked when it comes to the supplying of documents needed to conduct the audit or insisting of secrecy provisions such pertaining to the Corporate Veil. This is best documented in our countries regarding the checks of businesses, while there are no reports from Kenya and Zambia that private wealth holder are checked at all, which is the case in Germany.

5.6.3 IT options

Given those deficits, one attempt of tax administrations to make processing more efficient and faster is the resort to IT options. This is also unavoidable since the digitalization of the world, especially in the case of finance, business, trade and the transactions of private and corporate wealth holder increasingly require public administrations to keep track of the latest developments.

Here, obviously, Germany, Kenya and Zambia are able to respond on a different level. In Germany, the entire taxation procedure is on the way to become increasingly digitalized: Beginning from the submission of electronic tax declarations, to the checks of balance sheets and accounts with software, the application of Risk Management, the communication between different tax departments etc. This is very different in Kenya and Zambia, where resources are scarcer and are concentrated especially in the area of checking especially medium and large businesses, while educational levels as well as the access of ordinary people to IT technology delays the expansion of “E-Taxation”.

Reviewing the research findings, three cautions seem to be in place regarding too much optimism in this area: It is true that digitalization will enable tax administrations to save some costs regarding personnel. At the same time, new specialists are required which are up to the challenge of private industry specialists, producing software used by businesses and tax advisor companies – and those experts are not cheap by any means. Next one has to concede that computerized checks of tax declarations via Risk Management contain a considerable number of mistakes. Options to improve here, right now, are not too attractive: Either one reprograms Risk Filters to make them more generous – then the programs indicate less faults, but considerable revenue might be lost. Or one has personnel cross-check the “red flags” given by computers – then why using computers in the first place? Third: Given numerous legal provisions for the protection of private privacy or business secrets, tax inspectors rely on data which is provided to them in the first place. Only if they find gaps and holes and an initial suspicion arises they might request more – if they have time to check that thoroughly in the first place and/or find a prosecutor or court assisting them beyond the “veils of secrecy.” Finally, there are considerations of principle: In all three research projects, conversation partners at tax administrations emphasized that the best weapon against tax fraud is the well trained, experienced tax expert with his “gut feeling” – something which can be acquired in years of professional experience and which is beyond programming.

Alls this puts question marks behind, for example, Germanys plan to expand computerized checks to the extend that by 2020 a considerable number of tax declarations shall be “autoprocessed” by computers which then should also write the tax bill. How reliable and efficient is this system really? And is it really a good idea to “delegate” public administration to machines? Shall sovereign decisions be left to “Colleague Computer”? Or is there a risk that the cost-benefit analysis, in the end, goes against the collection of revenue and the Common Good of all, e.g., if tax auditors find ways to guess how those computerized Risk Management Rules are programmed?

5.6.4 The Costs benefit argument

In all three countries we could state that those checks and audits pay off by generating much more revenue than the employed tax inspectors cost in terms of salary.

This best documented in the case of Germany, for those tax inspectors employed in investigative departments (tax auditors, tax fraud investigators, turnover tax special investigators...). It follows a table providing an overview regarding the average surplus earnings per check of the tax auditing department:

Tabelle 2 Average surplus revenue per category and size of business, in Euro

	2010	2011	2012	2013
Large businesses	321,563	298,576	589,582	277,344
Medium size businesses	23,491	33,453	23,889	28,294

Small size businesses	15,107	18,496	21,1277	17,543
Smallest businesses	18,107	17,564	13,912	18,210
Cases involving considerable and others	608,183	93,187	312,611	143,679

Source 1 (Bayerischer Landtag Drs. 17/2380)

The last summary category is of specific interest since it includes Income Millionaires. Taken on its own (and not averaged with surplus arising from other categories), the average surplus revenue of checks with millionaires resulted in 2013 in an average surplus revenue of EUR 310,000 and, with that, surpasses the result generated at the checks of large businesses. Another insight from Bavaria is that those investigators working in larger cities, especially Munich, generate a much higher surplus than those outside in smaller towns or even the countryside.

In Kenya and Zambia, data is not as detailed available: ‘In Kenya revenue collection from transfer pricing audits has doubled from USD 52 million for year from June 2012 to USD 107 million for year ended June 2014. (ITC; OECD, 2015, p. 33). And for Zambia applies:

- In 2012, 10,244 tax audits were conducted and K303.6 billion (unrebased) was collected while K627.3 billion (unrebased) was deferred.
- In 2013, 6,593 audits were undertaken and K 19,435.9 million (rebased) was collected while K 1,340 million (rebased) was deferred.

This evidence, as in the case of Germany/Bavaria, points to the undeniable fact that more tax staff would result in collection of more tax revenue. In Germany, even the government supreme spending watchdog, the Court of Auditors, has urged the government to employ more tax inspectors: Why saving at employing those who bring in state revenue in the first place?, the Court argues. Well, unless the government has other policy priorities, of course, as will be discussed next.

There are two fallacies regarding the discussion surrounding the “right level” of staffing of any given tax administration: On the one side, conversation partners point out, one needs to remember that not all civil servants employed in tax administration generate surplus revenue – some, like registrars or secretaries, simply generate costs in terms of salaries and SSCs. On that background it is a temptation to increase staff only in “flagships” like investigative departments, e.g. by not employing new people but simply transferring people from other departments. It is a mistake, however, to think that they could work without building on the preliminary work of staff supplying them with data or do the less glamorous administrative work. Another fallacy is that at some stage the amount of surplus revenue is decreasing and eventually any given tax inspector costs as much as he generates. Here one should be aware of the fact that any state treasury profits directly and indirectly from tax administration staff: First, direct revenue due to its fair and efficient processing as well as checks and audits for verification. Second, indirectly via increased tax compliance on part of those who, given the growing risk of getting tax inspectors visit home or businesses, tend to be more honest on the tax bill and cheat less than they would if the likelihood of such visits remains within a 50 years range.

5.7 Taxation and other policy goals

A further problem is that in all our countries taxation is not merely used for the collection of revenue, but also as an instrument to advance more indirectly other policy goals. Here it is difficult to distinguish sense from nonsense.

There are areas where tax is misplaced as a solution. In giving examples from Germany: To reduce the number of vicious fighting dogs is better achieved by simply prohibiting those animals than imposing a “prohibitively high” tax upon their holder. Or: In many cases regarding VAT reductions this symbolizes rather the victory of lobbyists than reason (e.g. privileges for hoteliers or tax exemption for fuel rather than public transport).

But what about jobs and the argument that tax is also an element for business people to either be attracted to a place or chased away. When looking at the Global Competitiveness Reports, however, (World Economic Forum, 2015), it seems that taxation is merely one element among many for businesses to consider investment and factors financed with taxpayers money, such as social stability, infrastructure or educated workforce rank much higher. This, therefore, is a complex issue which is difficult to resolve. As an outflow of the rejection of tax competition (see above#) also those tax policies are rejected which operate within this paradigm, e.g. tax laws or differences in tax law enforcement as an element of economic policy, e.g. explicitly checking more leniently on private and corporate wealth holder, so that those relocate residences or headquarters to one state rather than another and the gains are rather in their consumption or job creation than an efficient and fair taxation by applying the proper tax rates. This, we feel, is an unfair and unjustified advantage.

A point of major importance is the question whether or not taxation could be an instrument applied for the protection of natural resources. Here it is obvious that people and businesses tend to misuse, overexploit or pollute resources if there is no “market price tag” on them – that way shortsightedly creating profits while, at the middle or long run, the community will have to pay the costs of cleaning poisoned soil and rivers or combat climate change. Given the large amount of people dependent on and working in the agricultural sector in Kenya and Zambia, the question of taxes protecting the environment should have a particular importance and urgency: Due to climate change hitting Africa over proportionately hard, whatever is needed to prevent the displacement of rural populations should be considered and enacted. On that background it is worrying how little importance Green Taxes have in Kenya and Zambia. In Germany, on the other hand, many initiatives are underway, while the main criticism is that of the fairness of burden sharing among low and middle income household on the one side and businesses on the other.

5.8 Simplicity and Complexity and the question of tax justice

But what about the question to make tax laws more simple, more transparent, easier to apply and to enforce? In the eyes of conversation partners among politicians, senior civil servants, but also lobbyists, this is not a viable option for – at least not for the foreseeable future:

The first obstacle is that no nation is any longer in a situation to change tax laws in accordance to own likings because of the high amount of tax treaties and obligations arising from globalization to which states are parties. Next the observation that simple taxes are always unfair taxes because simple taxes are unable to do justice to individual situations of households or businesses. As conversation partners to this research pointed out, it is most likely that in the case of simplified tax laws those who feel unjustly treated by tax administration will appeal against the tax bill or even go to court. Eventually, courts will decree that the tax law has to be reformed and in the end the once simplified law will be as complex as it had been in the beginning. As a former German Finance Minister agrees in a mail: “Calls for legal simplification I only hear in Sunday speeches. Once I come to the office on Monday, lobbyists have already lined up to secure more tax exemptions.”

And indeed: In Germany the legislators attempt to develop over the years a body of tax laws which is able to do justice to the situations of individual households and businesses seems to have succeeded: As the German survey shows: People both complain about the complex tax law, but are pretty happy about their treatment due to the options available for the tax administration to handle their situation.

The backside to complexity is the fact that those having money to pay tax lawyers are best placed to get most out of this complex situation, the danger is that a law of comparable fairness is being exploited and bent towards some rather than others. The only reply by the state can be to employ adequate personnel to check on their tax declarations in particular – as has been requested by the German Federal Constitutional Court or the President of the Court of Auditors. This, however, brings us back full circle to the question of staff shortage.

5.9 Fighting aggressive tax avoidance and tax evasion

Even though aggressive tax avoidance and tax evasion are part of IFFs, they obviously need a specific treatment here. There is a ethical, a legal and an enforcement deficit to it.

First of all, there is tax dodging where an ethically informed common sense alone should realize that it is off limits, such as Cum-Ex Deals: There may be admittedly regulation gaps within national and between national laws, but that it should be obvious to everybody that it is wrong to claim several refunds if a tax had been paid only once.

Next: legal loopholes. This is mainly about the misuse of legally available options such as transfer pricing beyond the point when it stops to be legal. It is dealing with the illicit side to the widespread excuse “We did not break existing laws, what we did is widely accepted behaviour” (cf. above, 4.1). Tax specialists can exploit knowingly the complexity of tax law nationally and internationally to create tax saving models which both misuse the letter of the law and most certainly the intention of the legislator when providing for options misused by those experts. This was made public at the latest after a hearing at the British Parliament in 2013, where the Heads of Tax Departments of the “Big Four” had to admit that their tax saving models are considered to be legitimate even if there is only a 50:50 chance that the proposed construction is legal.¹³ Which begs the question how many models are there beyond this 50:50 standard in the hope that it is not discovered.

Most complex are those tax saving models involving legal elements spread across different borders, involving secrecy jurisdictions with their obligation to “discretion”. From an impartial point of view it should be obvious that not a single legislator, considered in isolation, would knowingly permit tax saving models which would deprive him of revenue. There is, at least, a considerable likelihood that every state has an interest to adjust national laws if he has the feeling that those national regulations are misused to evade national tax. Why, then, should a combination of those models, leading to revenue losses for many, be considered legal even if its building blocks are, if observed individually, legal in its respective context and obtain its illicit effect only by its international composition? Or: Whose only purpose is to hide assets from taxation in the first place without providing authorities at least in principle with the opportunity to check whether this is indeed legal or not?

¹³ Obermayer, B./Riedl, K./Risel, M. (2014, November 6) Steuertrickser vom Dienst. In: Süddeutsche Zeitung. Retrieved from <http://sz.de/1.2208497>

These legal complexities impact, of course, upon the international investigation and prosecution of aggressive tax avoidance and evasion: Because what is illegal in one state (such as tax evasion in Germany) may be legal in another state (such as Switzerland, which prosecutes only outright tax fraud). Or: Requests addressed to the German government cannot be processed due to the comprehensive protection of “tax secrecy”. In this case the state requested for support by others has no own legal basis to grant the request and to cooperate.

But even if there are multilateral and international tax cooperation frameworks in place offering the potential option for civil servants to obtain information “upon request” or “spontaneous” or “automatic”, it is complex: A civil servant may have to go through several levels of hierarchy before his request is forwarded – it is not permitted to simply access data bases or call his corresponding colleague in the tax official of the country where he aims to get information from. While banks and private tax advisor live in the digital age and act with a mouseclick, tax administrations are worlds away from it.

5.10 Enhancing compliance: Morals, enforcement or leaks?

Given the extent of cheating on the tax bill, the question is, of course: What is the best approach to enhance compliance? When looking at the more recent history, it is obvious that the most decisive element were data leaks, either CDs containing data of tax evader and sold to tax administration, or the major leaks such as Offshore, Luxemburg, Swiss Leaks or the Panama Papers. Those leaks had several consequences: first, they provided tax administrations with information where to look for the leakage of revenue so they could target aggressive tax avoidance and tax evasion directly without wasting time with groping in the dark. Next, they made all those nervous who had reasons to believe that they, too, could be contained in the next data leak – which sparked off a wave of attempts both of offenders and their lawyers to “legalize” the situation and play according to the rules from the on. This fact is also reflected in the gains made by the state: In Germany, revenue arising from self-declaration and the subsequent procedure of legalization including payment of defaulted revenue including fines resulted in more money than investigation and prosecution – with far less costs: Because investigation and prosecution also involves expensive court trials, often resulting in settlement below the level of a verdict, which is unavoidable because the complexity makes conclusive verdicts difficult to pass, or risking an appeal at the next level of jurisdiction which then might result in a settlement rather than a sentence.

Of course there is also a change in attitude towards tax avoidance and tax evasion on the one side, and tax compliance and tax honesty on the other. But it is the opinion even of conversation partners from the investigative branches of tax administration, that this “conversion” is rather the consequence of the leaks and the ensuing prosecution than its cause. Education about the importance of taxation is and remains, of course, of importance in our three countries, but the point we want to make here is the following: The data leaks illustrate how important transparency can be for “inducing” more honesty upon private, corporate and criminal wealth holder – which is why this should be a prime policy area to think about when it comes to the question of how to improve the situation.

5.11 Different needs of developed and developing countries

On that background and given the international character of IFFs and an efficient and just tax administration: What needs to be done regarding the cooperation of developed and developing countries in taxing private and corporate wealth better and down to their ability to pay?

First of all, one has to accept that the starting points are widely different and a lot needs to be done to prepare the ground of such a cooperation.

On part of developing countries, it is rightly stated that corruption is rife and governance needs to be improved by all means before more resources on part of developed countries can be offered. The big question between conversation partner among policy maker and senior administrators is whether such a reform needs to be accomplished ahead of all support or whether this assistance can also be a way of reform. Clearly, here, too, transparency and the right to information would greatly help, so that it is no longer required for CSOs to drag government to court so that the content of Double Tax Agreement be known to the public (as has been the case in Kenya).

On part of developed countries one really needs to ask oneself how prepared one is to see in the support of African tax administrations a superior and more sustainable way to Domestic Resource mobilization and development as approaches so far. This implies a review of existing Double Taxation Treaties, assistance in combating corruption or the obligation to invest in the upgrading of African tax administrations. But: One need also to be aware that this will cost developed countries twice: First, in training and equipping those administrations, second, in losing tax revenue, because naturally that which African states will collect will be that which so far can end up without many hindrances in the treasuries of developed countries.

In a word: If developed and developing countries are united in the common goal to fight poverty, inequality and IFFs, there is, given historic reasons as well as current imbalances, also here applies the “Principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”¹⁴ To illustrate the extent of the job just one example, to be read on the background of the staff levels given above (5.6.1): Sub-Saharan states need up to 650,000 tax administration experts if they were to participate at eye level in OECD initiatives such as BEPS or the AEOI initiative – a burden, which those governments could only shoulder with massive support by developing countries (European Commission, 2015).

An important issue is how the different requirements (improvement of governance, obligation to help) can go together. Does the former have to do their homework first before the latter step up their help or is an increased cooperation between developing and developed countries part of the solution also for the first problem: This is difficult to answer.

So far, however, we were mostly talking about improving administration and enforcement. The really big question is: According to what rules is the game being played?

5.12 Keeping up the imbalance of power

Traditionally, developed countries base their cooperation on the framework provided by the OECD, while developing countries prefer the UN regime. In both frameworks exist Master Treaties and Handbooks, e.g. on Transfer Pricing, but that which is provided by the OECD contains provisions more beneficial to developed states while the UN regime is more beneficial towards the developing countries. And: Since developed countries are sitting at the longer leverage, they tend to pressurize their counterparts to accept OECD framework or

¹⁴ Nr 59 of the Addis Ababa Action Agenda.

documents, starting from Double Taxation Agreements to more complex frameworks of cooperation.

The different interests and power of developed and developing countries was made visible in July 2015 at the Financing For Development at Addis Ababa, where the “financial foundation” of the Sustainable Development Goals was negotiated. While the G77 advocated for strengthening the UN regime, the OECD states defended their regulation and in the end won the battle, also by applying a skilful “Divide et Impera” regiment among the developing countries and winning their abstention or even support by offering privileged access to committee meetings or support, e.g., in international cooperation. It needs to be seen, however, that even those developing countries admitted to OECD bodies as observers have neither a right to vote nor to cooperate in the development of the rules which, eventually, will be decided.

On balance, therefore, one needs to state that even though there was also agreement at Addis Ababa, e.g. in the field of the FATF or STAR, this “defeat” stuck in the hearts and minds of developing countries – including participants of staff members of our own institutions which took part in the Addis talks.

In consequence it can be assumed that the cooperation of developing countries with the developed countries within the now decided framework will lack enthusiasm, which will delay improvement of the situation even in the less contentious parts of international tax governance, e.g. “fighting IFFs”. Here, however, the agreement is more declaratory than of practical relevance: Among the little research relevant bits and pieces of the Addis Ababa Action Agenda which found its way into the subsequently agreed Sustainable Development Goals Agenda the world agreed to reduce IFFs by half until 2030 (Target 16.4).

Implementation will have to wait since there is no internationally agreed definition of what is covered by IFFs in the first place and what not.

For the foreseeable time, therefore, legal loopholes as well as other obstacles in administrative cooperation will rather profit the continuation of IFFs than their effective containment or elimination. And looking into the past it is more than likely that an entire industry of highly paid tax lawyers and advisors will take care that this remains that way and they will continue to provide their clientele with Offshore Constructions suitable to minimize their taxbase or outright hide their assets.

One may discuss, of course, whether any support given by developed countries to the tax administrations of developing countries is an improvement to the situation right now, but this needs to be decided on a country-to-country basis. More specifically and in the case of the countries cooperating in this study, Germany is supporting via the GIZ Kenya in its efforts to curb IFFs, and Zambia, together with the Norwegian Tax Authorities, in the taxation of businesses.

At the same time, Germany is known to object or drag its feet when it comes to sharper transparency regulations (possibly under pressure by German Business Federation (BDI), fearing that this will reveal business secrets) and negotiations regarding a new distribution of tax revenue within the BEPS process (since it is obvious that then, as the German Business Federation points out, that a larger share of the revenue pie to states other than Germany). Regarding combating IFFs, finally, Germany is a target country of those flows and any reduction here would reduce money inflows, regarding administrative efficiency, cooperation

with African administration ranks very low because conversation partners complain about time consuming and unreliable cooperation processes which, in the end, drag down success statistics which is much better when cooperating with other states in other parts of the world.

6 Additional Core Issues relating to dependency and poverty

Contained in the preceding are already a number of indications where poorer states (e.g. IFFs or international tax evasion, enforcement...) or within states, poorer/low-middle income households bear a higher burden than developed states or high income households. Some more exemplary Core Issues arising from this research are the following:

6.1 Government dependence and debt overhang

This research project started with the assumption that present policy advance the governmental dependence of states on external finance, behind which, in the end are private and corporate wealth holder that, in the end, profit from the situation. The research highlights also, however, that there is an increasing debt overhang, meaning, that the servicing of interest and repayment of debt bears the danger of preventing states to both support the disadvantaged and invest into their future, e.g. by improving infrastructure, education or health care. This situation is not yet as alarming in Germany as it is already in Kenya or Zambia, it will increase:

6.2 Intergenerational Social Security Deficits

A major problem is seen in the area of social security, for very different reasons: In Germany, with an ageing of the population and the foreseeable level of non- and underinsurance especially of those working in the low-pay segment or the Shadow Economy will increasing the strain on tax funded social welfare. In Kenya and Zambia, traditional networks of social care are crumbling because of rural-urban migration, also fuelled by the search of younger and better educated people for paid jobs. Many of those ending up in the informal economy may not earn enough to provide for the needs of the family members remaining at home, which will also grow into a major poverty problem in the foreseeable future (Andebo, 2014a).

6.3 Dependency, education and empowerment

Conversation partners to this project see the danger of “dependency” on a large scale and a micro-scale: The large scale is to keep states dependent from external assistance rather than enabling them to really take care of their own needs by collecting their own revenue from the people living and corporations working within their own jurisdiction. On the microscale the danger is to keep individuals dependent from social welfare rather than looking into possibilities for them to go back into self reliance and decently paid work which is, after all, one dimension of a dignified existence. Saying that, it should be a goal of a publicly financed education, both for children and adults, to provide them with the skills needed to empower them in participating in their societies deliberations on how to collect revenue from whom and on what to spend it.

6.4 Ownership and participation

“No taxation without representation” was the start of the American Revolution, the link between taxation and the ownership towards a state with its properly working institutions is still a valid one today. As has been stated in the Kenyan report: Taxation of the informal sector is not working since those being active in the Informal Economy have not been consulted when designing taxation systems; a similar “acceptance” and “compliance” can be

expected if the “ordinary taxpayer” is better educated and instructed in what taxation is all about and, of course, if he has the feeling that good use is being made of the revenue collection which involves participation in spending decisions and transparent accounting. This, of course, is also the best solution to fight corruption and mismanagement: If there is a greater scrutiny on part of the country’s own media, CSOs and population, misuse of power and privileges would no longer be as easy as it is right now.

It is finally proper to say that solutions against today’s problems of the income and wealth gap, poverty and dependence cannot be found without private and corporate wealth holder in the policy process. Here, however, the experience is that those prefer not to be involved publicly and rather pursue their hidden agendas, so that they can defend their privileges without being in danger to contribute in accordance to their ability to pay.

7 Conclusion

At first sight, most of the issues and deficits addressed in this part at first sight come down to the question of well-trained and well-paid personnel: Here, obviously, Germany is better equipped which is one reason why its tax revenue is higher in absolute and relative (tax collected in relationship to GDP) terms. Staff and revenue collection are related.

More personnel is the first step to restore the Principle of ability to pay and end the privileged position of private and corporate wealth holder. After decades of tax cuts and tax presents as result of corruption, lobbyism and entanglement and an increasing complexity in tax procedures due to financial and ICT globalization, including Offshore Constructs and Jurisdictions, and increasing international ties and links via trade, a higher number of tax officials is an essential prerequisite.

We are aware of the increasing role of IT in tax administration, but caution, at least for the foreseeable future, that any optimism is misplaced which assumes that “Colleague Computer” is able to replace a well-trained tax officer with his “gut feeling”, which conversation partner to this study argue is the most valuable asset of tax administration. Such an intuition can, however, only grow with training and years of experience.

Looking at the findings in 5.10 this research feels, however, that adequate personnel is not the final answer. In order to do their work, tax officers also need access to information which is relevant to assess everybody’s Ability to Pay. Regarding private, corporate and criminal wealth, as well as IFFs in general, this requires more transparency in the area of beneficial ownership of Offshore Constructs, at least towards tax administrations, but preferably to the public as a whole since the experience of past years teaches that it is members of civil society, media and the public which are prime mover to uncover tax related injustice and push for reform and change.

We are aware that tax policies may impact upon many problems which were contributing to income and wealth inequality and poverty. At the same time, reforms of tax policies are not the only answer needed, e.g. to address deficits arising from the Informal/Shadow Economy. Improvement here also requires changes in other areas, e.g. international regimes regulating trade and the migration of labour, which, in turn, requires reform of labour market policies. The latter is, naturally, yet another complex area beyond the scope of this particular research.

In all discussions, however, one needs always to pay attention to who is proposing what. For example, if business people argue that labour costs are too high, the answer is not

automatically a reduction in wages. One could, for example, also cut at social security contributions for low-income worker if, and this is important, those with higher income would also contribute to Social Security Insurance in accordance to their ability to pay, thus offsetting reductions for low-income worker.

This, and other conflicts about policy approaches are due to their dependence and derivation on prior existing values, an issue which will be looked into in part VII of this study.

This brings us back to the two questions posed above (1) on the background of rising state revenue, namely: Under what conditions those increases occur and what increases could be feasible if the conditions were changed. Being through this part of the research one can safely assume that much more revenue could be collected if reforms were considered and tax competition among states is replaced by tax cooperation between states. Arguably the increases for developing countries would be proportionally larger than for developed countries, but even developed countries would probably not lose a lot since they could simply collect more from those whom they had to pamper with too many presents, concessions and tolerance over the past decades: holder of private, corporate and criminal wealth.

8 Bibliography

Andebo, P. (2014a). *African intergenerational and international issues in the light of Catholic Social Teaching: Demographic transition & Social Security - Environment & Resource Exploitation - Aid, Debt & Public Dependency on External Financing*. Retrieved from <http://tinyurl.com/tjp-andebo01>

Bayerischer Landtag Drs. 17/2380. (20. Juni 2014). *Antwort des Staatsministeriums für Finanzen auf die Anfrage von Thomas Mütze*. München.

Beimann, B., Kambeck, R., & al. (2011). *Wer trägt den Staat? Eine Analyse von Steuern und Abgabenlasten*. Aachen: Rheinisch Westfälisches Institut für Wirtschaftsforschung.

Central Statistical Office . (2013). *Zambia Labour Force Survey 2012*. Lusaka: Central Statistical Office.

European Commission. (2015, March). *First Report of the Commission AEFI expert group on the implementation of Directive 2014/107/EU for automatic exchange of financial account information*. Retrieved from Directorate-General for Taxation and Customs Union:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_cooperation/mutual_assistance/financial_account/first_report_expert_group_automatic_exchange_financial_information.pdf

Haldenwang, C. v. (2016). *Stellungnahme zur Öffentlichen Anhörung. Auswirkungen von Steuervermeidung und Steuerhinterziehung auf die Entwicklungsländer*. Berlin: Finanzausschuss and AWZ des Deutschen Bundestags.

International Monetary Fund. (2013a). *Fiscal Monitor - Taxing Times*. World Economic and Financial Survey.

International Monetary Fund. (2017). *Fiscal Monitor - Tackling Inequality*. Washington DC: International Monetary Fund.

- ITC; OECD. (2015). *Examples of successful DRM Reforms and the Role of international Co-Operation*. Bonn: ITC.
- OECD. (2013c). *Measuring OECD responses to Illicit Financial Flows from Developing Countries*. Paris: OECD.
- Ostry, J., Berg, A., & Tsangarides, C. (2014). *Redistribution, Inequality and Growth*. Washington: International Monetary Fund.
- Wieland, J. (2013). Steuergerechtigkeit statt Staatsverschuldung. *Aus Politik und Zeitgeschehen*(10-11), pp. 37-40.
- World Economic Forum. (2015). *The Global Competitiveness Report 2015-2016*. Geneva: World Economic Forum.