



# **What are the Gender Dimensions of IFFs?**

**Strengthening African Women's Engagement  
and Contribution**

**SUMMARY REPORT**



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April 2017

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## INTRODUCTION

In January 2015, African Heads of State and government endorsed the High Level Panel (HLP) report<sup>1</sup> on Illicit Financial Flows (IFFs) from Africa. The HLP report has since emerged as the main point of reference by Civil Society Organisations (CSOs) and other stakeholders who are calling for the domestication of its findings in countries across Africa in order to curb IFFs. It is envisaged that this will strengthen African governments' domestic resource mobilisation capacity to enable them to finance their sustainable development and structural transformation.

One of the major findings of the HLP report is that Africa is losing approximately US\$50 billion annually through IFFs, mostly through abusive transfer pricing and trade mispricing and other aggressive tax planning schemes by multinational companies (MNCs) operating in Africa's commercial sector. Most Literature on the IFFs discourse acknowledges that tax abuse by multinational corporations, wealthy individuals, criminal activities and corruption and the entrenched network of financial secrecy and the resultant financial hemorrhage from Africa severely limit the ability of States to bring about socio-economic development. It is within this context that, FEMNET undertook a study in the form of a review of the existing literature on IFFs through a gender lens.

### What are IFFs?

In keeping with the mainstream definition of illicit financial flows used in the secondary literature, the High Level Panel Report on Illicit financial flows defined IFFs as 'money illegally earned, transferred, or used'. The HLP report goes on to elaborate that these flows of money are in violation of laws in their origins, or during their movement or use and are therefore considered illicit.' While some of the activities might not be strictly illegal in all cases, they go against established rules or norms, including avoiding legal obligations to pay tax. In other words, the intent and purpose of such outflows is to hide money even when it is legitimately earned. Very often, these flows take place across national borders and in a secure location well beyond the reach of domestic law enforcement bodies.

### Why focus on IFFs?

It is crucial to realize the staggering amount of resources lost through IFFs clearly depriving African countries from fulfilling their commitments to gender-equitable development. The African Development Bank estimates that IFFs have drained in excess of a trillion dollars from Africa since 1980. These illicit outflows constitute 5.5 percent of the GDP in Africa and are larger than incoming total foreign direct investment and also vastly larger than the sum total of all official development assistance (ODA) flowing into Africa. It was in recognition of such massive resources outflows that the High Level Panel stated

that 'Africa is a net creditor to the rest of the world' contrary to prevailing Afro-pessimist perception of an indebted and dependent continent. This highlights how destructive IFFs are and the need for African governments to seriously and swiftly move to take action to curb IFFs because they have a high potential to derail the realization of SDGs, Agenda 2063 and the advancement of basic human rights among other developmental goals.

### The IFFs definitional debate

While there are on-going debates about the relative size of the different components of IFFs, there is

<sup>1</sup> Illicit Financial Flows. Report of the High Level Panel on Illicit Financial Flows from Africa, Commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development, 2015. This is available at: <http://www.uneca.org/publications/illicit-financial-flows>



a consensus that these various components are intrinsically linked and that IFFs pose a systemic problem that impedes the mobilization of domestic resources needed for development.<sup>2</sup> The 2016 African Governance Report of UNECA underscores the links of these components of IFFs especially commercial activities and corruption by classifying them as domestic corruption and international dimensions of corruption.

The significant controversy surrounding IFFs is not limited to relative size of the various components, but also include debates on the very definition of IFFs and how it should be measured. As one study has convincingly argued, the importance of such controversies is not merely for academic purposes but because, it is a necessary condition of policy options in stopping the resource outflows.<sup>3</sup> Some critics of the HLP report argue that the definition used by the report is 'too narrow and one that risks 'obscuring the broader question and dynamics of the true scale of resource outflows from Africa' and call for the broadening of the concept of IFFs. The call for a broader definition of IFFs results from two principal concerns, namely, the links between foreign direct investment (FDI) and IFFs and the role of the state.

Contrary to the tendency of African governments to rely on FDI to generate wealth and reduce poverty, these critics consider FDI and the tax incentives given to foreign companies as a major source of illicit flight of resources out of the continent and for deepening poverty.

A major departure from the mainstream debate on the ways of curbing illicit financial flight revolves around the nature of the state. The aforementioned critics argue that it is a developmental state that transcends its current regulatory function and governance dimension and that is able to reconfigure its development agenda that can effectively address the challenge of IFFs. A

developmental and democratic state that is transparent and accountable to its citizens is highly likely to be able to promote gender equality. A related concern is the critique of the emphasis placed on 'money' when these transfers of resources also include criminal activities such as human and drug trafficking.<sup>4</sup> Specific to the gender discourse, from an African context, human trafficking of girls and women from and within the continent remains rampant and largely unaddressed concretely. All these concerns, the relations between FDI and IFFs, the call for the development state and criminal activities have considerable significance for engendering the IFFs discourse.

### Components and enablers of IFFs

The HLP report and other studies indicate that there are three components of IFFs namely: (i) the proceeds of commercial activities (mainly from aggressive tax planning and trade mispricing); (ii) revenues from criminal activities (mainly from drug and human trafficking) and (iii) flows from public corruption. These studies estimate that commercial activities account for 65 percent of IFFs, criminal activities for 30 percent and public corruption for around 5 percent.<sup>5</sup> The HLP report identified a number of enablers of IFFs such as double tax agreements (DTAs), tax incentives as well as secrecy jurisdictions and tax havens or low tax jurisdictions.

### IFFs Trajectory in Africa

Illicit financial flows are not new as there is plenty evidence to date back the origins of the practice to the colonial period. However, in Africa, it is only recently that the subject has become a key concern of regional and global development agendas, vibrant debates and robust advocacy. In part, this new momentum was triggered by the financial crisis, the formulation of a new global development agenda and the continued concern with how to

<sup>2</sup> Global Financial Integrity report, 2010; HLP report, 2015.

<sup>3</sup> See Reed & Fontana: 2011.

<sup>4</sup> Third World Network (TWN), 2015.

<sup>5</sup> See HLP Report, 2015.



finance development. In Africa, the recent past has witnessed wide-ranging reflections on the need for a new self-defined African development strategy. Examples include the sustainable development goals (SDGs) and the African Union's Agenda 2063 which among other factors highlight the principles of self-reliance, Africa financing its own development and the emphasis on the importance of, inclusive and accountable states and institutions at all levels and in all spheres. The strategic challenge is how is Africa going to be able to finance its own gender equitable development when it is losing a staggering amount of its resources to IFFs?

It is in this context that in 2011, the African Union (AU) and the United Nations Economic Commission of Africa (UNECA) established the High Level Panel on Illicit Financial flows chaired by the former South African President, Thabo Mbeki. The mandate of the Panel was to focus on the matter of IFFs from Africa, and specifically on steps that must be taken to radically reduce these resource outflows so as to ensure that these development resources remain within the continent. Increased attention to IFFS was also triggered by the global crisis which revealed the risk of depending too much on debt financing and official development assistance (ODA) for African countries. It is important to note that IFFs are global and represent a significant leakage of capital from most countries in the world indicating that the strategies that address the challenge will have to be national, regional and global. Following intense global advocacy, the need

to fight IFFs was included as one of the targets in the SDGs. This further showed, at the global level, the critical nature of IFFs and their capability to derail the achievement of sustainable development goals in general and, specifically, Africa's gender equitable development and economic transformation.

With the exception of some work on gender and taxation, missing from the enhanced attention to illicit financial flows from Africa is a gendered analysis of IFFs and the role of women's organizations. The High Level Panel on IFFs itself has been criticized for not having a gender dimension in its approach. The FEMNET study entitled "Engendering the Illicit Financial Flows (IFFs) Discourse: Strengthening African Women's Engagement and Contribution" was a preliminary and ground breaking effort to look at the overall IFFs debate through a gender lens and also aimed at proposing enhanced engagement of women's organizations in the struggle to curb IFFs.

### Methodology

The study was largely restricted to IFFs as they relate to the African continent although some references were made to the international IFF issues. The paper accordingly focused on identifying the key features of IFFs, actors involved in IFFs, characterizing the nature of such flows and their drivers and enablers, and identifying the gender outcomes associated with IFFs and proposing possible policy responses to stop IFFs.



## Summary of Findings of Study on Engendering IFFs in Africa

FEMNET commissioned a study to review existing literature on IFFs and the policy dimensions thereto. The study also sought to identify and clearly highlight pertinent gender outcomes associated with the various components of IFFs. The information used in the study was gathered through literature review of policy documents, various other sources of secondary information and statistics such as the HLP report, Global Financial Integrity (GFI) reports and UN reports.

Overall, the paper found out that there are various gender outcomes associated with components and enablers of IFFs. The paper clearly highlighted the gender dimensions of the components of IFFs namely commercial activities, criminal activities and corruption as follows:

### Commercial Activities

With respect to commercial activities the paper found out that there are significant outflows of resources from Africa are taking place through channels such as trade mispricing and aggressive tax planning. The paper also found out key enablers of IFFs under the commercial activities component namely double tax agreements, secrecy jurisdictions and tax havens/low tax jurisdictions. These enable businesses especially MNCs to hide financial resources as well as to shift their profits from high tax jurisdictions to low tax jurisdictions. These practices weaken African governments' capacity to mobilise domestic resources. As a result African governments fail to sufficiently finance basic public services such as maternal care, education, sexual and reproductive health, social protection, etc. Again, it is women who subsidise these tasks and go unpaid for them yet should be recognised as a valid component of GDP. Because the states ability to collect revenue is diminished, it often results in African governments implementing regressive tax reforms (e.g. the introduction and/widening of value added tax) to augment domestic resources. Women bear the greatest burden from poor public services and regressive tax systems. Related consequences such as women dropping out of formal employment to provide unpaid care and other household chores such as fetching water and firewood from distant places and girls dropping out of school are very common across Africa.

Additionally, with regard to commercial activity, the area of Foreign Direct Investment (FDI) must be brought to the

fore. Through FDI, developing countries are usually sold the idea of opportunities that would include investment in infrastructure and employment for local populations. These jobs offered are usually low paid and poor quality and usually taken up by women. Thus the argument defending FDI because of the jobs they will provide needs a deeper level of analysis in terms of quality of jobs and in turn its real benefit to a country's economy.

### Criminal Activities

The most common criminal activities include drug and human trafficking and these are predominantly associated with poverty and inequality in most African countries. Extreme poverty and income inequality exacerbate gender inequality. The study established some gendered outcomes associated with drug and human trafficking as follows:

#### (i) Drug trafficking

Increased demand for illicit drugs is likely to take resources away from household expenditure and increase pressure on women to intensify their income generating initiatives while simultaneously increasing their care burden if they have to provide care for family members who face health challenges related to drug use. Increased drug use often results in considerable violence against women. There is also the threat of being more vulnerable to HIV prevalence. As shown below, the most direct gendered impact of drug trafficking is its close links to human trafficking.



### (ii) Human trafficking

Trafficking in persons and the associated exploitative activities represent extreme manifestations of women's rights violations. Reports have shown that the causative factors at the root of human trafficking are the lack of social, economic, cultural and political rights afforded to women. Poverty and the search for viable economic options are major factors that lead people especially women and children to fall prey to traffickers. In turn, human trafficking locks up the trafficked persons in poverty through exploitation. 'This vicious cycle poverty-human trafficking-poverty denies individuals the basic right to education and information, the right to health, the right to decent work and the right to security and justice'.<sup>6</sup> Trafficking activities include sex trafficking of adults and children, forced labour<sup>7</sup> of adults and children, domestic servitude<sup>8</sup> and forced recruitment of child soldiers and forced removal of and trafficking of organs. Women and children bear the greatest burden of human trafficking.

### Corruption

Studies on IFFs have provided important insights on the governance and developmental impact of IFFs. The important official document, the High Level Report on Illicit Financial Flows from Africa has, for example, concluded that 'the occurrence of IFFs is first and foremost a governance problem' and goes on to show how IFFs weaken government accountability, weaken institutions such as law enforcement institutions and regulatory environments and lead to entrenched impunity and the institutionalization of corruption. In

turn, these outcomes contribute to political discontent, partly due to reduced ability of governments to provide social services with little focus on the gender specific impact of these constraints. The most significant of these is likely to be the weakening of various state institutions. For example the criminal justice system will pay at best insufficient attention to formulation and enforcement of gender-friendly legislation. Corrupt police have been reported to harass women in the informal sector and extort illegal payment from these women.

### Gender and basic services

One of the manifold harmful development outcomes of illicit financial flows is the significantly reduced tax earnings and the resultant reduction in the provision of social services, care services as well as social protection. This means that African governments' capacity to provide public education especially gender-equitable education has become a real challenge. The same applies for other basic services such as health, portable water and social security. Women bear the biggest brunt from poor basic services and this drives out women from accessing economic opportunities in their countries as, for example, their failure to go to school renders them uneducated and hence they can-not compete with men for formal and good jobs and on the other hand, poor health facilities force women out of employment to pursue unpaid care work for their families. Additionally, IFFs further undermine the possibility to fund social care work and by extension lock women into providing unpaid care work and thus subsidizing these services for the entire economy.

<sup>6</sup> Truong, 2005: 34.

<sup>7</sup> According to the Trafficking in Persons Report, 'Forced labour sometimes also referred to as labour trafficking encompasses a range of activities- recruiting, harboring, transporting, providing or obtaining \_involved when a person uses force of physical threats, psychological coercion, abuse of the legal process, deception or other coercive means to compel someone to work. Once a person's labour is exploited by such means, the person's prior consent to work for an employer is legally irrelevant: the employer is a trafficker and the employee a trafficking victim. Migrants are particularly vulnerable to this form of human trafficking. Female victims of forced or bonded labour especially women and girls in domestic servitude are often sexually exploited as well (USDS, 2015: 8)

<sup>8</sup> Involuntary domestic servitude creates specific forms of vulnerabilities for victims. These types of domestic workers are not free to leave their employment, they are under-paid or not paid and often confront various forms of abuse, harassment, and exploitation including sexual or gender-based violence (ibid:9)



## CONCLUSION

Whilst research/debate on IFFs has centred on the main component of IFFs (commercial activities) it is important to pay particular attention to the fact that there are a couple of critical gender dimensions or outcomes associated with the 'less debated' components of IFFs namely criminal activities and corruption. However, it is also important to note that the commercial activities component of IFFs enables base erosion and profit shifting by MNCs which result in African governments failing to raise sufficient domestic revenue and the governments' resultant use of regressive tax systems which in turn work towards not realizing the rights of women and girls. This exacerbates inequality and poverty and also reduces women's potential to benefit from economic opportunities such as meaningful employment and education. This scenario fuels criminal activities. The effects of the commercial component of IFFs plays a significant role in driving criminal activities. As a result women bear the extended burden.

It is important to note that IFFs are not only an African problem but are certainly a matter of global governance that calls for a wide range of actions, including at the level of the global financial architecture. IFFs are a potential source of domestic resource mobilization for the continent, which if tapped will have positive impacts for the SDGs and Agenda 2063. The HLP report maintains that successfully combating IFFs will generate positive impacts for the governance landscape of Africa, resulting in sustainable improvements and enhancements for the local business and private sector development environment.

## RECOMMENDATIONS

The aim of these recommendations is to stop IFFs. To enhance the curbing of IFFs and ensure gender equitable development and economic transformation in Africa there is need to:

### ■ Commercial activities component of IFFs

African governments should eliminate abusive transfer pricing by enacting laws that makes it illegal to shift profits from a high tax jurisdiction to low tax jurisdiction for the purposes of evading tax as well as for those businesses which practice misinvoicing together with implementing deterrent fines. In addition, African countries should strengthen the capacity of their tax administrators as well as policy makers e.g. by offering rigorous transfer pricing training to their tax officials and policy makers as well as creating fully fledged and standalone transfer pricing units in tax administrations. Additional recommendations include: (i) implementing an automatic exchange of tax information among countries in Africa and beyond; (ii) Introducing a requirement that businesses practice country by country reporting of their accounts, requiring transparency of ownership and control of trusts, partnerships and companies as well as disclosure of their beneficial ownership during incorporation or registration and to update the information on a regular basis.

### ■ Criminal Activities and Corruption

African governments should create or reinforce the independent government entities and agencies that work on curbing IFFs (e.g. financial intelligence units, anti-fraud agencies, customs and border agencies, revenue agencies, anti-corruption agencies and financial crime agencies). These organisations should provide regular reports on their activities and findings to the government.



Furthermore, African Governments should create systems for information sharing and coordination among the various government entities and agencies in charge of curbing IFFs, with the coordination being led by the country's financial intelligence unit. Banks and financial institutions have a critical function in curbing and eliminating IFFs. Vigorous systems should be put in place for the supervision of these entities and agencies. The system should require compulsory/mandatory reporting of transactions associated with illicit activities. Some of the gender related illicit activities include the exploitation of young girls and women, for example, child marriages, forced prostitution, forced drug trafficking, child labour and so on.

### ■ Gender and the macro economy

African Governments should use gender-equitable macroeconomic policies that prioritise the use of gender mainstreaming techniques such as gender responsive budgeting. For, example, government should not solely rely on GDP as an indicator of growth and development but rather endeavor to use other social indicators to measure and assess development. This will ensure that issues such as gender inequality and poverty are considered in economic policy formulation and reform.

### ■ Gender and tax

- There is limited participation of women in tax policy and tax administration. Limited women participation in tax policy/administration generally implies that tax policy adopted in most cases fail to take into consideration issues that affect women. African governments should prioritise increasing the participation of women in tax policy and tax administration for example employing more women in tax policy and tax administration jobs.
- The existence non –neutral tax structures – tax structures which favour men and overburden women ( mainly seen in Value Added Tax (VAT) and informal sector presumptive taxes) is also of concern in most African countries. African governments should therefore make tax reforms which do not increase burden on women, e.g. maintaining zero/low rates of VAT on basic commodities as most women use the bulk of their income on basic commodities for the family.
- Most African countries have point of amenity payment (informal taxation and user fees). These have a higher burden on women. African governments should avoid introducing such tax policy reforms.

### ■ Civil Society Organisations

- Women's organizations have to play an active and sustained role in the activities of civil society organizations that advocate for tax justice, engage in tax policy formulation and hold their governments accountable for both how taxes are collected and how the revenues are spent. Here is where they can build on initiatives related to gender-responsive budgeting initiatives that promote gender equality by assessing the effect of government revenue and expenditure policies. The advocacy for gender-equalizing taxation requires broadening the call for tax justice to include the formulation of progressive taxation that can enhance gender equality by addressing all the gender biases embedded in tax policies, women's socio-economic disadvantages including unequal property and asset ownership; gender stereotyping and discriminatory social norms in households and about markets including unpaid care and domestic work.



- In addition to amplifying their participation and voice in tax justice networks, women's organization will have to play a very active role in the implementation of Agenda 2063 of the African Union and that of Agenda 2030 both of which have relatively stronger commitment than previous continental and global development frameworks. Agenda 2063 is committed to 'full gender equality in all spheres of life (Agenda 2063:17). But here women's organizations' have to sharpen their research and advocacy skills to ensure that concerns with gender equality are reflected in the implementation of all 20 goals. Gender equality advocates will also have to remain alert that the section of visions and aspirations that aspires for 'an Africa whose development is people-driven, especially relying on the potential offered by its women and youth' does not end up increasing women's heavy work burden and multiple responsibilities. In regards to IFFs, women's organizations have to advocate for the full implementation of the recommendation of the High Level Panel on Illicit Financial Flows in order to fulfill goal 18 of Agenda 2063 which states that "Africa is no longer aid dependent and takes full responsibility for financing development." Clearly, this goal can only be fully realized by substantially curbing IFFs as a major component of 'optimal and transparent fiscal systems that led to public sector revenue' (Agenda 2063).
- Women's organization will have to amplify their advocacy for both overcoming the shortcomings of these two regional and global agendas and much more so ensuring that they are at the forefront of shaping national strategies for implementation and in the monitoring the implementation. Such forms of enhanced engagements in initiatives related to curbing IFFs and implementation of regional and global development agendas creates considerable space for sustained advocacy for the provision of the requisite resources to women's organizations and gender related government institutions.

### ■ Mainstream Organisations

- It is also important for mainstream organisations to have follow through mechanisms and reporting systems on gender and inequality issues, for example, those highlighted in the SDGs and Agenda 2063 to ensure the success of gender-equal development and the elimination of inequality overall.
- Furthermore, mainstream organisations have the responsibility to engage women responsible organisation on gender and inequality so that a common approach to gender and inequality work is achieved and maintained.





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