



University of Nairobi



**Committee on Fiscal
Studies**

Third Quarter Report

October 2020

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Introduction

This is a quarterly report produced by the Committee on Fiscal Studies and is used to update all our stakeholders on our activities on a quarterly basis.

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Members

Academic Staff

1. Bosire Nyamori (Chair)
2. Lyla Latif (Deputy Chair)
3. Attiya Waris (from the School of Law)
4. Dominic Murage Njeru (from the Department of Finance and Accounting)
5. Nicholas Orago (from the School of Law)
6. Davis Ndambo (from the School of Law)
6. Ben Musau (from the School of Law)
7. Rhadha Upadhyaya (from the Institute of Development Studies)
8. Mary Ongore (from the School of Law)
9. Valentine Ataka (from the School of Law)

Graduate Resarchers

10. Stella Nasirumbi
11. Prisca Musibi
12. Joan Atim

Background

The Committee on Fiscal Studies (CFS) is housed within the University of Nairobi and is currently chaired by Mr Bosire Nyamori who took over from Professor Attiya Waris who was the Committee's first chair and founding member. It brings together a group of finance and development experts from diverse disciplines including law, business, economics, journalism and development studies who focus on providing sustained and advanced level capacity building and research in fiscal governance at the sub- national, national, regional continental and international levels. To this end, the Committee uses a multidisciplinary approach to bring together academics and partner institutions that engage in discourses linked to resource mobilization and taxation such as law, economics, human rights, anthropology, development studies, history and poverty alleviation with reference to the FfD and the SDG processes.

The core objectives of the Committee on Fiscal Studies include;

- A. Capacity building through;
 - a. Developing the capacity of academics and researchers within the African Continent
 - b. Developing syllabi and curriculum for short courses, certificates, diplomas and degrees.
 - c. Hosting Tax Talk Series

B. Research by;

- a. Developing links with civil society, private institutions and international grant bodies.
- b. Encouraging and showcasing home grown African research ideas and developing the identified research fields.
- c. Setting an online resource for researchers.

C. Raising developing country voices by;

- a. Engaging in international fora and presenting new research.
- b. Facilitate international, local, and regional networking for African academics, researchers and students.
- c. Development of linkages domestically, national, regionally, continentally, and globally within and across disciplines related to financing development, tax, and the SDGs.

D. Rapid Response and Current Affairs

Towards this end, the Committee on Fiscal Studies has already received grants from

- 1. Open Society Initiative for Eastern Africa (OSIEA)
- 2. Oxfam Kenya
- 3. Oxfam Panafrica
- 4. Friedrich-Ebert-Stiftung (FES)
- 5. GIZ

A. Capacity Building**a. Tax Talks Series**

The Tax Talks were an initiative aimed at knowledge sharing and capacity building on matters related to fiscal law. As part of the webinars, the Committee held a joint webinar with Strathmore Law Clinic on pro bono services by lawyers and how tax can be used as an incentive.

B. Research**a. Yearbook**

The CFS received a grant from Oxfam to develop and publish its second issue of the journal on “Financing for Development”. Led by Lyla Latif, a Tutorial Fellow at the University of Nairobi, work was completed in this quarter and published by August 2020. The journal has been added to the list of journals the DVCRIE.

The team at the Committee on Fiscal Studies (CFS), also extended invites to individuals to be members of the Strategic Advisory Panel (SAP) of the Journal on Financing for Development for a duration of two years, from June 2020 to May 2022. The Strategic Advisory Panel offers professionals and civil society organisations the opportunity to contribute their expertise to the journal's overall objective of disseminating research on fiscal studies and development at the domestic, regional, continental and global levels. The articles can be found at <http://uonjournals.uonbi.ac.ke/ojs/index.php/ffd/issue/view/95>

The articles are as listed below:

- [Centrality of critical thinking to value creating education for human and national development](#)
- [The 'iron' triangle, Health Act, 2017, and the cost of Universal Health Coverage agenda in Kenya](#)
- [Health finance in Kenya's progress towards Universal Health Coverage](#)
- [Tax base erosion and corporate profit shifting: Africa in international comparative perspective](#)
- [The legal and tax architecture of collective investment funds in Mauritius](#)
- [The double taxation architecture conceptualised under section 41 \(5\) of the Income Tax Act; Chapter 470, Laws of Kenya](#)
- [Protecting foreign investments using the Calvo doctrine](#)
- [Digitalisation and the challenges for African administrations](#)
- [Reflections on the implications of the Fourth Industrial Revolution \(FIR\) on taxation](#)
- [A commentary on Airbnb as a digital business model: regulation and tax challenges for East Africa](#)
- [Revisiting the 2019 case of tax justice network- Africa versus cabinet secretary for national treasury & 2 others](#)
- [Debt, access to information and illicit financial flows: an analysis based on the Mozambique hidden loans case](#)

b. UON CHSS Website Upgrade

The CFS engaged a number of its student researchers led by Afshin to support the CHSS website upgrade. This included offering an assessment on what areas could be improved to make the site more interactive and informative.

c. Mapping of academics

The CFS researchers worked on mapping out Africans scholars to create a database that would increase visibility of research work done on the continent. This is an on-going exercise currently led by Clara Kitungulu and so far over 46 African countries have been mapped. The first draft has been submitted which includes an excel workbook that has all the scholars, their

gender, contact information and their publications, and a word document that has the data compiled in figures. This documentation will be uploaded to our website cfs.uonbi.ac.ke

d. Case briefs

Lesikel Ali and Yvonne Maina, our student researchers are leading on Case Law Analysis, in coordination with our team of student researchers the committee has produced over 77 cases briefs. The cases touch on taxation and Fiscal policy. These briefs will be uploaded on our website cfs.uonbi.ac.ke once completed.

e. Data mapping

Led by Davis Ndambo, the Committee has continued to prepare data map showing the various fiscal data of African countries. These interactive maps serve as a useful teaching tool as well as an up to date data source for researchers. During this quarter, the CFS worked on datasets relating to carbon taxes, extractives, debt, budgets, basic minimum wage and tax rates as well as the system of government in all African countries. While the work on some of the datasets is on-going, the completed datasets can be found at cfs.uonbi.ac.ke.

f. Grant proposals

The CFS has developed a number of grant proposals that are at various stages of the application process.

During this quarter, the CFS won a grant funded by the *Open Society Initiative for East Africa* (OSIEA) on issues of UNTC support as well as the organization's operations.

The CFS is also in the process of applying for a grant from GIZ for the development and dissemination of a course on the taxation of extractives for Revenue Administrators and the mopping-up of ATAF graduates.

The CFS also applied for grants from OXFAM Kenya and OXFAM Pan Africa under the auspices of website development and fiscal justice project that are undergoing last mile discussions and implementation.

g. International Law Association Study Group

The CFS worked on providing data to the International Law Association (ILA) Study Group on the African position on international law, taxation, taxpayers' rights and the rule of law. The ILA Study Groups are established to survey the suitability of topics for further study by a committee to allow quick questions to urgent questions or to tackle issues that are less suitable for consideration by a committee.

The CFS team submitted a draft of 16 topics on African laws and policies as well as a review of the research by the study group.

h. Other research

In addition to the above research activities, committee members have also participated in a number of other research activities, a detailed compilation of these is below in *Appendix 1*

C. Raising Developing Voices

The CFS members were unable to attend conferences and meetings. We however offered support to the United Nations Tax Committee by summarizing documents from the UNCTC website and translating them to French. Translation was done for all summarised documents and the accompanying commentaries. The summarised documents included work done by the following UNCTC subcommittees: extractive industries, tax treatment of ODA projects, environmental tax issues, model double taxation convention between developed and developing countries.

Additionally, the CFS team went through some of the chapters of the UNCTC Environmental Tax Sub-committee's handbook on environmental taxation and included information on environmental taxes in Africa. The team also included comments on the UNCTC Extractive Industries Tax Sub-committee's handbook on taxation of extractive industries. The team included comments on the taxation of extractive industries in Africa as well as the financing of upstream activities in the extractive industries sector.

D. Rapid Response and Current Affairs.

The CFS reacted to the outbreak of the Covid-19 crisis through the launch of an emergency research response initiative. To this end the CFS applied for and won a grant on rapid response needed in cases of fiscal emergencies from OSIEA. Through this initiative, the CFS engaged and continues to engage a variety of stakeholders on issues arising from the pandemic from a multi-disciplinary perspective including health, social, religious, legal and economics among others.

The team researched on and contributed to discourse on the information surrounding the financing of emergencies by for instance mapping out emergency funds across the continent and how spending should be and could be taking place. The team also developed a rapid response strategy as a roadmap for the CFS rapid response initiative.

The work under this grant carried on into Quarter 3 due to the constant addition of new information and data collection on debt and emergency funding continued. The team collected

data on public debt and Gross Domestic Product and the ratios between. The team has also collected debt legislation across African countries.

In addition, the CFS has sought to enhance the discourse around Covid-19 and pandemics in general by recruiting researchers who have been engaged in doing short pieces of work which have been converted into blogs that are posted on the CFS blog (<https://fiscallawafrika.wordpress.com/>). Between July and October, we have uploaded the following blogs:

- [Making Kenya's Health Care System Fit for the Future](#) by Joan Atim
- [Carbon, Climate and COVID-19: an Opportunity to Create a Green Economy](#) by Afshin Nazir
- [Opinion Paper on Re-opening of Schools in Uganda: Thoughts for the Ministry of Education](#) by James Lam and Joan Atim

Appendix 1 On-going Research Work

- i. A position paper on taxation of the digital economy by Mwaniki Maina and Vallarie Yiega
- ii. Chapter on Digital Economy by Mwaniki Maina
- iii. Chapter on Carbon Tax Case Studies by Afshin Bholim
- iv. Journal article on alternatives to carbon taxation in Africa by Afshin Bholim and Prisca Musibi
- v. A report on tax incentives in West Africa and whether they are effective by Vallarie Yiega, Afshin Bholim, Mwaniki Maina and Clara Kitungulu
- vi. Solidarity Funds Summary for Law360 Tax Authority by Afshin Bholim and Vallarie Yiega
- vii. Preparation of document on Building Back Better Using Social Protection by Afshin Bholim and Vallarie Yiega
- viii. Journal article on Climate Change and Human Rights by Afshin Bholim
- ix. Digital Identities : Status of Aadhaar in India by Afshin Bholim, Mwaniki Maina and Vallarie Yiega
- x. Developing of a Solidarity funds policy brief by a team led by Professor Waris
- xi. Journal article on Victimology and victim support by Waridah Makena
- xii. Journal article on the State of Environmental Taxation in Africa by Afshin Bholim
- xiii. Journal article on Tax Dispute Appeals Procedures in African Countries by Afshin Bholim
- xiv. A report on tax implications and SportPesa by Mwaniki Maina and Clara Kitungulu
- xv. Prepared an Info note on the Proposed Central Bank of Kenya (Amendment) Bill 2020 by Elvis Oyare
- xvi. Prepared a news update on the developments within the Double Taxation Treaty sector for the Committee on Fiscal Studies Website by Elvis Oyare and Afshin Nazir
- xvii. Conducted a review and subsequently developed an Info note of the newly released Beneficial Ownership Regulations 2020 by Elvis Oyare
- xviii. Development of book chapters on Double Tax Agreements by Elvis Oyare
- xix. African Union Social Policy Document- CFS Input by Mwaniki Maina
- xx. Book Chapter on Legal and Illegal Businesses in the Digital Economy by Mwaniki Maina
- xxi. A Critique of UNCTC documents on Product Sharing Contracts by Mwaniki Maina
- xxii. A paper on the Chapter on Digital Nomads by Clara Kitungulu
- xxiii. A paper on Tax justice disparity as evidenced during the COVID-19 pandemic by Professor Waris and Clara Kitungulu
- xxiv. Taxation Of Cross-Border Investment Funds In Mauritius In The Post-Beps Era by Mary Ongore and Bosire Nyamori
- xxv. Journal article titled *“Taxing Collective Investment Vehicles in Developing Countries a case study of Morroco”* by Joan Atim & Proffessor Attiya Waris (Ongoing)

- xxvi. Journal article on “*Financial Fraud Triangle, Motivation, Opportunities and Realisation*” by Prof. Waris, Joan Atim and Mary Ongore (Research Assistant - Waridah Makenah)
- xxvii. Book Chapter on Tax Treaty policies and Double Tax Agreements, Elvis Oyare