

Topical Essay Nr. 2 of the Research Project “Tax Justice & Poverty”

Presence of Transnational Corporations in Africa: An Assessment of Tax Justice and Poverty Implications in the Light of Catholic Social Teaching

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Abstract

Africa is a continent in dire need of economic growth and transformation to get her out of poverty. Presently, the continent leads in poverty levels exceeding the other continents and the trend seems to be growing. This is a paradox since Africa has resources that could lift her people out of extreme poverty and assist in dealing with other serious problems (Andebo, 2014a). Part of the reason is that she lacks full capacity to exploit these resources effectively. To fill this capacity gap, Africa relies to a large extent on the investments done by the transnational corporations, mainly in the area of resource extraction. However, this has resulted into disappointing results in the continent's effort to alleviate poverty by making use of these resources. Most of the corporations investing in Africa have their bases or subsidiaries outside the continent and they repatriate profits using these networks. To make matters worse, they also exploit the legal structures and policies of taxation to deny the African countries what would be genuine revenue for these countries from the resource extraction business. The unstable economic situation of the countries coupled with the urgent need for funds make them negotiate business contracts that harm them and give more advantages to the corporations. The unscrupulous African leaders also take the remaining bits from the negotiating table, leaving the national coffers nearly empty. This is resulting into a global and national wealth gaps that are uncalled for, if genuine business rules are observed.

This paper has examined how the presence of these transnational corporations, heralded as the hope of growth in Africa through resource extraction has turned out to be an illusion and a drain. The paper consequently argues that if transnational corporations paid their due taxes and presumably if these were well managed, the proceeds would contribute enormously to the continent's funding needs and in turn enhance the capacity to provide the basic needs of health, education, nutrition, etc. Many of the actions of the corporations in evading taxes and repatriating profits are deemed legal. However, are they ethical in the face of Africa's growing financial challenges? Arguing from the perspective of the Catholic Social Teaching, this paper considers that they are not. It therefore proposes that the policies and institutions of taxation in African countries and globally, need a moral bulwark to act ethically in order to realize the missing revenue through tax evasion, contributing to the increasing wealth gap.

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1. Introduction

1.1. Why discussing Transnational Corporations?

The global economic landscape is dotted with the transnational corporations (TNCs) and their activities which have grown to take a life of their own. First of all, in terms of conceptualization, the terminology of TNC has been adopted for this paper since it seems to be the one most widely used; but reference to quotations in which the authors prefer other terms like multinational corporations (MNCs), multinational enterprises (MNEs), foreign companies, investors, etc. necessitate keeping what they use.

It is necessary to start then by answering the question: what is a TNC? A precise definition derived from The Free Dictionary is that a TNC is any corporation that is registered and operates in more than one country at a time (also called a multinational corporation or multinational enterprises etc.). A TNC has its headquarters in one country and operates wholly or partially owned subsidiaries in one or more other countries. The subsidiaries report to the central headquarters. Being part of the global economic sphere, TNCs have been playing an increasingly dominant role in the world economy. This dominance is most pronounced in the developing countries that rely primarily on a narrow range of exports, usually primary goods and whose capacity to extract some of these goods from their environment is low, a situation further exacerbated by the countries' regulatory capacities. A TNC has the capacity to do that but also has the ability to disrupt traditional national economies, impose monopolistic practices, and assert a political and economic agenda on a country¹.

The growth in the number and size of TNCs since the 1950s has generated controversy because of their economic and political power and the mobility and complexity of their operations. Some critics argue that TNCs exhibit no loyalty to the countries in which they are incorporated but act solely in their own best interests², a claim the discussion in this essay seeks to unveil.

Certainly, TNCs have various motives to establish a corporate presence in other countries: such as the desire for growth after reaching a plateau meeting domestic demands and anticipating little additional growth. A new foreign market might provide opportunities for new growth. Others desire to escape the protectionist policies of an importing country. Other motives include: preventing competition, actual or potential from foreign businesses by acquiring those businesses; establishing subsidiaries in other nations is to reduce costs, mainly through the use of cheap foreign labour in developing countries; the possibility to 'bypass high tariffs'³, is a point with direct significance for this paper since this ability of the TNCs is a matter of increasing concern now due to increased tax evasion.

According to some authors, the operation of the TNCs is also beneficial to the host countries too. For instance, Tilman Altenburg (2000) assessed the advantages of the linkage effects of the TNCs in promoting the growth of local small and medium sized enterprises (SMEs) in the developing countries. These may include: providing markets for local products of the SMEs and products for the SMEs to market; stimulating innovations in local competitors; boosting the technology and capacity of local SMEs through joint ventures; transfer of know-how through 'demonstration effects' - new ways of doing things; and the

¹ The Free Dictionary. <http://legal-dictionary.thefreedictionary.com/Transnational+Corporation>

² Ibid.

³ Ibid.

human capital spill-over effects through highly trained or qualified personnel who either start new ventures or join the work force of their country (Altenburg, 2000, S. I-III). Their presence is also a source of revenue too for these countries, through employment opportunities and taxes they pay. These may certainly lead to wealth creation for individuals and nations. However, this advantage has to be critically scrutinized, which this paper has set to do, regarding the activities of notable TNCs doing business in Africa.

This essay focused on Africa, featuring cases in particular countries for the sake of a more concrete and evidence-based analysis, aims at assessing the role of the TNCs in the continent. Africa has for long now been part of the sphere of influence for the growing presence and activities of the TNCs. Evidence shows that Africa's economy has enjoyed one of the strongest growth rates lately, even during the global crisis. There has been steady increase in foreign investment, totalling US\$ 50 billion in 2012, the same as the value of overseas development aid the continent obtained in the same period. Much of the investment of the TNCs in Africa is in the extractive industry and local resource exploitation. On the other hand, despite the optimism caused by the growth, there are those who believe that the current "boom" in investment in Africa, stimulated by high commodity prices and low interest rates for investors may not last much longer. One major reason is that Africa's growth has largely been based on natural resource rent and may not be sustainable (Eunomix, 2013, S. 27). Additionally, the growth experienced in Africa has been skewed in terms of geographical areas and sectors of population and is not inclusive (African Development Bank, 2011, S. 9).

In spite of this growth, there is still extreme poverty and under-development. For instance, between 1990 and 2011 the new-born children's mortality rates in sub-Saharan Africa increased from 1.0 to 1.1 million, while the number of hungry people increased from 175 million to 239 million (Action Aid, 2013c), (Andebo, 2014a). This is not meant to downplay the significance of the growth that has occurred in the continent. The fact that foreign direct investments have had a portion in this growth also demands an assessment of the extent to which they have contributed to addressing the poverty and inequality gaps.

This paper is therefore intended to examine the activities of the TNCs and their real impact in Africa's growth. It is an attempt to answer the question why Africa continues to experience poverty and inequality in an increasing manner when there is optimism and hope as reflected by this economic progress? If the presence of the TNCs is an indicator of economic growth in the continent, what are their real contributions to the governments and peoples in the host countries? In the light of the CST, what role can the Church play in these circumstances as a voice of the poor – countries and their peoples, affected by these challenges?

1.2. Why using Catholic Social Teaching as ethical framework?

The above issues shall be assessed in the light of the Catholic Social Teaching (CST) and its methodological approach – See, Judge, Act – for analysis and recommendations. There shall also be a need to examine the options recommended in terms of the principles and values of the CST. However, why would it be of importance to use the CST to deal with a topic on TNCs and international business, a largely economic topic?

The first reason is about the Catholic Church's global nature and yet being local and close to the people making her have a spectrum of global and local realities and the way each impacts on the other. Secondly, the church being an institution based on morals, norms, ethics and beliefs make it meaningful for her to discuss themes like justice, taxation and poverty and also assess the activities of TNCs and other socio-economic issues like poverty and inequality that span the global and local spheres.

The CST has the capacity of dealing with moral issues that are as much a matter of concern today as they were in the past. The changing times and circumstances may bring up different phenomena that affect the human society, like questions of inequality and poverty, the economic principles of neo-liberalism, globalization, among others, that are a matter of concern today. These may be manifested today in fairly different circumstances than they may have been in the past. However, there are always moral and ethical questions that arise and that can be guided by the same basic principles and values of the CST. Such matters tend to fall into the broad category of themes the CST deals with. These make a strong case and justification for using the CST to provide a moral framework of discussing the presence and activities of TNCs in Africa.

Another fact is the influence the Church has wielded in modern society via announcements of church leaders, social movements such as those of Christian workers or lay organizations such as those of students, economists or politicians. In some rare cases, however, CST has inspired political constitutions and social structures of states and countries, such as the post World War II constitutions of Germany, Bavaria and Austria. The overall influence of the Church has also become embodied in the CST documents with traversing effects on social, economic and political segments of society. In particular reference to Africa, the CST is already inspiring choice of concepts and principles (Tarimo, 2005), ethical writings dealing with social justice issues (Opongo & Orobator, 2007), institutional activities for research and social action (Alt, 2013).

1.3. Why the selected case studies done in this paper?

This essay is part of the research project “Tax Justice and Poverty” which conducts research in Germany, Kenya and Zambia.⁴ For this reason, particular focus is given to the question what tax justice and poverty issues are associated with presence of these TNCs? After the introduction, the paper shall examine two cases of TNCs in Zambia and one case in Kenya for deeper analysis as the “See part”. These are the: Associated British Foods (ABF) subsidiary Zambia Sugar and Glencore’s subsidiary of Mopani Copper Mines. In Kenya, the case cited is the Karuturi global flower industry giant. Due to the transactions involved, the role of other TNCs in the banking sector like the Barclays Bank and the Deloitte Company shall also be highlighted. Proceeding from the case studies shall be a judgement using the CST through what the Church has said directly about such activities but also in terms of its CST principles, values and themes. Then the final part, recommendations shall be based on the concrete situation but also illuminated by the same CST principles, values and themes.

2. The Empirical Cases in the Analysis (See)

2.1 The paradoxical Sweet Nothings in Zambia’s city of sugar

This case exposes how the tax revenues needed to cover the costs of decent public services like education and health, among others, are being undermined by one of the wealthiest taxpaying TNC. Zambia Sugar Plc, a subsidiary of the Associated British Food (ABF), has effectively opted out of the corporate tax system in Zambia through a combination of ingenious and lawful tax haven transactions, and huge tax concessions awarded by the Zambian government. Despite the legality of its actions, ethical and moral questions can be raised about the company’s actions of tax evasion.

⁴ See <http://www.taxjustice-and-poverty.org/>

Zambia is still a poverty stricken country, despite its new status as a lower middle income country. The proportion of its rural poor is reaching nearly 90 per cent. Zambia exports foodstuffs, including sugar; yet 45 per cent of Zambian children are undernourished, clearly a paradox of continuing hunger amidst plenty. A report by Action Aid demonstrates that ‘poverty and hunger cannot be ended if developing countries cannot raise revenues to provide for the needs of their own citizens’ (Lewis, 2013, S. 1). However, this cannot be done if the rich tax payers like Zambia Sugar Plc continue to undermine the tax system and the government is also unable to control the array of transactions the company uses to transfer over a third of the its pre-tax profits – over US\$13.8 million (Zambian Kwacha 62 billion) a year –out of Zambia, into and via tax haven sister companies in Ireland, Mauritius and the Netherlands. While the main corporate tax rate in Zambia is 35 per cent, ABF’s Zambia Sugar has since 2007, paid less than 0.5 per cent of its US\$123 million pre-tax profits in corporate income tax – averaging under ZK450 million (US\$ 90,000) a year. The company also took the government to court and won a special retrospective tax break in 2007 and received a large refund of tax paid in earlier years with concessionary tax rates for expanding its sugar mill and estate, under the regime for encouraging investments and for reclassifying all its revenues as “farming income” as par the Zambian laws. Between 2008 and 2010, Zambia Sugar made no corporate income tax payments at all (Lewis, 2013, S. 1-2).

Through a system of mystery management, Zambia Sugar has been paying out nearly US\$2.6 million since 2006 as ‘purchasing and management’ fees to an Irish sister company that seems to have no physical presence in Ireland. The company also ‘dog-legged’⁵ its loan repayments to South African and United States banks through Ireland, exploiting an advantage of ‘treaty shopping’, by making use of the treaty between Zambia and Ireland, preventing the Zambian government from charging any taxes on the interest payments made on these loans. Additionally, Zambia Sugar made payments for ‘export agency’ services to a sister subsidiary company registered in Mauritius that has no employees permanently there. Similarly, the company also sent profits back to its parent company, Illovo Sugar Ltd, nearly tax-free by re-shuffling the ownership of the company through a string of Irish, Mauritian and Dutch holding companies, taking advantage of tax treaty loopholes and tax haven regimes to cancel tax on its dividend payments (Lewis, 2013, S. 2). These then combine with the above concessions and court claims indicated to add on to Zambian government’s revenue losses.

According to Action Aid, Zambia has lost tax revenues of some US\$17.7 million (ZK78 billion) since 2007 when ABF took over the Illovo Sugar group, due to this “financial engineering”. If one adds the tax revenues lost, thanks to Zambia Sugar’s tax incentives and tax rate change from 35 per cent to 15 per cent, the bill of the country’s lost tax revenues is over US\$27 million (ZK116 billion). The future losses for the Zambian exchequer are expected to be about US\$7million (ZK35 billion) annually, with savings from the company’s rate change and other special tax incentives, about US\$3.6 million annually, against a backdrop of growing future profits (Lewis, 2013, S. 33).

The impact of this loss can be assessed by juxtaposing it with the needs of the country. The Action Aid report again estimates that: the amount of foregone tax revenues in a single year could likely cover the entire cost of the interventions needed to tackle child malnourishment in Zambia and reduce infant mortality largely arising from it. The amount of tax the Zambian government currently foregoes through the company’s tax haven transactions is enough to put an extra child in primary school every 12 minutes; the tax haven transactions of just this one TNC has deprived the Zambian public purse of a sum over 14 times larger

⁵ Definition: an unusual manual transmission layout. In this case, loan repayment operations that are unusual, creating suspicion and in need of better explanation than given. <http://en.wikipedia.org/wiki/Dogleg>

than the UK aid provided to Zambia to combat hunger and food insecurity in the same period (Lewis, 2013, S. 1).

Looking at it from the aspect of injustice to the local people, another grave impact can also be observed. The Action Aid report indicates that in absolute terms in 2011 and 2012, Zambia Sugar paid 20 times less income tax, relative to its income, than the tax paid by its own agricultural workers; and 90 times less than the tax paid by the small traders who sell its products to consumers (Lewis, 2013, S. 3). Its actions of profit repatriation and seeking tax havens⁶ depress local wages as it gave its seasonal workers wages around 20 per cent less than the government-benchmarked minimum wage up to July 2012 and just above this mark for other local employees. This also affects the Zambian pension funds and individual investors, which together own 18 per cent of the company, in terms of what they get through dividends. It is more exasperating that the Garfield Weston Foundation, the Weston family's charitable trust affiliated to the company, disburses £30-40 million each year to churches, community projects, education and arts organizations, mainly in the UK and also helps to fund low-tax advocates the Institute of Economic Affairs, while forgetting its responsibility to the Zambian people (Lewis, 2013, S. 33-35). These therefore give an ironical meaning to the paradoxical headline of sweet nothings in Zambia's sugar producing city.

2.2 Glencore and the Zambian Copper: the hard realities of metallic profits

Another case of tax evasion of a more massive scale in Zambia involves Glencore, a 'mining giant which is listed on the London stock exchange, registered in Jersey, with its HQ in Switzerland' (Action Aid, 2011). Glencore, a UK subsidiary of the world's largest commodities broker, which owns a 73 per cent stake in the Mopani Copper mines, helped its mining operation in Zambia to avoid paying tens of millions of pounds in tax to the Zambian government. In presenting briefs about the leaked audit report of the Norwegian subsidiary of Grant Thornton, Glencore is accused of tax dodging in Zambia on a scale more massive, perhaps, than that of Zambia Sugar (Action Aid, 2011).

According to the leaked report on Glencore's Mopani mine in Zambia, commissioned by Zambia's tax authority, the company sold copper to Switzerland at below market prices and increased its operation costs exponentially in the period between 2005-2007, with little justification. The audit also indicated that Mopani sold copper at artificially low prices to Glencore in Switzerland under a deal struck with the firm's UK subsidiary in 2000. The metal was then sold on, allowing Glencore to take advantage of Switzerland's ultra-low tax regime. There are claims that the transactions breach international rules ensuring that there has to be an arm's-length principle when it comes to sales between related parties. The company claimed all transactions were conducted at an arm's-length basis and at internationally agreed prices. This artificial inflation of costs, combined with undervaluing of its copper exports enabled the company to report overall losses, and therefore pay little or no corporation taxes in Zambia. The initial report said that, 'the pilot audit has shown there is a high need for a determined effort at collecting the taxes that are assessed under the laws implemented by the Zambian government' (Doward, 2011).

It is estimated that the company's practices potentially cost the Zambian government up to £76 million a year in lost corporation tax; far much more than the £59 million the UK government gives Zambia each year in aid. The details of the acquisition of the Mopani Mines by Glencore through a company based in the British Virgin Islands, another tax haven

⁶ Tax havens are jurisdictions that use secrecy and low tax rates as a selling point to attract businesses for their financial services industries. The banking secrecy that they apply makes it almost impossible to find out who owns an account there, how much money it is worth, and where the money came from. As a consequence, tax havens also hide criminal activities and illicit flows of money. Africa Europe Faith and Justice Network. <http://www.aefjn.org/index.php/370/articles/capital-flight-and-its-impact-on-africa.html>

(Doward, 2011) also ring loud bells. This has a lot by implication in terms of what happens in this case of tax evasion.

Similarly to understand fully the injustices involved, one should contrast ‘the impending wealth of the company’s management with the poverty of Zambians, around two thirds of who live below the recognised poverty line’ (Action Aid, 2011). On his part, Savior Mwambwa of Centre for Trade Policy and Development (CTPD) said: ‘Through tax evasion and avoidance, mining companies are depriving us of social and economic benefits which are rightly ours.’ (Action Aid, 2011) Widespread tax avoidance is leaving Zambia short of the money it needs to invest in a decent education for its children, classrooms are averaging 61 learners, one of the highest in Africa, while only £15 is available to educate each child per year. Taxes from mining could help the government fund education. Good education requires more than a decent school building, desks and books – it needs good teachers. Only tax revenue can make this long-term investment in children’s futures (Action Aid, 2011).

2.3 Karuturi: the flower profits are not rosy any more

According to an April 2013 press release referred to by La via Campesina, the International Peasants’ Movement, the Kenyan government has found Karuturi Global Ltd, the world’s biggest producer of cut roses, guilty of tax evasion. This makes it the first African government to bring a large multinational company to court for transfer mispricing through a fully public process, seen as a mark of transparency by civil society movements and organisations. This was a result of what the Kenya Revenue Authority (KRA) ruled in late 2012 that the Bangalore, India-based multinational used transfer mispricing to avoid paying the government of Kenya nearly US\$11 million (EUR 8 million) in corporate income tax, part of a larger set of tax disputes which it had with government, amounting to a quarter of the firm’s 2012 sales. On 4 April 2013, Karuturi appealed the ruling, thus bringing the issue into the public domain (La Via Campesina, 2013).

In 2012, the KRA expert team audit of companies unearthed a number of transfer mispricing and tax evasion cases. Karuturi was one of the culprits, found to owe the KRA taxes worth US\$ 26 million, about one-quarter of the TNC’s global turnover in fiscal year 2012 (US\$ 106 million). Money of this magnitude could be used as additional income for development or to replace some current taxes that target the poor like value added tax (VAT) or even to delay the enactment of additional taxes like on maize flour, the staple food, due to be activated in Kenya in 2015. However in 2013, Karuturi filed a notice of appeal against the decision of the tax tribunal. According to Karuturi’s 2012 annual report, it has been facing a number of potential threats to its financial viability including: a Kenya Shillings (KSh) 975 million (US\$ 10.7 million or EUR 8 million) dispute from the KRA over transfer pricing; a KSh 1.4 billion (US\$ 15 million or EUR 11.5 million) claim on unpaid income taxes from the Indian authorities; and a risk of default on a US\$ 54.7 million (KSh 4.8 billion or EUR 40.3 million) foreign currency convertible bond due for redemption on 19 October 2012 which was later restructured (Tax Justice Network et al, 2013).

As reflected in the Grain and La via Campesina websites, ‘Karuturi produces 580 million roses per year from its operations in Kenya, Ethiopia and India. One out of nine roses bought in Europe comes from a Karuturi farm. The flowers it produces in Kenya are shipped to Europe through a subsidiary in Dubai. By under declaring the value of the merchandise shipped to its warehouse in Dubai, the firm saves costs on its tax bill. This is illegal under Kenyan law’ (Tax Justice Network et al, 2013).

According to Stephen Gichohi of Forum Syd, ‘Karuturi farm workers have a range of concerns about spraying equipment, health services, wages and housing and need their

conditions improved as soon as possible.’ Tax Justice Network, among other organizations confirms that, workers on Karuturi farms in both Kenya and Ethiopia have been complaining about, and initiating labour actions against, various conditions, especially related to wages and safety like unpaid salaries and poor working conditions. Karuturi has been bringing in staff and consultants from abroad, including India, to run management, irrigation and drainage operations, and logistics because they said they could not find the experience locally, an issue which brought the company into a dispute with the Ethiopian government (Tax Justice Network et al, 2013).

Since 1996, Karuturi’s core business has been floriculture, producing 580 million roses per year from 289 hectares of land the company leases in Kenya (154 hectares), Ethiopia (125 hectares) and India (10 hectares). Due to the 2007/2008 global food crisis, Karuturi expanded from floriculture into food production, planning to set up farming operations on over one million hectares, mainly in eastern and southern Africa, to produce primarily maize, rice, sugarcane and palm oil for international markets. Targeted countries include Ethiopia, Tanzania, Republic of Congo, Sudan, Mozambique, Ghana, Sierra Leone and Senegal. In Ethiopia, the land grabbing activities are resulting into conflicts due to compensation, displacement and the relocation of villagers and herders who are suddenly finding themselves fenced off of their lands by the Indian company. Its actions of land grabbing seem to be associated with “villagization programme” initiated by the Ethiopian government, to forcibly relocate thousands of indigenous people in western Gambela to new villages lacking adequate food, farmland, healthcare, and educational facilities. However, the company’s CEO Sai Ramakrishna Karuturi has denied any connection between his company’s activities and the government’s villagization programme. (Tax Justice Network et al, 2013). Describing Karuturi, Nyikaw Ochalla of the Anywaa Survival Organisation defending the indigenous Anuak communities in Gambela, Ethiopia says, ‘This company is criminal, on many counts.’ (La Via Campesina, 2013)

2.4 Other hands in the Complicity

Facilitating these activities are companies like Barclays Bank and Deloitte in Africa that provide guidance and services to cart the profits away. According to Action Aid, tax avoidance costs the continent of Africa lost revenues of US\$ 63 billion annually, more than it receives in overseas development aid – and enough to deliver the United Nations Millennium Goals of universal primary education, universal healthcare, and upgrade Africa’s entire road network. Instead, banks are helping to spirit this money into offshore tax havens. Barclays Bank, the largest retail bank in Africa, with 147 subsidiaries on the continent and operating in 17 African countries is a big culprit. It uses its Offshore Corporation Division of Barclays’ International Wealth and Investment to link companies and investors in Africa with Barclays’ operations in tax havens. This contradicts its “Africa Strategy” which has the ambition of being a ‘force for good in the communities we serve and the lives we touch’ (Action Aid, 2013a).

The Barclays’ Mauritius operation goes even further, explicitly marketing itself as the “pioneer of offshore” – and advising clients to channel any investment into Africa via tax friendly Mauritius. This makes Barclays the biggest player in the US\$ 63 billion a year tax avoidance game in Africa. Money that could and should be directed towards public spending on transport networks, education, healthcare, housing, utilities networks and all the things which would let Africa raise the quality of life of its citizens, is instead being siphoned out to fund excess profits for individuals and corporations, mostly outside of Africa. Furthermore, the United Kingdom (UK) government has been spending 0.7 per cent of GDP on

International Development each year (Action Aid, 2013a) while this act of injustice is being perpetrated by a bank from the country.

In another report, Action Aid also elaborates on the role of Deloitte in ‘advising big businesses on how to avoid tax in some of the world’s poorest countries’ (Action Aid, 2013b, S. 1) and that certainly includes African countries which are much in need of the revenues. The report indicates that Deloitte, an accountancy firm of UK origin and now headquartered in New York, is one of the ‘Big Four’ offering financial services in the world. It operates in more than 150 countries and provides audit, tax, consulting, enterprise risk and financial advisory services and has more than 200,000 employees internationally. One of Deloitte’s fastest growing markets is Africa, where it operates in 50 African countries including some of the poorest in the world – among them Mozambique, Zambia, Sierra Leone, Tanzania and Kenya (Action Aid, 2013b, S. 1).

A documentation uncovered by Action Aid shows that Deloitte is providing information on tax avoidance strategies for use by wealthy TNCs in extremely impoverished countries. This is advice used to avoid hundreds of millions of dollars in tax. Deloitte advises TNCs with interests in Africa to channel ‘businesses via Mauritius in order to avoid tax across parts of Africa’. Using the example of Mozambique, it has advice for companies on how to achieve a 60 percent reduction in withholding tax and a 100 percent reduction on any capital gains tax, amounting to total non-payment. Using Mauritius, described as the “gateway to Africa” for international businesses, with its low taxes and favourable double taxation treaties in place with 14 African countries and 10 others under negotiation, TNCs can reduce their tax liabilities immensely (Action Aid, 2013b, S. 1). The potential value of such lost revenue to a tune of US\$ 400 million in capital gains tax, avoided by an Italian oil company, to Mozambique is huge, especially when viewed in terms of its opportunity cost. Commenting on the activities of Deloitte, the Action Aid report states that ‘tax avoidance costs developing countries hundreds of billions of pounds a year in lost revenue. These enormous losses mean millions of children don’t receive a decent education, poor roads prevent farmers getting crops to market, and whole countries remain dependent on international aid’ (Action Aid, 2013b, S. 1).

The two Action Aid Reports again observe that ‘the extensive use of tax havens such as Mauritius to channel investments can lead to the loss of tax revenues for poor countries through a variety of “dodges” which take advantage of the low tax regimes, tax treaties and secrecy that these tax havens offer. Promoting the use of tax havens as a way of channelling investment into Africa cannot be considered as supporting responsible investment and sustainable development for all. It is in its (Barclays Bank’s) own interest to help create economic and social development that will provide future opportunities for its business’ (Action Aid, 2013c, S. 2).

Stephen Yeboah, a columnist in Modern Ghana in a blog post in the Africa Progress Report argues that this is ‘a practice estimated to have cost the continent more than a trillion dollars over the past few decades. The involvement of supposedly reputable companies such as Barclays and Deloitte shows how pervasive and serious this issue has become. Tax avoidance by multinational companies deprives African nations of precious revenue that would be better spent on health and education. Legal or not the scale of tax avoidance by multinationals has become “unconscionable... while millions of Africans go without adequate nutrition, health and education”’ (Yeboah, 2013).

2.5 Analysis of the Overall Impact

According to Global Financial Integrity, a Washington based Research organization , about USD 8.8 billion left Zambia in illicit financial flows from 2001 and 2010 (Hill, 2012). Dr. Attiya Waris, a senior lecturer in tax law at the University of Nairobi and Vice-Chairperson of the Tax Justice Network Africa, and others estimate that capital flight due to tax evasion is costing developing countries around US\$ 1 trillion per year (La Via Campesina, 2013). Dr. Attiya says that ‘Companies like Karuturi are haemorrhaging Africa ... Transfer mispricing is robbing Kenyan workers and citizens of access to good public education, health care, transport services and a clean environment, which our government can only provide through proper revenues.’ (Tax Justice Network et al, 2013)

In such a business under a lot of secrecy, no one can certainly unveil the full mystery of the losses but only the fact that for Africa, it is one of the greatest contributors to the continent’s unending poverty, as indicated by this quote:

Every year around US\$ 1000 billion disappears without a trace from developing countries, ending up in tax havens or rich countries. The main part of this is driven by multinational companies seeking to evade tax where they operate. The sum that leaves developing countries each year as unreported financial outflows, referred to as illicit capital flight, amounts to ten times the annual global aid flows, and twice the debt service developing countries pay each year. During 2000-2008 Africa was the region with the largest real growth of illicit capital flight, amounting to 21.9 % per year. This money, if properly registered and taxed in the country of origin, could of course contribute to fulfilling human rights like the right to education and health care, and make a major difference in the fight to combat poverty. Due to just two forms of illicit capital flight used by corporations (‘mispricing’ and ‘false invoicing’), developing countries are losing three times the amount that is missing to achieve the UN millennium development goals (like universal education, stopping the spread of HIV, and halving extreme poverty) in tax revenues every year (Tax Justice Network et al, 2013).

One of the main conditions that TNCs give to governments in the developing world is, to improve infrastructure and institutions that can aid the TNCs to invest. The question for both parties is, without funds, how can the developing countries improve infrastructure and institutions to function?

When it comes to the question why Africa is so poor, even in the Third Millennium, the answer people tend to give is corruption by its leaders. True, as this may be, there is another side to it; individuals and TNCs doing business in Africa are also carting away billions of dollars, a big chunk of the lost revenues that the countries in Africa deserve. In a report by Global Financial Integrity (GFI), the average of illicit outflows per year from Kenya during 2002-2006 can be estimated at US\$ 686 million. This comparable to the Net Official Development Assistance the country received within the same period; which for year 2000 was US\$ 509 million and, by 2005, had risen to US\$ 752 billion (Africa Europe Faith and Justice Network, 2013). In this circumstance, it only sounds too appropriate to use the words of the then South African Finance Minister Trevor Manuel in 2008: ‘It is a contradiction to support increased development assistance, yet turn a blind eye to actions by multinationals and others that undermine the tax base of a developing country’ (Froberg & Waris, 2011, S. 7).

Through a combination of legal loopholes and ingenious accountability, TNCs have been able to dodge paying their taxes to many countries in Africa. This is thus becoming an

issue that goes beyond the question of rights, which these companies also can claim, but is becoming an issue of morality and ethics. The Action Aid report indicates that TNCs channel the profits they obtain ‘in a particular country through a tax haven and then re-invest in that country pretending this is new investment, often rewarded with tax relief. Others use complex chains of transactions to turn treaties that were meant to prevent double taxation into tax avoidance instruments’ (Action Aid, 2013c, S. 4). The issue is further aggravated by the incapacity of the revenue authorities in the developing countries to be able to surpass the secrecy and lack of transparency in the dealing of the banks and TNCs. Richard Brooks’, book “The great tax robbery”, describes how banks create vast tax breaks for themselves and their clients, making tax avoidance a beneficial game for a network of TNCs, including the banks themselves, ‘sharing in the tax benefits directly or by more remunerative lending terms’. (Action Aid, 2013c, S. 4). The New York Times Opinion Pages quotes Kofi Annan, the Chairman of the Africa Progress Panel as saying:

The extensive use made by foreign investors of offshore-registered companies operating from jurisdictions with minimal reporting requirements actively facilitates tax evasion. It is all but impossible for Africa’s understaffed and poorly resourced revenue authorities to track real profits through the maze of shell companies, holding companies and offshore entities used by investors (New York Times, 2013).

Although these activities of the TNCs are legal, the Action Aid report quotes Kofi Annan that ‘companies can no longer use the “letter of the law” to avoid paying tax. It is the spirit of the law that matters, and laws are rarely made with the intention of helping companies avoid tax’. The same report goes on to indicate that ‘tax is far more than a simple business concern. It is a global development issue’ (Action Aid, 2013c, S. 1). The emphasis on the need to follow the spirit of the law rather than the letter is also stressed by the Organization for Economic Corporation and Development (OECD) guidelines (Organization for Economic Co-operation and Development (OECD), 2011, S. 60). It is a fact that foreign companies and banks investing and doing business in Africa have a critical key role to play in the continent’s economic development, providing much-needed goods, services and jobs. In particular, the banks enable foreign investment ‘by providing services needed to move large amounts of money quickly and efficiently across the globe’. But, most importantly, the taxes they pay contribute to essential services – such as health, education, water and nutrition – that are a matter of life and death for people in poor countries. However as indicated above, they can also play a role in facilitating tax dodging (Action Aid, 2013c, S. 2).

The practice of transfer pricing contributes to the activities of TNCs that are categorized here as tax evasion and it is important in issues of corporate citizenship and taxation. Due to the fact that TNCs may have subsidiaries both in host countries and in other countries for which they take liabilities, the idea of transfer pricing is acceptable only on the principle of arms length. However, according to both the OECD Model Tax Convention and the UN Model Double Taxation Convention between Developed and Developing Countries, the arm’s length principle avoids inappropriate shifting of profits or losses and in taxation issues, it only aims at minimizing the risks of double taxation. This is not meant to avoid due tax liabilities entirely. Instead, it requires the TNCs to cooperate with tax authorities by making available all the relevant information or that which is legally required regarding the method of transfer pricing the parties may adopt in their international transactions (Organization for Economic Co-operation and Development (OECD), 2011, S. 62). This implies that any attempt by the TNCs to use such arrangements to deliberately lower their tax liabilities constitutes a breach of trust.

2.7 Conclusion

Assessing the impact for the whole of Africa, Forum Syd has calculated that 15 of the countries with the highest cumulative illicit outflows are in Africa. They are Angola, Cameroon, Republic of Congo, Côte d'Ivoire, Ethiopia, Gabon, Ghana, Madagascar, Mozambique, Nigeria, South Africa, Sudan, Tanzania, Zambia, and Zimbabwe (Froberg & Waris, 2011, S. 41). However, these and the cases chosen above should not blind the reader that the situation is any better for the African countries not mentioned in the list since this has been based on the cumulative records. There are countries in which investments by such unscrupulous TNCs have just begun and their impact is equally affecting the people and the governments through the same revenue losses. Such is an illustration of the cunning business procedures of the TNCs in developing countries in Africa and elsewhere which Raymond Baker⁷ termed as 'the ugliest chapter in global economic affairs since slavery' (Froberg & Waris, 2011, S. 7).

3. Catholic Social Teaching (Judge)

As alluded to earlier, the moral credibility of using the CST is due to the Catholic Church's worldwide presence and knowing the impact of bad business behaviour. Coupled with this is the ethical framework of her doctrines to evaluate the impact of the local and global common good. Particularly referring to the global economic issues like in this discussion, the Church and her institutions can judge ethically the course of globalization and ask questions like: "Who is profiting?", "Who is losing", and "How is [a] policy suitable to benefit the common good and the poorest home and abroad?" This involves questions of distributive justice and, of course, taxation of wealthy individuals or corporations and Tax Havens⁸.

The Economist website has a blogpost that considers the Roman Catholic Church as the world's oldest TNC. Though meant to be a satirical call for the Church and its leaders to carry reforms, I would like to borrow its view that the church is the most successful multinational by many measures: with 1.2 billion customers, 1 million employees, tens of millions of volunteers, a global distribution network, a universally recognised logo, unrivalled lobbying clout and, auguring well for the future (Ryder, 2013). This may provide an empirical basis to support the use of CST as a foundation and framework on which to judge the activities of the TNCs that have business interests in Africa, and particularly those cited here for an assessment of the ethical considerations in their actions of profit repatriation and tax evasion. Of course, comparing the Catholic Church to TNCs is rather misplaced. This is because her judgements on the activities, even of her own operations on the morality that sees the human person as the protagonist, is beyond the considerations of other TNCs. Exactly this is it what enables it to raise some plausible moral and ethical questions on the activities of the TNCs.

According to William Quigley⁹, 'Catholic social thought has been critical of corporations since the 1930s and stresses the need for government regulation for the common good, subsidiarity and a preferential option for the poor'. Listing 135 countries out of about 192 by around 2003, with smaller Gross Domestic Product (GDP) figures than the annual revenues of any of the top ten corporations, he illustrates the gravity of the economic power that TNCs have developed over time. As an illustration, he pointed out that through the law

⁷ Raymond Baker was the Director for Global Financial Integrity by 2007, when he made this assertion

⁸ Alt, J (2013). Setting the frame: Catholic Social Teachings' (CST) relevance for the project Tax Justice & Poverty. Pp.37-38. http://www.taxjustice-and-poverty.org/fileadmin/Dateien/Taxjustice_and_Poverty/Ethics_and_Religion/General/01_Setting_the_frame.pdf

⁹ William P. Quigley is a Professor of Law in the Loyola University, New Orleans; Director of the Gillis Long Poverty Law Centre and also named the Pope Paul VI National Teacher of Peace in 2003 by Pax Christi, USA. http://en.wikipedia.org/wiki/William_P._Quigley

corporations acquired the status of a person with many constitutional rights and protections while ironically African Americans lost theirs through the same legal process. Ethics, morality and Catholic social thought suggest the need to abolish corporate personhood as a step towards returning people to the center of economic activity (Quigley, 2003). Borrowing from Pope Pius XI, he considers that ‘the worst injustices and frauds take place beneath the obscurity of the common name of a corporative firm’,¹⁰ namely the TNCs. This indicates that the legality of the TNCs’ actions do not necessarily mean they are morally approved. Basing on the Compendium of the Social Doctrine of the Church, a sample of Papal statements and the Church in Africa, a number of judgments have been made about the TNCs, enlightened by the CST. Following here is a discussion of CST positions along the Compendium of Social Doctrine, Papal Statements and statements issued by church leaders in Africa.

3.1 The views from the Compendium of the Social Doctrine of the Church

The Compendium devotes the entire chapter seven to deal with issues of “Economic Life” in which poverty and wealth and the morality of the different actors are addressed. This section has adopted aspects that are of interest, related to the activities of the TNCs and their impact. The modern era is marked by the complex phenomenon of economic and financial globalization that progressively integrates national economies in the exchange of goods and services and of financial transactions. Thus, the economic sector is prompted to adopt a more global perspective concerning the choices that must be made with regard to future growth and profits. The new perspective encompasses national economies but also the pervasive role of TNCs and financial markets that is becoming ever more decisive and central. Following the liberalization of capital exchange and circulation, these market dimensions have increased enormously and with incredible speed, enabling transfer of large quantities of capital from one part of the globe to another. This reality is rather difficult to decipher, since it expands at different levels and is in continuous evolution, making it difficult to predict the future (Pontifical Council for Justice & Peace, 2005, p. 155). The Compendium sheds some light on these issues, here in the discussion.

3.1.1 The usefulness of wealth and need for fair distribution

The Catholic Church understands the objective of the economy to develop wealth and progressively increase it. This is both in quantity and also in quality. This is therefore considered morally correct if it is directed to man’s overall development in solidarity and also to develop the society in which people live and work. ‘Development, in fact, cannot be reduced to a mere process of accumulating goods and services. On the contrary, accumulation by itself, even were it for the common good, is not a sufficient condition for bringing about authentic human happiness’ (Pontifical Council for Justice & Peace, 2005, p. 145). This implies that, in principle, the wealth generating activities of the TNCs and individuals is approved by the CST.

In reference to some of the early Church Fathers like Ss. Clement, John Chrysostom, Basil and Gregory, the Compendium illustrates that the possession of riches for the right purpose and used with the right intentions can be good for mankind. Riches fulfil their function of service to man when they are destined to produce benefits for others and for society.¹¹ ‘How could we ever do good to our neighbour, if none of us possessed anything?’ asks St. Clement of Alexandria¹². St. John Chrysostom considers that riches belong to some people so that they can gain merit by sharing them with others.¹³ Wealth is a good that comes

¹⁰ Pope Pius XI. (1931). *Quadragesimo Anno. No. 132*

¹¹ Cf. *The Shepherd of Hermas*, Liber Tertium, Allegory I: PG 2, 954.

¹² Clement of Alexandria, *Homily What Rich Man Will Be Saved?*, 13: PG 9, 618.

¹³ Cf. Saint John Chrysostom, *Homiliae XXI de Statuis ad Populum Antiochenum Habitae*, 2, 6-8: PG 49, 41-46. See also: ‘With this in mind, I encourage financial experts and political leaders to ponder the words of one of the sages of antiquity: “Not to share one’s wealth with the

from God and is to be used by its owner and made to circulate so that even the needy may enjoy it. The evil is in the immoderate attachment to riches and the desire to hoard. ‘Wealth, explains Saint Basil, is like water that issues forth from the fountain: the greater the frequency with which it is drawn, the purer it is, while it becomes foul if the fountain remains unused’.¹⁴ Saint Gregory the Great saw the rich man only as an administrator of what he possesses; and must give this to the needy with humility since the goods do not belong to him. ‘Giving to those in need means paying a debt’¹⁵ (Pontifical Council for Justice & Peace, 2005, p. 143).

In the Compendium profit is considered as the first indicator of proper functioning of business but also acknowledges that it is possible for the financial accounts to be in order, and yet the people are humiliated and their dignity offended¹⁶. This ‘happens when businesses are part of social and cultural systems marked by the exploitation of people, tending to avoid the obligations of social justice and to violate the rights of workers’ (Pontifical Council for Justice & Peace, 2005, p. 148). Those whose avaricious dealings (in the name of making more profits) lead to the hunger and death of their brethren in the human family are indirectly committing homicide, which is imputable to them¹⁷. The individual profit of an economic enterprise, although legitimate, must never become the sole objective. Together with this objective there is another, equally fundamental but of a higher order: social usefulness (Pontifical Council for Justice & Peace, 2005, p. 151). These make the market become a service to the common good and to integral human development. Otherwise, the pursuit of profits as the sole motive by an economic enterprise can make it degenerate into an inhuman and alienating institution, with uncontrollable repercussions. Therefore, it recommends that ‘it is essential that within a business the legitimate pursuit of profit should be in harmony with the irrenounceable protection of the dignity of the people who work at different levels in the same company’. (Pontifical Council for Justice & Peace, 2005, p. 148&151). The Church, through its teachings on wealth considers that ‘goods, even when legitimately owned, always have a universal destination; any type of improper accumulation is immoral, because it openly contradicts the universal destination assigned to all goods by the Creator (Pontifical Council for Justice & Peace, 2005, p. 143).

Justifying the need to redistribute incomes and profits further, the Compendium argues that:

The economic well-being of a country is not measured exclusively by the quantity of goods it produces but also by taking into account the manner in which they are produced and the level of equity in the distribution of income, which should allow everyone access to what is necessary for their personal development and perfection. An equitable distribution of income is to be sought on the basis of criteria not merely of commutative justice but also of social justice that is, considering, beyond the objective value of the work rendered, the human dignity of the subjects who perform it. Authentic economic well-being is pursued also by means of suitable social policies for the redistribution of income which, taking general conditions into account, look at merit as well as at the need of each citizen (Pontifical Council for Justice & Peace, 2005, p. 133).

poor is to steal from them and to take away their livelihood. It is not our own goods which we hold, but theirs’.’ St. John Chrysostom quoted by Pope Francis in his Exhortation *Evangelii Gaudium*, No. 57

http://www.vatican.va/holy_father/francesco/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium_en.html

¹⁴ Cf. Saint Basil the Great, *Homilia in Illud Lucae, Destruam Horrea Mea*, 5: PG 31, 271.

¹⁵ Cf. Saint Gregory the Great, *Regula Pastoralis*, 3, 21: PL 77, 87. Title of § 21: “Quomodo admonendi qui aliena non appetunt, sed sua retinent; et qui sua tribuentes, aliena tamen rapiunt”.

¹⁶ John Paul II, Encyclical Letter *Centesimus Annus*, 35: AAS 83 (1991), 837.

¹⁷ *Catechism of the Catholic Church*, 2269.

The emphasis on social justice rather than commutative justice therefore implies that TNCs should go beyond the bounds of their legal and commutative obligations and undertake responsibilities that ensure better conditions of work for their employees and better service delivery and sharing of their products and the proceeds of their business with the people in whose vicinities they operate and in countries as a whole where they reap profits. This implies the idea of the Common Good, following the simple insight that the whole is more than the mere sum of its single parts.

To do the above, TNCs need to take decisions that are guided by more humane ideas and motivations other than economic benefits alone as the Compendium again shows:

Due to the increasing complexity of business activities, decisions made by companies produce a number of very significant interrelated effects, both in the economic and social spheres. For this reason the exercise of responsibility by business owners and management requires — in addition to specific updating that is the object of continuous efforts — constant reflection on the moral motivations that should guide the personal choices of those to whom these tasks fall. Business owners and management must not limit themselves to taking into account only the economic objectives of the company, the criteria for economic efficiency and the proper care of “capital” as the sum of the means of production. It is also their precise duty to respect concretely the human dignity of those who work within the company.[719] These workers constitute “the firm's most valuable asset” [720] and the decisive factor of production.[721] In important decisions concerning strategy and finances, in decisions to buy or sell, to resize, close or to merge a site, financial and commercial criteria must not be the only considerations made (Pontifical Council for Justice & Peace, 2005, p. 149).

Apart from the decisions of internal management, the Compendium emphasizes responsibility for their decisions to be consciously focused for the benefit of the people in general. It asserts that the lines of action for guiding change must be in a way that will be most beneficial to the development of the entire human family. The Compendium enjoins them to and interpret the social phenomena with wisdom and with love of truth, leaving behind concerns imposed by special or personal interests. This way, their contribution becomes an essential point of reference for the concrete action prescribed by economic policies (Pontifical Council for Justice & Peace, 2005, p. 139).

Further considering the importance of solidarity and justice in the way goods and services are produced and the proceeds shared, the Compendium further pinpoints the necessity of morality in the economic principles, decisions and activities that can usher the above principles and values espoused by the CST. It thus states:

The moral dimension of the economy shows that economic efficiency and the promotion of human development in solidarity are not two separate or alternative aims but one indivisible goal. Morality, which is a necessary part of economic life, is neither opposed to it nor neutral: if it is inspired by justice and solidarity, it represents a factor of social efficiency within the economy itself. The production of goods is a duty to be undertaken in an efficient manner, otherwise resources are wasted. On the other hand, it would not be acceptable to achieve economic growth at the expense of human beings, entire populations or social groups, condemning them to indigence. The growth of wealth, seen in the availability of goods and services, and the moral demands of an equitable distribution of these must inspire man and society as a whole to practise the essential virtue of solidarity, [694] in order to combat, in a spirit of

justice and charity, those “structures of sin”¹⁸ where ever they may be found and which generate and perpetuate poverty, underdevelopment and degradation. These structures are built and strengthened by numerous concrete acts of human selfishness (Pontifical Council for Justice & Peace, 2005, pp. 144-145).

One way to show solidarity is through charity to the poor, as stipulated in the Compendium that ‘one must never forget “the duty of charity ..., that is, the duty to give from one’s ‘abundance’, and sometimes even out of one’s needs, in order to provide what is essential for the life of a poor person”’¹⁹. That means solidarity calls for making sacrifices too. But acts of charity are not enough. As Pope John Paul II implies by pointing to “structures of sins” in the preceding quote, charity does not remove these structures, but merely alleviates their impact. Demands of justice also require efforts to remove or at least reform those structures as a root cause for misery and exploitation.

In broader contexts, it can be said that the above views of solidarity, responsibility of decision making are suggestions about sharing the benefits of the economic activities. One organized way to do this is through taxes paid to the state which the Compendium considers as very important and thus it emphasizes that:

Tax revenues and public spending take on crucial economic importance for every civil and political community. ... Just, efficient and effective public financing will have very positive effects on the economy, because it will encourage employment growth and sustain business and non-profit activities ... Public spending is directed to the common good when certain fundamental principles are observed: the payment of taxes [739] as part of the duty of solidarity; a reasonable and fair application of taxes;[740] precision and integrity in administering and distributing public resources.[741] In the redistribution of resources, public spending must observe the principles of solidarity, equality and making use of talents.[742] (Pontifical Council for Justice & Peace, 2005, p. 153)

The Catechism of the Catholic Church augments this by mentioning explicitly that tax evasion and or business fraud are forbidden and would be, among others, termed as stealing (No. 508)²⁰ and considered as part of the seventh commandment.

On the banks and financial institutions that operate business on the global scale, the Compendium appreciates what they do, but also warns of the dangers that may be involved in the way they operate:

Financial markets ... meet the financial needs of the productivity sector. The experience of history teaches that without adequate financial systems, economic growth would not have taken place. Large-scale investments typical of modern market economies would have been impossible without the fundamental role of mediation played by financial markets, which among other things brought about an appreciation of the positive functions of savings in the overall development of the economic and social system. ... [T]hanks to the fact that the greater mobility of capital allows the productivity sector easier access to resources, on the other hand it has also increased the risk of financial crises. The financial sector, which has seen the volume of financial transactions far surpass that of real transactions, runs the risk of developing

¹⁸ John Paul II, Encyclical Letter *Sollicitudo Rei Socialis*, 36: AAS 80 (1988), 561.

¹⁹ John Paul II, Encyclical Letter *Centesimus Annus*, 36: AAS 83 (1991), 839.

²⁰ Compendium of the Catechism of the Catholic Church;

http://www.vatican.va/archive/compendium_ccc/documents/archive_2005_compendium-ccc_en.html

according to a mentality that has only itself as a point of reference, without being connected to the real foundations of the economy (Pontifical Council for Justice & Peace, 2005, p. 158).

About the risks, the Compendium further considers that

A financial economy that is an end unto itself is destined to contradict its goals, since it is no longer in touch with its roots and has lost sight of its constitutive purpose. In other words, it has abandoned its original and essential role of serving the real economy and, ultimately, of contributing to the development of people and the human community. ... The sudden acceleration of ... the enormous increase in the value of the administrative portfolios of financial institutions and the rapid proliferation of new and sophisticated financial instruments, makes it more urgent than ever to find institutional solutions capable of effectively fostering the stability of the system without reducing ... potential and efficiency (Pontifical Council for Justice & Peace, 2005, pp. 158-159).

3.1.2 The Dignity of the worker and Personalist Principle

CST consistently gave the interest of the labourer precedence over the interests of capital when balancing those two interests and reminded in this context that capital has to serve, not to rule (Alt, 2013). Accordingly, the Compendium insists on the fact that ‘the Church’s social doctrine recommends first of all to avoid the error of insisting that the current changes take place in a deterministic manner (in this case, markets and profits). The decisive factor and “referee” of this complex phase of change, is once more the human person’ (Pontifical Council for Justice & Peace, 2005, p. 138), highlighting the personalist principle of the CST that takes the human person as the protagonist in both acting and being affected by the action.

Of a particular significance in relation to the issue of TNCs is the emphasis on the fact that though ‘a business’ objective must be met in economic terms and according to economic criteria, ... the authentic values that bring about the concrete development of the person and society must not be neglected. In this personalistic and community vision, “a business cannot be considered only as a “society of capital goods”; it is also a “society of persons” ... All those involved in a business venture must be mindful that the community in which they work represents a good for everyone and not a structure that permits the satisfaction of someone’s merely personal interests’ (Pontifical Council for Justice & Peace, 2005, p. 147).

3.1.2 The Role of the State towards the owners of the TNCs and the common citizens

As observed earlier, the operations of the TNCs affect governments as well as people directly and indirectly. This requires an intervention on the part of the State as the main protector of its citizens and providing for their needs. The Compendium also offers insights into the role of the State in playing out this responsibility.

It considers that the current transition due to globalization ‘signals the move from stable jobs to a series of jobs ... where there is great variety, fluidity and a wealth of promises. ... This also raises many questions of concern, especially with regard to the growing uncertainty of work, ... unemployment and the inadequacy of current systems of social security. The demands of competition, technological innovation and the complexities of financial fluxes must be brought into harmony with the defence of workers and their rights’ (Pontifical Council for Justice & Peace, 2005, p. 137). Further, it recognizes that the economies of the developing countries and countries with economies in transition face ‘changing models of the economy and of production, (and) must deal daily with the difficult adjustment required by the current phenomenon of globalization’. On the issue of worker’s

rights, it stresses that, ‘large numbers of people are ... forced to work under seriously distressing conditions and in situations that lack the rules necessary for safeguarding workers’ dignity. Levels of productivity, income and living standards are extremely low and often inadequate for guaranteeing to workers and their families the minimum level of subsistence’. (Pontifical Council for Justice & Peace, 2005, p. 137). This touches on the realities depicted in the cases cited above and many others not mentioned here.

It has to be understood that the Church’s social doctrine considers the freedom of people, as individuals or groups in taking private initiative in ‘economic matters a fundamental value and an inalienable right to be promoted and defended’. In fact, several Church documents emphasize that ‘Everyone has the right to economic initiative; everyone should make legitimate use of his talents to contribute to the abundance that will benefit all, and to harvest the just fruits of his labour’²¹. The Compendium indicates that ‘free and responsible initiative in the economic sphere can also be defined as an act that reveals the humanity of men and women as creative and relational subjects. Such initiative, then, should be given ample leeway’. This is because ‘experience shows us that the denial of this right, or its limitation in the name of an alleged “equality” of everyone in society, diminishes, or in practice absolutely destroys the spirit of initiative, that is to say the creative subjectivity of the citizen’.[703] It is, however, acknowledged that ‘the State has the moral obligation to enforce strict limitations ... in cases of incompatibility between the pursuit of common good and the type of economic activity proposed or the way it is undertaken’ (Pontifical Council for Justice & Peace, 2005, p. 146).

Although the social doctrine of the Church acknowledges the importance of the principle of subsidiarity, for free exercise of economic activity by enterprises and institutions with less authority than the state, it calls for state action when necessary. Such action must ‘be inspired by the principle of solidarity and establish limits for the autonomy of the parties in order to defend those who are weaker ... The State’s intervention in the economic environment must be ... commensurate with society’s real needs. The State has a duty to sustain business activities by creating conditions which will ensure job opportunities ... The State has the further right to intervene when particular monopolies create delays or obstacles to development. In addition to the tasks of harmonizing and guiding development, in exceptional circumstances the State can also exercise a substitute function’ (Pontifical Council for Justice & Peace, 2005, p. 152)

The State has a role to play in all this by way of policy making and intervening to balance the activities of private business initiatives and citizens as they interact in economic production. Therefore the State ‘can encourage citizens and businesses to promote the common good by enacting an economic policy that fosters the participation of all citizens in the activities of production. Respect of the principle of subsidiarity must prompt public authorities to seek conditions that encourage the development of individual capacities of initiative, autonomy and personal responsibility in citizens, avoiding any interference which would unduly condition business forces. With a view to the common good, it is necessary to pursue always and with untiring determination the goal of a proper equilibrium between private freedom and public action, understood both as direct intervention in economic matters and as activity supportive of economic development. In any case, public intervention must be carried out with equity, rationality and effectiveness, and without replacing the action of

²¹ *Catechism of the Catholic Church*, 2429; cf. Second Vatican Ecumenical Council, Pastoral Constitution *Gaudium et Spes*, 63: AAS 58 (1966), 1084-1085; John Paul II, Encyclical Letter *Centesimus Annus*, 48: AAS 83 (1991), 852-854; John Paul II, Encyclical Letter *Sollicitudo Rei Socialis*, 15: AAS 80 (1988), 528-530; John Paul II, Encyclical Letter *Laborem Exercens*, 17: AAS 73 (1981), 620-622; John XXIII, Encyclical Letter *Mater et Magistra*: AAS53 (1961), 413-415.

individuals, which would be contrary to their right to the free exercise of economic initiative' (Pontifical Council for Justice & Peace, 2005, p. 153).

The Compendium highlights the fact that due to globalization, however, the role of the nation state is receding and therefore it becomes imperative for the international community to exercise some roles and restraints that may be necessary for the protection of the common people faced with the impact of economic situations:

The loss of centrality on the part of States must coincide with a greater commitment on the part of the international community to exercise a strong guiding role. In fact, an important consequence of the process of globalization consists in the gradual loss of effectiveness of nation-states in directing the dynamics of national economic-financial systems. ... Because of the new bonds of interdependence among global operators, the traditional defensive measures of States appear to be destined to failure and, in the presence of new areas of competition, the very notion of a national market recedes into the background (Pontifical Council for Justice & Peace, 2005, p. 159).

3.2 Papal and Holy See Statements on Economics and the TNCs

Earlier reference was made to the fact that the Church has for long been observant about the impact of the activities of TNCs on the people. The voice of the Church in these matters has particularly been raised through the various popes and their representatives, pinpointing the benefits but more the ills of the nature and impact of the activities of the broader economic circumstances and particular activities of the TNCs. The following papal and Holy See statements therefore help to assess the trend in which the Church has viewed the economic progress and the activities of the TNCs in the global plain.

There are positive aspects of the activities of the TNCs which are cited in this and the subsequent paragraph. Pope Benedict XVI, in *Caritas in Veritate*,²² appreciated the more positive evolution of a new relationship between business and ethics. This new trend involves profit-making companies which, apart from their profit motivation, nonetheless subscribe to social aid agreements in support of underdeveloped countries, charitable foundations associated with individual companies, groups of companies oriented towards social welfare, and the diversified world of the "civil economy" and the "economy of communion". He viewed this not as a "third sector", but as a new way in which the private and public spheres of economics can work in harmony, 'one which does not exclude profit, but instead considers it a means for achieving human and social ends'. He therefore aspired for such practices of the companies willing to use 'profit as a means of achieving the goal of a more humane market and society' to be embraced broadly through 'suitable juridical and fiscal structure in every country' as he assessed this to be a 'more civilized' form of institutional business (No. 46).

Most recently, Pope Francis, in his Apostolic Exhortation *Evangelii Gaudium*, commented that 'business is a vocation, and a noble vocation, provided that those engaged in it see themselves challenged by a greater meaning in life; this will enable them truly to serve the common good by striving to increase the goods of this world and to make them more accessible to all'. Therefore according to him, 'The dignity of each human person and the pursuit of the common good are concerns which ought to shape all economic policies' (Francis, 2013b). Here is again an approval for good business, including that done by the TNCs, considered to be of service as long as it generally takes human beings as the beneficiaries.

²² Benedict XVI (2009), *Caritas in Veritate*; http://www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate_en.html

As already indicated, economic activities of the TNCs purely guided by profit motives alone have been largely negative. Several popes in history observed this. Beginning with the most recent, Pope Francis, for instance, identified a new economic danger which also encompasses the actions of the TNCs as described above; the ‘cult of money’. He sees this as the consequence of ‘the dictatorship of an economy which is faceless and lacking any truly humane goal’ and the rising consumerism which would be rightly considered as one of man’s basic needs. According to him:

In circumstances like these, solidarity, which is the treasure of the poor, is often considered counterproductive, opposed to the logic of finance and the economy. While the income of a minority is increasing exponentially, that of the majority is crumbling. This imbalance results from ideologies which uphold the absolute autonomy of markets and financial speculation, and thus deny the right of control to States, which are themselves charged with providing for the common good. A new, invisible and at times virtual, tyranny is established; one which unilaterally and irremediably imposes its own laws and rules. Moreover, indebtedness and credit distance countries from their real economy and citizens from their real buying power. Added to this ... is widespread ... selfish fiscal evasion ... on worldwide dimensions. The will to power and of possession has become limitless. Concealed behind this attitude is a rejection of ethics, a rejection of God. Ethics, like solidarity, is a nuisance! It is regarded as counterproductive: as something too human, because it relativizes money and power; as a threat, because it rejects manipulation and subjection of people... (Francis, 2013a)

In his address to the ambassadors, Pope Francis encouraged their financial experts and political leaders to consider the words of St. John Chrysostom: “Not to share one’s goods with the poor is to rob them and to deprive them of life. It is not our goods that we possess, but theirs”²³ In the Apostolic Exhortations released after the address, he reiterated his statement about the global ‘self-serving tax evasion’, corruption and the insatiable thirst for power and possessions, aiming to achieve increased profits, as the manifestations of the new virtual tyranny that is born’ (Francis, 2013b).

Pope Pius XI condemned the fraudulent dealings of some TNCs that end up cheating even their shareholders, apart from tax evasion and other unscrupulous dealings. He noted that the ‘unquenchable thirst for riches and temporal goods’ has sometimes ‘impelled men to break God’s laws and trample upon the rights of their neighbours’ and this has made some so hardened to the stings of conscience that they use any manner to increase profits and any means to protect their hard won wealth against sudden changes of fortune’. Their directors and managers, forgetful of their trust, betray the rights of those whose savings they have undertaken to administer²⁴. Earlier in *Quadragesimo Anno*, (No.42), Pius XI speaks of the existence of a relationship between the economy and morality:

Even though economics and moral science employs each its own principles in its own sphere, it is, nevertheless, an error to say that the economic and moral orders are so distinct from and alien to each other that the former depends in no way on the latter. Certainly the laws of economics, as they are termed, being based on the very nature of material things and on the capacities of the human body and mind, determine the limits of what productive human effort cannot, and of what it can attain in the economic field and

²³ *Homily on Lazarus*, 1:6 – PG 48, 992D.

²⁴ Pius XI (1931), *Quadragesimo Anno*, No. 132. http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html

by what means. Yet it is reason itself that clearly shows, on the basis of the individual and social nature of things and of men, the purpose which God ordained for all economic life.

He thus indicates that through proper reasoning and considering this as an act of God, morality can be used to guide the economic decisions.

Pope Paul VI, referring to a 'social sense', wondered about the double-standards that representatives of TNCs and businesses have favourable policies in their countries of origin and not do the same in foreign countries where they make investments:

We would also say a word to those who travel ... for business purposes: industrialists, merchants, managers and representatives of large business concerns. It often happens that in their own land they do not lack a social sense. Why is it, then, that they give in to baser motives of self-interest when they set out to do business in the developing countries? Their more favoured position should rather spur them on to be initiators of social progress and human betterment in these lands²⁵.

In his encyclical letter *Centesimus Annus*, Pope John Paul II lamented the economic situation in developing countries, many of which have been former colonies and whose economic activities have been dominated by foreign companies. He mentioned the fact that in these countries, 'decisive sectors of the economy still remain *de facto* in the hands of large foreign companies which are unwilling to commit themselves to the long-term development of the host country'²⁶ (No. 20). This confirms the situation that continues to plague the developing countries everywhere on the globe, as their colonial history has left them bare for continued exploitation, through the activities of the TNCs now.

Considering the particular plight of the workers in the employment of companies who do not pay adequate wages and yet continue to make profits, Pope John XXIII considered the option of workers being allocated shares in the firms for which they work. He saw the company profits as the combined effort of both labour and capital. For him, 'justice is to be observed not only in the distribution of wealth, but also in regard to the conditions in which men are engaged in producing this wealth' (*Mater et Magistra*, No. 82). Quoting Pope Pius, XI, he argued that 'every effort must be made that at least ... a just share ... of the fruits of production be permitted to accumulate in the hands of the wealthy, and that an ample sufficiency be supplied to the workers'²⁷. In his view, this is one of the ways to satisfy justice. In regard to the adjustment between wages and profits of a company, the demands of the common good of the country in which it operates and indeed of the whole human family must be taken into account. Such include considerations for employment, maintenance of equilibrium between wages and prices, need to avail goods and services to the greatest number, creation of a proper balance between economic expansion and the development of social services, especially through the activity of public authorities. For further emphasis on the demands of the common good, Pope John XXIII asserts that:

The demands of the common good on the international level include: the avoidance of all forms of unfair competition between the economies of different countries; the fostering of mutual collaboration and good will; and effective co-operation in the development of

²⁵ Paul VI (1967). *Populorum Progressio*. http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_26031967_populorum_en.html

²⁶ John Paul II (1991). *Centesimus Annus*. http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html

²⁷ XI (1931), *Quadragesimo Anno*, No. 53. http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html

economically less advanced communities. These demands of the common good, both on a national and a world level, must also be borne in mind when assessing the rate of return due as compensation to the company's management, and as interest or dividends to investors²⁸ (*Mater et Magistra*, Nos. 80-81).

In a statement by Archbishop Silvano M. Tomasi on behalf of Pope Francis in Geneva at the 23rd Session of the Human Rights Council after the tragic events of factory fire in Bangladesh, he called for 'a more complete and deliberate consensus about the role and responsibility of corporations in society. While a great number of people and corporate leaders have successfully moved beyond the view that the maximization of profit is the sole reason and purpose for corporations, the support and adoption of the legal framework that can serve as a foundation for this new vision is still in its infancy' (Vatican Radio, 2013). The search for a consensus that will provide the desirable balance between the role and responsibility of governments and the public sector and at the same time the space for private corporations to make their valuable contributions to the common good continues. He also further mentioned that 'Corporate Social Responsibility²⁹ is not only necessary because both international organizations and public opinion are increasingly demanding that private companies take a greater role in promoting well-being wherever they operate, but also because it is an issue of social justice' (Vatican Radio, 2013).

3.3 The Views of the Church in Africa on the activities of the TNCs

Though the research on available CST statements showed no direct statements from the leaders of the Churches in whose countries the cases above were cited, there have however, been views from the Catholic Church in Africa as such, on the activities of the TNCs and the effect on the people. These serve to indicate that there is a similar growing concern for the Church in Africa about the negative and exploitative acts of the TNCs ranging from resource exploitation, tax evasion and fraudulent practices that do not augur well for the effort to fight poverty in Africa. In a brief sample of such views, these cases can serve to illustrate the involvement of the Church.

The documents from the Second African Synod that took place in Rome in 2009 clearly highlight, with concern, the activities of the TNCs operating in Africa. In the *Instrumentum Laboris* for the Synod, it raises concerns about the impact of the activities of these TNCs on the people and the environment, as it states TNCs:

continue systematically to invade the continent in search of natural resources. In complicity with African leaders, they oppress local companies, buy thousands of hectares of land and expropriate populations from their lands. Their adverse effect on the environment and creation affects the peace and well-being of the African people and, thus, the prospects of their living in harmony³⁰.

Further down in the synodal process, in the document *Elenchus Finalis Propositionum*, part of it also indicates how 'some Multinational corporations exploit the natural resources of

²⁸ John XXIII (1961). *Mater et Magistra*. http://www.vatican.va/holy_father/john_xxiii/encyclicals/documents/hf_j-xxiii_enc_15051961_mater_en.html

²⁹ The World Bank defines Corporate social responsibility (CSR) as "the commitment of businesses to contribute to sustainable economic development by working with employees, their families, the local community and society at large to improve their lives in ways that are good for business and for development."

³⁰ Synod of Bishops II Special Assembly for Africa (2009). *The Church in Africa in Service to Reconciliation, Justice and Peace. Instrumentum Laboris*. http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20090319_instrlabor-africa_en.html

African countries often times without concern for populations or respect for the environment, with the complicity of many privileged local people'³¹.

In 2002, the Catholic bishops of Central Africa issued a statement on oil and poverty in the Gulf of Guinea, in which they denounced the “complicity” between oil companies (TNCs) and politicians in the region and decried oil contracts that ‘are drawn up in absolute secrecy’ (Gary, 2003, S. 6). They argued that the oil deals reinforce economic dependence of the developing countries in this region of Africa. According to the Bishops, this secrecy makes it extremely difficult, if not impossible, to assess whether the division of benefits between companies and governments is fair. Because this transparency is essential for holding all major players in the oil story accountable for their actions, the Bishops pledged support for the growing international campaign of “Publish What You Pay” (Gary, 2003, S. 6), urging the TNCs in the oil business to be transparent. They considered their involvement necessary, as they put it:

Our oil is still, in most cases, the private reserve of the powers that be . . . Central Africa wallows in misery despite the growing discoveries of oil . . . Our involvement, as a church in Central Africa, with the issue of oil does not arise from meddling in issues reserved for State authorities. We are witnesses to the suffering of the people to whom we belong. Our prophetic mission impels us to launch a heartfelt appeal to all those who participate in oil exploitation in our region or who wield any political and economic power³².

This was later again reiterated by the Synod Fathers in 2009 when they blamed the ‘rapacious multinationals’ for ‘their criminal devastation of the environment in their greedy exploitation of natural resources’. However, they also noted that ‘Whatever may be the responsibility of foreign interests, there is always the shameful and tragic collusion of the local leaders’.³³ Though not in particular reference to taxation, the overall impact of the exploitation of the countries, leading to the unabated problems of poverty and lack of development or uneven development points to the lost resources and revenue.

A workshop in Durban in October 2013 involving six Southern African countries - Angola, Botswana, DRC, South Africa, Zambia and Zimbabwe, discussed and lamented about the way poor people are being treated in the land grabbing activities involving their governments and TNCs. Cardinal Wilfrid Napier who also participated in it said that poor people seemed to have lost importance in the eyes of their governments and the corporates. The participants felt that lax laws were allowing rich foreign corporates to displace the poor to pave way for mining, game reserves, golf estates and agricultural activities in pursuit of their own profits. Land grabbing and the slow action by the governments was a key issue for discussion in the workshop as much as it is also a key issue affecting people in the face of increased TNC interest now. The workshop generally criticized the African governments for betraying people by allowing massive land grabbing by foreign multinational companies (Nkonde, 2013).

The Africa-Europe Justice and Faith Network website indicates that ‘according to estimates, every year USD 1.26 trillion - 1.44 trillion disappears without a trace from developing countries, ending up in tax havens or rich countries. The main part of this is driven by multinational companies seeking to evade tax where they operate. The sum that leaves

³¹ Synod of Bishops II Special Assembly for Africa (2009). The Church in Africa in Service to Reconciliation, Justice and Peace. Elenchus Finalis Propositionum. http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20091023_elenco-prop-finali_en.html

³² Statement of the Catholic Bishops of Central Africa – (Association of Episcopal Conferences of the Central African Region), July 2002, issued in Malabo, Equatorial Guinea

³³ British Broadcasting Corporation (BBC) News (2009). Bishops castigate African leaders. <http://news.bbc.co.uk/2/hi/8323536.stm>

developing countries each year as unreported financial outflows, referred to as illicit capital flight, amounts to ten times the annual global aid flows and twice the amount of debt developing countries repay each year. Estimations of illicit capital flight from Africa over a 39 year period show that it has grown at an average rate of around 12 per cent per year'. The same report indicates that 'the vast majority of unrecorded transnational financial flows are illicit because they are violating the national criminal and civil codes, tax laws, customs regulations, VAT assessments, exchange control requirements and banking regulations of the countries from which unrecorded/illicit flows occur' (Africa Europe Faith and Justice Network, 2013).

The article continues to indicate that the profits of the TNCs are allocated between subsidiaries through internal trading, a complicated process which is hard for tax authorities to police. Through a process of intra-firm trade in which subsidiaries use the price with the best overall result for the TNC to make profits, they therefore allocate the profits between the two subsidiary companies in such a way that a minimal amount of tax has to be paid. This process allows for more tax evasion by using even intangibles like logos, brands, consultancies or property rights where a company assigns ownership of its brand to a subsidiary created in a tax haven. All the productive parts or subsidiaries of the TNC then pay royalties and other fees to this the subsidiary nestled in a tax haven. This guarantees a continuous and unimpeded shift of profits, by manipulatively using the legal terms existing in the business contracts and inter-state treaties for trade. There is also the possibility for TNCs operating in developing countries to falsify invoices to inflate prices of imports from a foreign supplier, or undervalue their exports so as to report lower profits; hence lower taxes paid to the country. This aspect of 'robbery' becomes more aggravated when the excess profits (that could have been duly taxed for revenue) are returned through 'round-tripping' to such developing countries for more robbery, in form of foreign direct investment, benefitting from favourable fiscal conditions like tax holidays offered by the host country (Africa Europe Faith and Justice Network, 2013).

As impact assessment, the same article considers that if this money could be properly registered and taxed in the country of origin, this could contribute to considerable development and in the fight to combat poverty. Additionally, this form of illicit capital flight leads to a litany of evils in the developing countries as it cancels investment, reduces tax collection, worsens income gaps, hurts competition, undermines trade and drains currency reserves. The investment that could be made from the accumulated profits in these countries of origin would create job opportunities and contribute to more growth. Africa faces the impact of this capital flight more in terms of the burden than in other regions (Africa Europe Faith and Justice Network, 2013).

The article finally proposes that the responsibility for decisions and action to stop such illicit activities of capital flight falls on actors both in Africa and the developed countries where such capital is absorbed. This demands a greater transparency in the global financial system and an automatic and multilateral exchange of information between tax authorities and sanctions on tax havens that do not cooperate are necessary. TNCs should also report the profit they make and taxes they pay in each country where they operate. Such policies should become mandatory part of international financial reporting standards. There is also a need for specific measures at country level. Such measures include the building of legal frameworks better suited to address the problem, awareness-raising about the links between tax evasion, tax revenue and social services, as well as capacity building of tax authorities. Tax administrations in developing countries are often poorly resourced and lacking in staff capacity. Lack of technology and capacity to collect taxes, as well as the inefficiency and lack

of expertise of tax authorities, create loopholes that otherwise could be plugged (Africa Europe Faith and Justice Network, 2013).

3.4. Summary

In summary therefore, the comments and observations from the Compendium, the papal statements, the African Church can be associated with the principles, values and themes of the CST. Moreover, issues of tax justice (tax evasion) and tax justice related context issues (transparency, accountability, corruption...) and specific recommendation building on CST based reflection occur explicitly mentioned in a number of documents quoted, but more on the level of Christian activists and regional Bishops Conferences than on the very top of the Catholic Hierarchy. This illustrates, that awareness of justice relevant taxation matters is growing within the body of CST, so to speak, from the basis upwards to the top. Applied to the problematic of TNCs we can conclude the following:

- Good business by TNCs, generating genuine profits and creating wealth is in the spirit of the personalist principle (not to exploit people) and the principle of subsidiarity, allowing individuals the benefit of personal growth with less interference from other authority.
- The emphasis on the need by TNCs to share wealth through appropriate fiscal policies (taxation) and charitable acts is a call to keep a proper balance between private property and the needs of the public. This reflects the principle of the universal destination of goods. It also implies the aspect of the preferential option for the poor.
- Taxation also serves as an acceptable option for distributive justice and social justice which have considerations for the poor.
- TNCs are called to respect the rights of their workers who through their labour contribute to wealth creation. This is again guided by the personalist principle, linking to the principles of subsidiarity and participation by the TNCs providing enabling environments.

4. Policy Options in place and Possibilities for improvement (Act)

The above cases and the assessment of the CST portray the serious nature of the problem of tax evasion in Africa by the TNCs and how this drains the African economies on top of other vices like corruption, reliance on the exportation of primary products, among a myriad of economic and political problems. Following the analysis above, it is credible to treat the unending problems of poverty and lack of finance as a tax evasion problem as the quotation from Lewis in the case with Zambia Sugar illustrates: 'Taxes pay teachers. Taxes train nurses. Taxes maintain roads, deliver medicine, provide clean water. This is as true in the developing world as it is in the developed world. Tax is the most important, sustainable and predictable source of public finance for almost all countries' (Lewis, 2013, S. 1). The magnitude of what is lost confirms this. It is therefore a matter of necessity that policies should be in place and also be enforced to address the loopholes that TNCs exploit.

The national governments in Africa have fiscal policies and other policies that can be used to enhance the fiscal policies. These must be enforced to regulate the activities of the TNCs and ensure that they pay their due taxes. Additionally, they also have institutions that deal with issues of tax administration and management. The KRA case with Karuturi demonstrates that this is possible. Through this starts the process of the African governments

reclaiming their authority in such matters as control of the economy and resources. In most cases, the governments in Africa do not implement the policies that are set already but prefer to establish new piece-meal agreements with every TNC as it appears on the scene. This has the effect of weakening the policies that are already in place and also creates loopholes for the exploitative behaviour. Apart from this, there should also be guidelines for the companies to follow in terms of other aspects of corporate responsibility that they should assume in countries and locations where they are based. This aims at getting them to make the appropriate contributions to the countries where their wealth originates.

The national governments in Africa also need to clean up their houses of cases like corruption and bribery issues involving government officials colluding with the TNC representatives to deprive the countries of the much needed revenue and resources. It is clearly evident that as the TNCs set foot in any country, they always find willing allies in form of gullible nationals who are not patriotic enough to secure the genuine taxes. As the comments from the Bishops from the African Church confirms, the activities of the TNCs in Africa are done with involvement of politicians and people from Africa who connive with the TNCs to siphon the continent's wealth through the bribes they get and other corrupt deals.

The problem of tax evasion by the TNCs needs a concerted effort at the international level. African governments cannot certainly handle this TNC challenge alone but it is possible. The good news is that many TNCs even try to obtain such legal tax benefits from governments in their countries of origin and other developed countries that have better capacity to track the fraudulent deals.³⁴ This is an advantage that governments in Africa can exploit because they can easily establish an alliance of victims of tax avoidance and evasion. This enhances their resolve for joint action. If the international community comes together to tackle tax evasion, rich countries as well as poor will gain as the losses associated with aggressive tax planning diminish (Africa Progress Report, 2013, S. 92).

A number of the TNC activities in Africa are linked to the extractive industries. The Extractive Industries Transparency Initiative (EITI) policies and Africa Mining Vision can be brought to bear on them. According to the Africa Progress Report 2013, 'global partnerships such as the EITI have helped to build a new culture of openness. Governments are making contracts on oil and minerals publicly available. This is a good option for many African countries including Kenya and Zambia that are in the early stages of developing their non-renewable resources' (Africa Progress Report, 2013, S. 9). This becomes one of the steps towards the transparency that is required to make information available. The same report indicates that Zambia is already a member. Since one major aspect of the EITI involves governments publishing what they receive from extractive companies and the latter publishing what they pay to governments to transparently match-up figures, Zambia and other African countries could use this to expose the ills of TNCs. This could help improve on issues of resource governance, which can help expose the TNC activities and minimize fraud and corruption internally. 'The adoption in the United States of the Dodd-Frank Act in July 2010 marked a new milestone. All extractive companies listed on U.S. stock market will have to publish their payments to host countries. Burmese or Congolese citizens should be able to hold their governments accountable on the use of funds coming from extractive activities'³⁵.

Governments in countries where TNCs originate should also ensure that despite the benefits they may have due to having such TNCs originating from their countries, the impact on other countries is terrible. They therefore need to tighten up and watch closely. As

³⁴ Recall, for example, the Debate in industrialized states 2013 surrounding the tax avoidance of Apple, Amazon, Google or Starbucks

³⁵ International Alliance of Catholic Development Agencies (CIDSE), (2012). 'We need transparency to fight corruption and tax dodging'. <http://www.cidse.org>

exporters of investment, aid donors, and the home countries of many multinational companies, developed countries have the opportunity and responsibility to ensure that companies headquartered within their jurisdictions are not artificially reducing their tax bills (Lewis, 2013, S. 36). Governments in developed countries should demand the same thing of companies registered in, or linked to, their jurisdictions. The G8 and the G20 should establish common rules requiring full public disclosure of the beneficial ownership of companies, with no exceptions. They should also strengthen multilateral rules on taxation to clamp down on the transfer pricing practices that cost Africa billions of dollars annually. This is an area in which Africa and the developed world have a shared interest in bringing order to a system that allows the pursuit of private profit to be placed above the public interest in transparency, accountability and financial stability (Africa Progress Report, 2013, S. 11). For instance, if David Cameron keeps his word and makes public the information about the many TNCs linked to his country Britain and its dependent territories, many of which (British Virgin Islands, Cayman, Bermuda...) are so called “Tax Havens”, it will be possible to know who really owns and controls the companies, not just legally. It involves knowing who is benefitting hidden business dealings behind a complicated web of shell companies, cloaked in secrecy and practices of downright illegality that is bad for the developing world³⁶ like Africa losing revenue and resources in tax evasion and other forms of fraud.

The TNCs operating in Africa should also take full responsibility for investing in the countries they have chosen in Africa. They should apply the same accountability principles and the same standards of governance as they are held to in rich countries in which these TNCs tend to be more accountable. Such include paying their due taxes, taking corporate responsibility and disclosing their genuine profits. They can adopt hues from the ‘Publish What You Pay’ campaigns that have been going on. They should also recognize that disclosure matters. The extensive use by multinational investors of companies registered in tax havens and offshore centres, and their dealings with other offshore companies, is potentially damaging to their own corporate reputation and shareholder interests. It is also associated with practices that hurt Africa and weaken the link between resource wealth and poverty reduction (Africa Progress Report, 2013, S. 19). This also reduces the governments’ capacities to invest in infrastructure that could aid the TNC investments.

5. Conclusion and Recommendations

The presentation in chapter 2 and the reflections done in chapter 3 illustrate the plight of Africa in dealing with the TNCs, which have become an indispensable part of the world economic order but very detrimental in their dealings. For Africa, this is getting extremely nasty as the continent continues to lose resources in the process. It serves to perpetuate the historical legacy that started during the mercantile and colonial era and that continue to operate today in the name of TNCs. The side which gives hope is that the activities of the TNCs affect both their countries of origin and the poor developing countries in Africa. Such could help to create a unity of purpose between the countries in the north (also west and east for Africa), where these TNCs originate and those in Africa affected by the business activities of the TNCs. Through concerted policy formulation and action, this can help set the balance right and move the TNCs to take their appropriate responsibility for resource exploitation and sharing the benefits that accrue to it.

In regard to the main areas of action identified above, it is also imperative that for these policies to be more effective and the novel ideas to be realized, there is need to conduct

³⁶ Cameron, David (2013). Speech: PM speech at Open Government Partnership 2013. <https://www.gov.uk/government/speeches/pm-speech-at-open-government-partnership-2013>

policy-action oriented research. Therefore, the following suggestions are offered, mostly for the purpose of developing more knowledge to be used eventually for policy development.

- Current national institutional structures and policies of taxation need to be improved by undertaking deliberate studies into effective ways of policy formulation, implementation and constant evaluation. This needs to stress the issue of policy uniformity within and also between countries.
- Studies also need to be done in assessing the impact of the optional international cooperative frameworks like the extractive industries transparency initiative and these should be popularized. This will encourage new members to join and push the TNCs operating in their area to transparency and proper accountability.
- There is further need to study the possibilities of making the communities in resource rich areas more sensitized on issues of resource ownership and management. The enhanced capacity will enable them to engage in a mutual way with governments and TNCs in resource management and benefit sharing agreements to realize greater corporate social responsibility and less backroom deals with local corrupt elites.
- There is finally a need to study ways to improve legal frameworks and enforcement structures controlling tax evasion and tax avoidance and increase, by means of education and advocacy and voluntary Corporate Social Responsibility and other taxpaying commitments of TNCs.

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