

Paper 3 of the Introduction to the Project “Tax Justice & Poverty”

Differences in culture and working environment

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1 Introduction

The research and advocacy project “Tax Justice & Poverty” is a joint project between one European country and two African countries representing quite a lot of disparities in culture, working context and world view. On the one hand, there are surprising similarities, e.g. the secretive environment in crucial areas, which are touched by the research, more specifically banking secrecy on part of financial institutions and tax secrecy on part of tax administrations (see also I/II/2).¹ On the other hand, there are differences which cannot be neglected when trying to compare the three studies and their findings. Some of the differences are mentioned below for the sake of illustration:

2 General availability of data

Germany, Kenya and Zambia are three very different countries regarding the length, duration and development of their statehood: While Germany was never colonized, Kenya and Zambia acquired their independence only some 50 years ago. For obvious reasons, issues of taxation are linked to the form of statehood in general and public administration in particular. While the German taxation system had the “opportunity” to develop, grow and diversify uninterrupted over centuries, the Kenyan and Zambian taxation systems underwent three periods: First, a pre-colonial-traditional one, next a colonial one by the British, third a post-colonial in an independent state. More about this aspect will be detailed in the History-chapter of the three country studies.

¹ An updated overview of our referencing system within documents and between documents of this research can be accessed under <http://tinyurl.com/tjp-referencing>

Another important difference is the general state of development of the three states: Germany is a highly developed country in all segments of society: political system, infrastructure, economy, research, education. For each segment of social life exists a huge body of research, literature and other form of publications and the problem of the researcher is rather an “information overkill” than the lack of adequate information. In other words: The German researchers’ problem is rather to select and choose than to worry about finding adequate information for certain aspects.

In the case of the African partners the problem is twofold: First of all, and given the short time of statehood, there is much less literature and other resources available. One reason being the lower literacy, the lower number of highly qualified experts in any field relevant to this research, the lack of resources to conduct research and publish findings. A consequence of the former leads to the second aspect, namely: a lot of research relevant literature is financed or even conducted by foreign academic or NGO institutions and might not adequately understand the situation or cover the subject-matter. This, of course, also impacts upon solution-proposals, which at time may serve rather those who financed the study than those living and working in the respective country. As a consequence, the African partners of this research have to struggle very hard to track down research relevant information and to screen them for their usefulness and appropriateness first before they can decide to include them into their body of literature.

Also regarding interviews there is a marked difference in the willingness of states to offer information: on the African side, there is considerably more reluctance, which is confirmed by other studies, e.g. the one which PriceWaterhouseCooper conducted on behalf of the European Commission in Kenya on the impact of Transfer Pricing.²

A problem common to all three countries is the lack of adequate legislation regarding the right of information. This is not even the case in Germany: provisions applying on the federal level are cost-intensive, and even then information might be withheld with reference to official secrecy concerns, which requires lengthy legal procedures until eventually entitlements and obligations are clarified. On the level of states, some states have wonderful and exemplarily legislation (e.g. the Transparency Law of Hamburg), other states do not have any legislation. For example Bavaria, the state where the German country study has its focal point.

3 Office equipment and communication

Related to the previous is another obvious difference, namely the work environment within which the three researchers conducted their work. Three examples suffice to demonstrate

² ‘We were unable to secure interviews with the Kenya Revenue Authority, who we considered to be one of the primary stakeholders for the project. The KRA declined to participate in the project. We sought assistance from the local EC office, which in turn sought assistance from the Ministry of Finance. These initiatives were not successful and, again, the KRA declined to participate in the project.’ P 36 of PwC (2011) Transfer Pricing and Developing Countries – Kenya. Retrieved on 13 June 2015 from http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/trpr_dev_count_app_d.pdf

this difference: First, while in Germany there is a constant supply of electricity and high speed internet, frequent blackouts are a common occurrence in parts of Nairobi and Lusaka where the offices of the African partners are located. “Classic” moments for those transcontinental differences to come alive were Skype-Conferences: In the beginning it was the goal of the researchers to have one Skype-Conference every month in order to share progress and difficulties of the research. However, there was not a single Skype-Conference which would allow all three researchers and their supervising conversation partner to be together for more than a couple of minutes, even though as a rule of thumb each conference lasted more than one hour. Needless to say, that power or internet failure was always on the African side, never on the European. This needed plenty of repetition and/or the evasion to chat functions or E-Mail so that in the end this mode of communication was abandoned.

Second, while the work environment of the German researcher is adequately equipped and furnished, the opposite is true in the African situation where ample office space in the Kenyan and Zambian case is an unaffordable luxury and office equipments are of a lower quality. For example: on the occasion of a meeting of the three researchers, one half day was needed to be spent on getting the laptop of an African partner back into operations after a breakdown. And: the problem was not resolved by the German IT administrator, but one African partner, applying “trial & error” attempts, based on his own experience with similar occurrences.

Third, there is a gap in the availability of books and materials on the research matter for the African case. With interruptions in internet, articles from journals and other databases become accessible only with major differences. For example, many documents relevant for this research are big in volume. If a download is interrupted, often the entire procedure has to be restarted until finally the document is safely secured on the hard disk.

Although there are also academic and other expert institutions around in Nairobi and Lusaka, accessing their libraries without efficient and working public transportation systems is time consuming. Furthermore, these libraries may lack copies of new publications, which is one example illustrating the challenge in timely availability of published data

4 Hospitality fund

Even if there may be some level of discomfort in providing sensitive information, informants in Germany show a certain level of interest in the study and are willing to support the researcher out of this interest. It is uncommon for them to ask for compensation for or reward for time and effort spent with the researcher. Most particularly civil servants, MPs or employees of professional bodies would cooperate during their regular time of work for which they would receive their regular payment and they would not expect an additional “baksheesh” after which they would determine how open and detailed they would be in that which they are about to share with the researcher. For that reason the researcher can be reasonably safe that the person argues at most on the background of his/her professional bias, i.e. that he/she represents mainly the

interests of his/her employer and not necessarily his/her personal honest opinion. But it can be excluded that the person provides information of which he /she thinks is an adequate equivalent for the payment received.

The above is very different in an African context. In most cases, people show interest at face value but turn around when a researcher requests for an interview. As a result, researchers have to use ‘proxy’ persons to get to key informants and experts. This is because of the high degree of distrust and the fear of reprisal for revealing sensitive information: it can be attributed to poor networking and interaction between key stakeholders, low propensity of respondents to give data.

However, this is the problem of the “whistleblower”, which is as such not at all unique to Africa! It is also a major topic of contention in Europe, especially in the field of banking and taxation secrecy, as will be shown in the German country report.

In addition, Africa faces high variance and volatility of some variables like high living standards, little pay and no pride in one’s job. This has an influence when one is looking for data in that; the target respondent sees this as opportunity to make extra cash. This is done either directly or indirectly: Indirectly, the target respondent can accept to have an interview at a hotel, for example, which forces the researcher to foot the bill. Directly, it’s not uncommon for potential informant to “sell” to the researcher the information they are seeking.

At policy level, Kenya and Zambia lack comprehensive and up-to-date directories of organizations as well as documentation of studies conducted. As a result, one is not so sure what organizations are there and therefore invites the use of relevant professionals like journalists who help map out the organizations. Many organizations lack proper dissemination mechanisms. They rely on the media. The media, on the other hand, gives more priority to commercial interests like advertisements rather than news and content oriented towards development. And, even more important, not only in Africa, but especially there: Media are increasingly owned by private and corporate wealth holder. They, and their “vicars” in the redactions offices, have no interest that especially the taxation issue gains too much of prominence in public debate! According to Maureen Ndahura, Assistant of the research organization Relay: ‘A lot of work on tax and governance has been done by researchers yet not the same had been reported in the media. Journalists also expressed interest in covering such stories but few could cite any references to a researchers work.’ (Relay, 2012, p. 5)

In the attempt to accommodate problems arising here, the African partners to this research received not only compensation for the salary of the respective researcher, travel costs and other remuneration. They also received a lump sum for opening a “Hospitality Fund” in order to cover expenses arising from “wining & dining” prospective informants to this study.

5 Fear of intimidation and reprisal

In Germany, the researcher and his host institution are working in an environment which is protected by respected legal norms and a functioning administration. There were some worries about whether research findings might anger the state government which, in turn, would jeopardize some financial privileges which Jesuit and church bodies enjoy in Germany, but all the experts, when asked whether there is some likelihood, denied categorically that this might happen. Even less, there are no fears on the part of the researcher on his personal life and wellbeing, or fears of any damage being done towards material possessions of him or the institution he works for. There will certainly be attempts to discredit the competence of the researcher (including discrediting the person of being a non-expert in these kinds of research) once findings and positions are published, but this is part of that which is to be expected normally in sensitive areas and highly contested issues. This is a fear which is, of course, shared by the African researchers as well. However, regarding Africa, there is more to be fearful of:

In Africa, the operating environment for civil society is at threat. Legislations that seem to reduce the space for media and civil society are on the rise. In the case of Kenya, some of the legislations include the amendment of the Public Benefit Organization Act of 2012, the security laws (amendment) act, 2014. A UN Special Rapporteur on the situation of human rights defenders in Kenya, Margaret Sekaggya, said: “The amendments to the regulations of associations contained in the draft law could have profound consequences for civil society organizations in Kenya, including for those involved in human rights work, and could deter individuals from expressing dissenting views,”³.

In addition, lack of confidence to take up a new study especially explorative study like tax investigation exists. People fear for their lives and the reputation of their institutions. Political backlash is real from well connected people if the research findings tend to be a threat to their interests. When the three researchers met in Zambia with authors of the report on tax dodging practices of Zambian Sugar and British Associated Food (Lewis, 2013), they told rather unpleasant experiences, ranging from phone-calls, personal intimidation and damage done to a private car belonging to one of the researcher.

6 Corruption and Impunity

In Germany, a number of rules and regulations deal with corruption in the areas of public administration, politics and economy. This applies in particular in public administration, including tax administration, where screening procedures, random checks and other precautions are institutionalized in a regular manner. Since Germany signed the UN Convention against Corruption, some mandatory transparency measures are also implemented against the corruption of those holding a political office.

³ Kenya: Statute Law Bill poses grave threat to civil society and must be rejected. (2013, December 13), Retrieved 17 February 2015 from <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14055&#sthash.GNAXVJaZ.dpuf>

Corruption is so prevalent in Kenya that the citizens feel obliged to give something for them to be served. This may explain the demand for “something small” in return of information. People believe there are no free things and unlike the Europe case, otherwise information is limited on the official line.

Though in Kenya and Zambia exist Ethics and Anti-Corruption Commissions, people feel that there is nothing that can be done to perpetrators of ills no matter how well the justice system is aware of what they are doing. This dampens the spirit in the investigations and enthusiasm to volunteer for information. Searching for information becomes a tedious and very slow venture.

7 Value system/Culture of silence

A feature more particular for Africa and therefore impacting on African research efforts is a deprived value system in Kenya and Zambia in terms of openness to issues and moral amenability on the part of both the leaders and the general citizenry. For example, in both countries exist constitutions; in Kenya e.g. constitutional article Nr. 10 regulating participation, rights and obligations of citizens and governments. At the same time, it is a long way to fill constitutional rights with life: While leaders continue to behave as though they do not owe the citizenry better living standards, the citizenry feel shy to demand for it given the “big man” image of leadership depicted by the traditional cultural image of leadership. Most people live in denial (they do not see evil and they will not speak about it!). It becomes easier therefore, if one seeks endorsement from higher office in order to be assisted.

Another factor coming in here is the lack of comprehending ones rights. There is generally little knowledge about policy matters. As result the citizens have no basis to question the behavior of their leaders and hold them accountable. Hence the culture of silence is preserved by the lack of education.

8 Education levels and its impacts on the research

The different levels of education in the three countries of this study impact upon the publication and dissemination of this research and its recommendations for advocacy. In Germany, there is not only generally high level of education, but also a high level of public interest in taxation issues. For example, publications surrounding Offshore and Luxembourg Leaks sparked of a lively discussion on tax justice issues, resulting in a flurry of political activities on national, EU, OECD and G20 level. Consequentially, in Germany applies that whoever engages in this dialogue has to be prepared to encounter energetic and competent opposition by taxation experts both of public administration, political parties and social and economic lobby groups. For that reason, publication and advocacy recommendation need to demonstrate that they are aware of the complexity of issues and have a grip on its pros and cons so that they can prove expertise.

In African countries, it is generally difficult to get support for advocacy given the low levels of interest in reading new publications on complex issues. Accordingly, it is more important who says something than the actual content of that which is being said. Meaning: If a trustworthy institutions asserts that a certain topic needs to be discussed, those listening to this will judge the importance in accordance to their trust into the integrity or importance of the institution rather than the arguments. Regarding the specific topic of taxation related issues, a substantial number of people (mostly the semi-literate government employees) do not see the significance of the study. Apart from that, of course also publications in Africa have to demonstrate a mastery and grip of complex issues at hand. The more important challenge in the context of advocacy is, however, to present issues in a more simple way which can be understood by people of lesser education so that they grasp the significance and are willing to be mobilized in a campaign for improvements.

9 The role of the church

A final issue which needs mentioning is the role of the Catholic Church in general and the Jesuits (and their institutions) in particular. In Germany both the Catholic Church and the Jesuits are, in spite of a decrease in membership, still influential institutions in social and political debates. The church has some sort of “Embassy” with federal and state governments, giving a privileged access to policy maker and highest administrators; church organizations are very lively engaged in the debate surrounding issues of ecology and/or social justice; the church still has own media. Some important concepts of Catholic Social Teaching have entered the German Constitution (e.g. the dignity of Humans, obligations arising from property) and the German social and political model of the so-called “social market economy” has been influenced by Catholic Social Teaching. All this makes arguing for social justice (comparably) easy.

In Africa, though the population of Catholic Church is big, and the Jesuits are smaller in numbers and not as actively involved in the public discussion of social, economical and political issues. Equally, the Jesuit involvement in the political and academic development of policy proposals is not as established as in Germany. This is because the Jesuits in Africa run few institutions that are still establishing and expanding. For example in Kenya, there are only four Jesuit Institutions. Two being academic colleges; The Hekima Theology College and Hekima Institute of Peace Studies and International Relations. The Jesuit Hakimani Centre, as the social concern centre for East Africa Province of the Jesuits and cooperator in this research is mandated with this kind of work, but its staff needs to cover all countries of the East African Province of the Jesuits, which is stretching means enormously. The Zambian-Malawi Province of the Jesuits do not operate an institute of tertiary education at all. On the other hand, the Jesuit Centre for Theological Reflection is well established and known by Zambian stakeholders since it is in operations already for decades and known for its interventions, also in political issues.

Regarding the topic of “Tax justice & Poverty”, however, the situation for all researchers will be comparable: in all countries involved, the Catholic Church has a rather reluctant stance

when it comes down to addressing or even attacking privileges of wealthy and influential people. In Germany, for example, the church is a big champion of the poor, asking permanently for improvements in their social situation. At the same time, the church is extremely reluctant when it comes down to the question how such programs benefitting the poor shall be financed and the absence of proposals e.g. involving an increased taxation of the wealthy, is telling.⁴ It can also be expected that in all countries of the research the Catholic Church would not like proposals regarding the taxation of real estate, since in all three countries the Church is among the largest landowner.

10 Conclusion

This chapter treats some aspects which are common to the working environment of the three country studies, it also illustrated exemplary differences. The researchers felt the need to give an overview about them in the introductory chapter since, in particular at the beginning of their cooperation in this project, a number of confusions, disputes and discussions arose around those issues which made it difficult for the researchers to understand each other's challenges and problems when attempting to do their work. We feel that the presentation of those issues is also helpful to understand the differences in the content and presentation of the three country reports.

Clearly, there are more specifics guiding the research in each country which will be spelled out in the introductory part of each country report.

Equally, at the beginning of each country report, the respective researcher will present the quantity and quality of data he was able to collect and which is underlying his presentation.

Bibliography

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⁴ See, for example, the 2014 Joint Word of the Catholic and Protestant Church, titled "Joint Responsibility for a Just Society"