UNHRC Paper: Economic Empowerment of People of African Descent

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INTRODUCTION

As we examine persisting inequities between African nations and the global North, it becomes clear that the entrance into today's competitive digital economy is of prime importance. Theories of modernization have consistently pointed to technology as a driver of societal development. Such development not only includes the creation of vaccines or digital devices but is also an indicator of a society's ability to compete fairly with other nations. Persisting misconceptions assert the African nation's inability to cultivate environments where meaningful participation in this new economy is feasible. While some issues do lie within the native structures of power, the preexisting network of global capitalism, which the Global North helps perpetuate, creates circumstances that severely limit the capabilities of African Nations to develop modern technologies that can help nations be more competitive within the present global economy. This paper aims to recontextualize this narrative to examine potential obstacles and opportunities regarding the entrance of African nations as strong competitors into today's digital economy. Such obstacles present themselves in current technological and economic limitations that can be tied to intellectual property regimes, illicit financial flows (IFFs), corruption, and multinational corporation domination. These factors contribute to a larger mechanism that severely inhibits the ability of African nations to enter the "playing field" on equal footing.

Strong technological infrastructure is an important factor concerning the entrance of African nations into the global digital economy. The sustenance of such economies is rooted in the continuous innovation of digital technologies, such as online payment systems and digital currencies. Such an economy promotes online professional interactions, business transactions, and other economic activities. Certain African countries have made great strides transitioning into the digital biosphere. For instance, Kenya has established the world's largest online payment system called M-Pesa and South Africa has one of the largest digital industry partners in their country. And in Chad, roughly 52% of people in a group of 100 have a mobile phone subscription, which is a higher percentage than in many other parts of the world. This reflects on a growing technological infrastructure that can help the African nations be more competitive in the global economy. Yet, with these countries prospering in the digital sphere, Africa as a whole still significantly falls behind its counterparts in the Global North. This poses immense challenges in the goal of participating in the digital economy on equal footing to other nations. Entrance into this economy is not enough. Africa will need to take cautious, but necessary steps to level the playing field.

OBSTACLES TO TECHNOLOGICAL ADVANCEMENT

An important headwind against technological development in Africa is the global intellectual property regime enshrined in the TRIPS Agreement, which is binding on all WTO member states. This regime entitles originators to 20-year product patents on their innovations, which in turn enable them to extract substantial licensing fees, royalties and monopoly markups on their use. This system generates massive payment flows from South to North because, much better endowed with financial and human resources, Northern firms have a large advantage in reaching important innovations first. This system also impedes diffusion of innovations in the global South, where many potential users are unable or unwilling to buy access to these innovations at monopoly prices. This systemic denial of opportunities to technologically advance severely limits the ability of African nations to grow their economies and provide for their constituents. The consequences are indeed dire. For example, millions of Africans have suffered and died because they could not afford advanced pharmaceuticals. Millions continue to suffer excessive pollution because supracompetitive prices deter the use of green technologies.

ILLICIT FLOWS

Although innovation in technology is the driving force to achieve a digital economy, maintenance of it requires adequate oversight and regulations to prohibit illegal activities that could widen economic disparities. This leads to the discussion of a potential avenue of crime involving illicit financial flows or IFFs. [1]These IFFs illegally expropriate funds from a region or nation through improper tax practices, illegal markets, thefts and terrorism financing, and trade misinvoicing, which is the most prevalent form of IFFs. According to the Economic Development in Africa Report for 2020, Africa loses nearly $90 billion annually due to IFFs. To put this in context, Africa only receives roughly $62 billion in financial aid. [2] Essentially, IFFs divert more funds from the continent than it is receiving in aid.

Now, as we see a push for Africa to transition more into a global digital economy, Africa must be cautious of IFFs, specifically in the digital form. The rise of digital technologies has paved a way for people to have more access to online services, however it has also led to more opportunities for advanced forms of funds to be expropriated. One primary example would be the advent of digital currencies, such as cryptocurrencies, that has become a more popular tool for online payment. As great as it may seem to have a decentralized system where people can access electronic payment systems with a non-bank intermediary, it opens the door for others to

[1] "Tackling Illicit Financial Flows, a Matter of Survival for Africa's Development | Africa Renewal." United Nations. United Nations. Web. 8 Apr. 2023.
[2] *Net Official Development Assistance Received (Current US$) - Sub-Saharan Africa | Data.* https://data.worldbank.org/indicator/DT.ODA.ODAT.CD?locations=ZG. Accessed 8 Apr. 2023.

use the benefit to their advantage. [3]For instance, TRACFIN, a French anti-money laundering group, identified a crypto named Zerocoin that had the sole purpose of being used for illicit transfers of funds online with no form of traceability or oversight. This is just one of many digital currencies made for that purpose and ultimately reveals that advancements towards a digital economy is also the advancement of more opportunities for IFFs to prosper.

To mitigate the growing threat of digital IFFs, there are questions that need to be pondered upon in greater depth to begin moving toward a safer digital future for Africa. For instance, should Africa focus on lowering the presence of digital IFFs through more policymaking or technology? The latter suggests that maybe using the technology that facilitates these digital IFFs to occur could also be how we eradicate them. Essentially, fighting “fire with fire.” There have been many that have argued that both are needed; there needs to be a more established and formidable legal framework that equips the players in the framework with the technological tools to combat these digital IFFs. This legal framework should be strong enough to proactively anticipate legal loopholes that criminals may attempt to exploit.

QUESTION OF CORRUPTION AND CORPORATE DOMINATION

A reductive perspective on the aforementioned issues is that the failure to prevent IFFs and encourage technological advancement is attributed solely to “corrupt” African leaders. Corruption is indeed widespread among African politicians and officials. But such corruption must be understood in the global context in which it occurs. This includes the netherworld of offshore finance which, over the last 50 years, has grown into a vast network of tax havens, secrecy jurisdictions, letterbox companies, fake trusts and anonymous accounts, along with an army of shady lawyers, accountants, lobbyists and financial advisors. It is estimated to manage

[3] Tropina, Tatiana. "The Nexus of Information Technologies and Illicit Financial Flows: Phenomenon and Legal Challenges - Era Forum." SpringerLink. Springer Berlin Heidelberg, 01 Sept. 2016. Web. 8 Apr. 2023.

wealth in the amount of $30-50 trillion, equivalent to about 8-12% of all privately held wealth worldwide or 1/3 to 1/2 of the world's annual product. As recently revealed – by LuxLeaks (2014), Panama Papers (2015), Bahamas-List (2016), Paradise Papers (2017), Pandora Papers (2021), etc. – this sophisticated infrastructure facilitates corruption of all kinds (including theft and embezzlement, bribery, subversion of democracy, tax abuse and money laundering) as well as many other crimes such as international terrorism and illegal trade in persons, drugs and weapons. In these ways, the global haven industry massively aggravates national and global inequalities and greatly impedes the development of poorer countries by enabling multinational corporations, autocrats, corrupt officials, millionaires, and criminals to drain them of capital and tax revenues. Illicit financial outflows from developing countries are estimated at nearly $1 trillion per annum.

The impact of multinational corporations in the siphoning of important resources cannot be understated. African nations cannot raise too much money on income taxes, leaving them largely reliant on corporate taxes. Another important factor working against African nations is that multinational corporations, period, rarely pay taxes.[4] For instance, we can look at SABMiller, a multinational beer company and their common practices. This company has invoked strategies to effectively reduce the amount of taxes paid. A particular strategy, deemed the "Dutch Detour", allows a subsidiary of the company located in Ghana to pay royalty taxes to another subsidiary of SABMiller in the Netherlands, where the taxation rate is significantly lower. Then SABMiller can exercise their right to write off their royalty payments against their taxes. Although this strategy abides to the law, one has to question its ethical nature as the loss of funds accrued by taxes indirectly and significantly restricts the development of the public sector

[4] How a Drinks Company Avoids Tax in Africa - Financial Transparency Coalition. 29 Nov. 2010, https://financialtransparency.org/how-a-drinks-company-avoids-tax-in-africa/,

in these countries.   These companies within Africa are tasked with the challenge of competing with multinational corporations who are essentially exempt from taxes.

The global context of African corruption also includes the important international rule that governments are recognized, on the basis of effective power alone, as entitled to dispose of “their” country’s natural resources and to incur debt, to import weapons and to sign treaties on its behalf. This rule encourages coups and civil wars; and it enables clearly illegitimate and kleptocratic rulers to maintain themselves in power by selling or collateralizing the nation’s mineral wealth. Foreigners benefit from this rule of recognition as they can cheaply acquire internationally valid property rights in minerals from whomever happens to be in power. The African people are the losers: their natural resources are plundered without compensation, they get saddled with unsustainable debt burdens, and their illegitimate and oppressive rulers are provided the funds and weapons they need to stay in power. This broader context is necessary to understanding the limitations and obstacles to African nations in participating in this more advanced economy. Corrupt rulers and structures that are empowered by this “internationally recognized rule” do not prioritize the development of critical infrastructure and only further exploit their constituents.

QUESTIONS & CONCLUSIONS

With all of these limitations and endless complexities of transitioning Africa into a digital economy, what reasonable steps are needed to move Africa towards the right direction. Is there a need for a strong governing body to maneuver through these complexities by creating a framework for a digital economy to flourish in Africa? Is the African Union the sole answer to that question? It seems as though their involvement in this transitory process would be necessary, but do they have the organizational capacity to not only define how that framework will look like but implement a plan that can be adapted to the various needs inherent to a specific country in Africa? Maybe the induction of the AU into a supranational governing body such as the G20, could raise the organization's profile and resources so it can develop a consistent, clear, flexible legal framework to apply within Africa. It is a possibility to explore in more depth as more is done to continue to promote the development of a sustainable digital economy for Africa.

Development is far from a linear path, especially considering the aforementioned existing obstacles to technological advancement and the clear difficulties in managing illicit financial flows, corruption, and MNC domination. The forces preventing African nations from asserting their status as self-sufficient competitors are reflective of present shortcomings in technological advancement and pervasive mechanisms that encourage economic loopholes for northern businesses and indigenous corruption. The result is a negative feedback loop that simultaneously curbs the cultivation of technology at the source while allowing Northern nations and corporations to profit off of preexisting progress. This, effectively, widens economic inequity and delays the entrance of African nations into the digital global economy. The difficulties of participating meaningfully in the digital economy is one of many factors that is interwoven into a broader narrative of exploitation and domination. These difficulties, inherently, reflect larger obstacles to African nation-state self-determination. Therefore, it behooves those seeking to mitigate these obstacles to reexamine the seemingly neutral status of African nations as passive states inherently bound to homegrown corruption and their own inability to "catch up" to the global North.

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