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Tax and International Justice

Esther D. Reed

Christian ethics is properly and centrally concerned with questions about social justice, including taxation. Biblical teaching does not yield a straightforward Christian policy on taxation but three features of biblical and traditional teaching bear directly on our topic. (1) Mark 12:13-17 demands that ‘giving to Caesar what is Caesar’s’ should be considered in the light of what it means to ‘Give back to God the things that are God’s’. This is the theological framework for everything said in this essay about taxation. (2) Deeply-rooted Christian teaching about common good has implications for how we think about taxation, including consideration of the ‘goods’ of trade. (3) Amidst the challenges of globalization, instruments, institutions, and mechanisms pertaining to taxation are urgently required to ensure the more just ordering of economic relations. Personal responsibility in the face of vast global realities is discussed.

Billions of dollars are also lost through legal tax avoidance by multinational companies and wealthy investors, also enabled to a large extent by the world’s tax havens. ...

This not only deprives developing countries of public revenues needed to fight poverty, but may also be hindering those countries’ domestic businesses from flourishing.

Action Aid, *How Tax Havens Plunder the Poor* (2013)¹

Most people react to reports like this with the intuition that something is *wrong*. But what is the wrong, and who is responsible for it? Laws might not have been broken. Few individuals will have interacted directly with others to harm them. Company directors have maximized shareholder value as they are obligated — often legally — to do. Yet something has gone badly wrong if profits are being declared and taxes avoided, thereby depriving citizens of those countries in which products are sold and

¹ Action Aid, *How Tax Havens Plunder the Poor* (2013) <http://www.actionaid.org.uk/news-and-views/almost-half-of-all-investment-into-developing-countries-goes-through-tax-havens> (accessed: 5 August, 2014).

profits of payments the required by governments and regional municipalities to meet public needs.

Many things – not one single thing – might have gone wrong. Governments might be rife with corruption or beset by structural weaknesses that make it difficult to collect tax. Developing countries might not have the information or capacity to collect the taxes owed to them. Anonymous ‘shell companies’ might be used to shift profits between countries might be disguising who really owns those profits. International processes to share information about company ownership and the reporting of taxes are not in place or adequately regulated. Mechanisms whereby companies not paying their fair share can be tracked and exposed are not yet in place,² and there are complexities surrounding where value is created if production processes happen in one country but the goods are completed and packaged elsewhere. Citizens in developed countries are slow to protest because consumer goods are cheaper when companies avoid tax. Public opinion ebbs and flows but rarely becomes electorally significant. Political leaders in developed countries are hampered by perceptions of hypocrisy.³

G20 finance ministers and the Organisation for Economic Co-operation and Development (OECD) are clear that:

In an increasingly interconnected world, national tax laws have not kept pace with global corporations, fluid capital, and the digital economy, leaving gaps that can be exploited by companies who avoid taxation in their home countries by pushing activities abroad to low or no tax jurisdictions.⁴

In July 2013 the OECD launched an Action Plan on Base Erosion and Profit Shifting (BEPS), identifying 15 specific actions needed in order to equip governments with the domestic and international instruments to address this challenge.⁵ The BEPS plan

² G8 Loch Erne Declaration

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207543/180613_LOUGH_ERNE_DECLARATION.pdf (accessed 12 March, 2014).

³ Financial Times Editorial, ‘The World Needs Global Tax Reform’, <http://www.ft.com/cms/s/0/a10bcaba-d4ec-11e2-b4d7-00144feab7de.html#axzz2v15ISp6U> (accessed 12 March, 2014).

⁴ <http://www.oecd.org/tax/beps-about.htm>

⁵ These actions include: recommendations regarding the design of domestic rules to strengthen Controlled Foreign Companies (CFC) Rules, the design of domestic rules to limit base erosion via interest deductions and other financial payments, strategy to expand participation to non-OECD members to counter harmful tax practices more effectively, recommendations regarding data on BEPS to be collected and methodologies to analyse them, the design of domestic rules to require taxpayers to disclose their aggressive tax planning arrangements, and more.

recognises the importance of addressing the borderless digital economy, and will develop a new set of standards to prevent double non-taxation, the need for closer international co-operation, greater transparency, data and reporting requirements. This Action Plan was fully endorsed by the G20 Finance Ministers and Central Bank Governors at their July 2013 meeting in Moscow as well as the G20 Heads of State at their meeting in Saint-Petersburg in September 2013. The OECD reports, for the first time ever in tax matters, non-OECD/G20 countries are involved on an equal footing.⁶

Yet the problem remains the gradual destruction of the ‘base’, or that on which everything else rests, of trade in a given country. Exploiting gaps and mismatches in tax rules to make profits ‘disappear’ for tax purposes distorts competition, may lead to inefficient allocation of resources by ‘distorting investment decisions towards activities that have lower pre-tax rates of return, but higher after-tax returns’ and is an issue of fairness: ‘when taxpayers (including ordinary individuals) see multinational corporations legally avoiding income tax, it undermines voluntary compliance by all taxpayers’.⁷ The OECD is committed to implementing effective anti-avoidance measures including rules to improve transparency, restrict how profits are allocated within a given company or group, and more.⁸ But something has gone wrong.

Like national tax laws, Christian ethics has not really kept pace with the global realities of tax avoidance. This essay is an attempt to consider theologically and ethically what has gone wrong when multinational corporations can avoid tax to the extent that the OECD, the G8 and the G20 are concerned to act urgently. It is not easy to investigate what has gone wrong. Mindful of many complexities, this essay attempts three things.

1. To remind ourselves that Christian ethics is properly and centrally concerned with questions about social justice, which entails debate about taxation. This involves restating some basic convictions about the God revealed in Jesus Christ.
2. To argue for renewed investigation of why and how the common good was once a central theme in political, ethical and theological literature,

⁶ OECD, ‘About BEPS’, <http://www.oecd.org/tax/beps-about.htm> (accessed 7 August, 2014).

⁷ OECD, ‘BEPS – Frequently Asked Questions’, <http://www.oecd.org/ctp/beps-frequentlyaskedquestions.htm> (accessed 7 August, 2014).

⁸ OECD, *Declaration on Base Erosion and Profit Shifting* Adopted on 29 May 2013 [http://www.oecd.org/tax/C-MIN\(2013\)22-FINAL-ENG.pdf](http://www.oecd.org/tax/C-MIN(2013)22-FINAL-ENG.pdf).

and suggest that it has traction not only at the level of the nation-state but also at the level of international affairs.

3. To discuss foci for action — from robust international regulation to personal responsibility for the influencing of public opinion.

The theological heart of the essay is found in Jesus' words: 'Render to Caesar the things that are Caesar's, and to God the things that are God's' (Mk 12:17) — with the emphasis falling on the second half of the sentence. The claim is not that Jesus gives us a direct answer to the question of tax avoidance. Mark 12:13-17 does not yield a straightforward Christian policy on taxation. (Nor should we seek such a policy from this or any other biblical text.) However — and here is the nub of the matter — Jesus' words direct the hearts and minds of his hearers toward God the origin and end of goodness, mercy and truth. Mark 12:17 gives a sense of direction to human life defined by love of God and neighbor. This is not to suppose that everyone believes in the God revealed in Jesus Christ as Father, Son and Holy Spirit. Christian tradition has never supposed this! But the basics required for co-existence are accessible to everyone and universally applicable regardless of religious affiliation, ethnicity, class, age, gender, etc. All are subject to the demand(s) of the good by virtue of mere existence.

Basic Christian Convictions

The work of Christian ethics is not to formulate economic theory or political manifestos — though many Christian people are properly involved in these tasks — but to bear witness to Christ's redemptive work of salvation and the hope of transformation in Him. In doing this, Christian ethics carries forward a moral tradition from the earliest period of the church, however, that biblical teaching remains applicable to contemporary economic life and trading practices:

1. The world was given by God to humanity in common. To take more than one's fair share is to steal from others (Is. 3:14).
2. Persons have priority over goods and economic gain.
3. Economic goods are to be used primarily to meet human needs.

4. Sin forms in the hearts of both rich and poor. But the rich are especially prone to lusting after temporal goods and the acquisition of wealth in ways that pile misery on others.⁹
5. The coming judgment of God should cause everyone to reassess and modify behaviour.¹⁰
6. Simplifying our lives often means that we have more to give to others.¹¹
7. Christian ethics proposes God's future for the world.

The major concerns of Christian ethics are not with tax and tax avoidance *per se* but with the gospel of Christ and the effects of human sin upon human life and relationships. This said, Christian people have always been obligated to ask about how money is acquired and used, the purpose of property-ownership, trading practices, notions of value, the meaning of money, and more, in ways that prioritize concern for the poor and disadvantaged.

A word of caution before turning in more detail to the account in Mark's gospel of the debate about paying taxes to Caesar (Mk 12:13-17). Early Christian thinking took shape in an environment where taxes were oppressive and administered rapaciously.¹² Taxation was a sign of subordination and oppression. Those involved in its collection were suspected of collaboration with the occupying power and of enriching themselves dishonestly through their profession. This might have resonance in some countries of the world today. But there is no direct route from biblical references to taxation to international compliance regulations today. No single 'Christian' policy on tax can be pieced together from biblical texts. We must do more than turn the seemingly most relevant biblical texts about taxation into simple proposals for reform and regulation.

⁹ John Chrysostom, *Homily 2 on Philippians. Nicene and Post-Nicene Fathers (NPNF)*, First Series, Vol. 13. Ed. Philip Schaff. (Buffalo, NY: Christian Literature Publishing Co., 1889.) Revised and edited for New Advent by Kevin Knight. <http://www.newadvent.org/fathers/230202.htm> (accessed 7 August, 2014).

¹⁰ Basil of Caesarea, *Hexaemeron (Homily 8)*, *NPNF*, Second Series, Vol. 8, <http://www.newadvent.org/fathers/32018.htm> (accessed 7 August, 2014). See also St Basil the Great, *On Social Justice*, transl. C. Paul Schroeder (New York: St Vladimir's Seminary Press, 2011).

¹¹ Theodoret *Letter 23*, *NPNF*, Second Series, Vol. 8, <http://www.newadvent.org/fathers/2707023.htm> (accessed 7 August, 2014).

¹² PHEME PERKINS, 'Taxes in the New Testament', *The Journal of Religious Ethics*, Vol. 12, No. 2 (Fall, 1984), pp.182-200, p.182.

The Earth is the Lord's!

With this in mind, we look more closely at Mark 12:13-17. Many in Christian tradition have ventured interpretations of this text and its parallels in other gospels. Nicholas Townsend has constructed a useful typology ranging from arguments to the effect that Caesar and God each have their own distinct, even autonomous realms, i.e., ‘two kingdoms’ readings, through ‘God way above Caesar’ readings, to ‘God against Caesar’ readings, and more.¹³ Townsend’s own reading — to which I am sympathetic — draws attention to the literary context of Mark 12:13-17 between the parable of the tenants (Mk 12:1-12) and Jesus’ teaching in the temple and cleansing of it. Jesus pulls the event back onto his agenda of identity and recognition, and whether his questioners, who can identify the Roman emperor easily enough, will see that the reign of God is coming and recognize the vineyard owner’s ‘beloved son’.¹⁴ For our purposes, we are interested in the central dynamic that it yields to Christian ethics, namely, ‘giving back’ to God what God has already given. Three steps follow in establishing that the central dynamic of ‘giving back’ to God what belongs to God bears upon the payment of taxes to Caesar, as much as it bears upon any other dimension of life.

Give back to God

Many versions of Mark 12:17 use the word ‘render’ to translate *apodote* (Gr. ἀπόδοτε). Hence Jesus’ reply to the Pharisees and Herodians: ‘Render to Caesar the things that are Caesar’s, and to God the things that are God’s’.¹⁵ More literally, *apodote* can be understood as ‘to give back or restore’ (from *apodidomai* - ἀποδίδωμι). Jesus’ choice of word is different from that used by the Pharisees and Herodians in their question to him. They ask: ‘Is it allowed to give poll-tax to Caesar? Shall we give or shall we not give?’ (Mark 12:14) and use a different word from that chosen by Jesus.¹⁶ They use *dounai* (δοῦναι) and *dowmen* (δῶμεν) — from *didomi* (δίδωμι) meaning ‘to give’ — whereas Jesus uses *apodote* which carries the sense of ‘returning back to’ or ‘restoring’, as when Jesus returned the scroll to the attendant in

¹³ Nicholas Townsend, ‘Surveillance and Seeing: A New Way of Reading Mark 12:17, ‘Give Back to Caesar ...’’, *Studies in Christian Ethics* 14(1), pp.79-90, at p.80.

¹⁴ Townsend, ‘Surveillance and Seeing’, p.85.

¹⁵ This is the New King James Version of ὁ δὲ Ἰησοῦς εἶπεν αὐτοῖς, Τὰ Καίσαρος ἀπόδοτε Καίσαρι καὶ τὰ τοῦ θεοῦ τῷ θεῷ.

¹⁶ ἔξεστιν δοῦναι κῆνσον Καίσαρι ἢ οὐ; δῶμεν ἢ μὴ δῶμεν.

the synagogue at Nazareth (Lk. 4:20), or returned the boy with an unclean spirit to his father (Lk. 9:42).

The startling truth, of course, is that all things belong to God. So how does a person give anything to Him to whom all things belong? What is to be given to God, to whom all the earth belongs and everything in it (Ps. 24:1)? In many respects Jesus leaves his hearers to supply their own answer. While Jesus might or might not have taken in his hand the coin that bore Caesar's head, did not take hold of anything that bears the image of God. It is not possible physically to 'showcase' the things to be given to God.¹⁷ The ethical demand of the gospel has no clearly representable limits but has to be imagined, and is infinitely demanding. In both Mark and Matthew's account of the debate about paying taxes to Caesar the passage is followed within a few verses by Jesus' conversation with a young scribe or lawyer about the greatest commandment: "You shall love the Lord your God with all your heart and with all your soul and with all your mind and with all your strength" ... ' (Mk 12: 30-31). The point is similar. Giving back to God what is due to God is a demand that requires infinite commitment and an experience of conscience that orients one's entire life in all its dimensions to God.

Nor is this experience peculiar to those who confess the lordship of Christ. Every one experiences something like the unboundedness of Jesus' words. No one who has had a baby knew in advance the specifics of what would be entailed in loving that child. The demand was limitless yet not without meaning. Becoming a parent requires the development of good practices of parenting. Becoming a good teacher is not satisfied by mere adherence to the laws of the land and guidelines established by convention within the profession but entails subjective striving to perform well. Responsiveness to the demand of the good does not have to flow from acceptance of the commandments of God, the revelation of Godself in Christ Jesus, or any other faith-based claim, but is a primordial human capability for ethical living that may be presupposed in all human life. The human condition 'east of Eden' entails ceaseless striving to live well in every dimension of life.

¹⁷ This phrase used by Miceli, Calogero A. "Pay to Caesar the Things of Caesar, and to God the Things of God": A Narrative Reading of the Denarius in the Gospel of Mark (12:13-17), *Journal of Religion and Culture*, Vol. 24 (2013), pp.53-68, at p.64.

The things that are God's

The seemingly infinite demand to 'give back to God the things that are God's' is encountered not only in the personal realm but also the realm of civic obligations. Basil of Caesarea makes this point when appealing to the common good, and it remains a consistent witness in Christian tradition, East and West, North and South, until the present-day.

If riches abound, set not your heart upon them (Ps. lxi.11). ... And just as a wide stream is distributed through the fruitful earth by many channels, so let your riches flow, that by many means they may reach the homes of the poor. Wells, when they are drawn from, flow forth in a purer and more abundant stream. Where they are in disuse they grow foul. And so do riches grow useless, left idle and unused in any place; but moved about, passing from one person to another, they serve the common advantage and bear fruit.¹⁸

For Basil and many other Christian teachers, the language of common advantage or common good is familiar.¹⁹ Biblical accounts of the Garden of Eden may be understood symbolically to mean that God conferred on all humanity the authority and responsibility to take care of and distribute all the goods on earth.²⁰ While property ownership is necessary in a fallen world, Jesus himself owned no property (Matthew 8:20, Luke 9:58) and urged his followers not to gather treasure upon the earth (Matthew 6:19). Patristic writers 'have as a model' the injunction to a rich young man to go and sell all that he has and give the proceeds to the poor if he wishes to be perfect (Matthew 19:2, Luke 18:22) and 'take extensive notice' of the blessings Christ has for the poor (Luke 6:20) and the criticism he has for the rich (Luke 6:24).

So the question becomes what and how personal property and possessions, as well as those things held in common such as the seas and air, are 'given back' in ways that honour God. Much Christian teaching has focussed on personal responsibility with respect to tithing, lessening carbon-footprints, living more simply, and such like. This is proper because agency and cause belongs to persons. God is the source or Arché of *all* life and good, however, so our questions cannot be only about personal giving and decision-making but about those aspects of societal life that exceed the

¹⁸ M.F. Toal, Ed. and Transl. *The Sunday Sermons of the Great Fathers* Vol. 3 (London: Longmans, Green, 1959), p.329. Basil the Great, Eighth Sunday after Pentecost, 'I will pull down my barns', §5.

¹⁹ This was first drawn to my attention by Susan Holman who cites Basil's sermon, *The Hungry are Dying: Beggars and Bishops in Roman Cappadocia* (Oxford: Oxford University Press, 2001), p.107.

²⁰ For a useful overview, see Stanley Harakas, 'An Eastern Orthodox Perspective on Economic Life, Property, Work, and Business Ethics' in *Spiritual Goods: Faith Traditions and the Practice of Business* (Charlottesville: Philosophy Documentation Center, 2001), p.145.

personal and for which responsibility is shared out amongst many agents. ‘Give back to God the things that are God’s’ is not fulfilled entirely by decisions at the personal level but extends to the societal.

Give to Caesar the things that are Caesar’s

So what is owed to Caesar? This imperative is difficult for Christian people when taxation facilitates expenditure with which they disagree — whether a new generation of nuclear weaponry, all military armaments, and/or the ‘bailing out’ banks with taxpayers’ money that could have been used otherwise. For present purposes, we understand ‘give to Caesar the things that are Caesar’s’ to mean giving to the public purse what properly belongs to it for expenditure in the community, the claim being that Christian ethics has a proper and central concern for monies given to the public purse in taxation. The accent of the verse on divine sovereignty entails consequences for all walks of life, including consideration of what’s due to Caesar, why and how. In other words, because the emphasis of the Mark 12:17 falls on the second half of the verse, we may read it with this inverted ordering of the phrases.

But what *is* owed to Caesar? What properly belongs to the public purse and what does not? How much and what type(s) of tax should be paid? Should a company pay a contribution to the society where it is based but in which the government has granted tax exemptions? One cannot render unto Caesar until one knows what Caesar is asking for! Sometimes ‘Caesar’ does not always have the interests of the country at heart. Developing countries sometimes need economies that attract investment from investors who may not otherwise go there at all. What are the links between corporate payment of taxes and ‘corporate social responsibility’ (CSR), that is, the business approach to addressing the social and environmental impact of company activities, and some of the world’s most intractable problems including poverty, community development, AIDS/HIV, climate change, and more? What about those countries in which a tax on profits might not be sustainable and a shift to resources taxes or sales taxes might better ensure that the countries in question receive a proper share of what is being taken from them? What about those contexts where corporation tax might not be the best way to make a contribution to the wellbeing of a particular country or region?

Here we reach deep waters of complexity. Enormous efforts have been made by corporations in the last two decades to publicise commitment to CSR principles

through sustainability and community development reports, advertising, and other public documents. For better or for worse, corporations are now addressing, and are increasingly expected to address the lack of primary healthcare in many rural locations, food insecurity, the need for road and other infrastructure facilities including water-supply and electricity. Milton Friedman's 1970 famous article 'The Social Responsibility of Business is to Increase its Profits' now seems out-dated in the extreme as corporations seek to gain reputational advantage as the 'investment of choice' or company preferred by a given government because of reputability as a problem-free, environmentally and socially responsible business.²¹ Today's debates are not about *whether* CSR should take place but *how*. Yet, if these same corporations are avoiding fair taxation by shifting profits into tax havens, such behavior is deeply problematic because (further) undermining of the proper role of state and civil society (even if / when performing badly). CSR and tax payments, or tax avoidance, must be viewed together. Global companies are not civil or state authorities, and not accountable to the people in the same ways, even when performing their roles.

Mark 12:17 gives no precise instructions about what tax is due to Caesar. Indeed, Jesus' words could hardly be more open at this point. 'The things' to be given to Caesar translates the Greek article 'ta' (nominative, neuter plural, meaning 'the'). What precisely is owed to Caesar is not specified at all! The Pharisees and Herodians might have been tempting Jesus to speak about the despised poll tax demanded by the Romans, or the more general matter of the circulation of Roman currency that, because coins bore the head of a supposed god, was potentially idolatrous to Jesus' pious compatriots. Either way, Jesus' answer admits of debate.

What *is* clear is the demand to consider what is owed to Caesar in the light of basic convictions about obligations to God and neighbour. Financial arrangements that prevent the vulnerable from enjoying reasonable opportunity to reach their potential, oppress the poor and powerless, or deal in deception, contradict the spirit of the kingdom.²² It is also clear that Jesus expects more than mere adherence to the law. The Pharisees and Herodians asked a question about lawfulness. 'Is it lawful (Gr. *exestin*) to pay taxes to Caesar, or not?' (Mark 12:14). Jesus' answer looks beyond

²¹ Milton Friedman, "The Social Responsibility of Business is to Increase its Profits," *New York Times Magazine*, September 13, 1970.

²² See further Susan Pace Hamill, 'An Evaluation of Federal Tax Policy Based on Judeo-Christian Ethics', *Virginia Tax Review*, Volume 25 (Winter 2006), pp.671-764, at p.693.

mere adherence to the law to its fulfilment in love. This is important in the debate about tax avoidance where techniques employed for the maximization of profit are often legal and deemed by some to be moral.

That companies should be criticized, or even penalized, for not doing more than is required by law is said by some to risk undermining the rule of law on which liberal societies are built.²³ Some criticise the seeming moral hysteria amidst which companies are shamed into discontinuing tax avoidance policies because everyone knows it's 'wrong' because it might lead to the punishment of those who have obeyed the letter of law. Yet respect and care for the poor ranks higher in Jesus' list of priorities than adherence to the law.²⁴ Global corporations may properly be expected to exceed minimal compliance standards on taxation, where failure to do so undercuts the conditions required for the flourishing of all, and engage proactively with what's required for true wealth (decent wages but also health provision, education, human rights, infrastructure, a healthy environment, the rule of law, and more) in the communities and nations in which they trade.

Tax and Common Good

In well-governed societies, the politics of taxation has to do with building together the infrastructure needed for common life, citizenship, and the free worship of God. How much of this infrastructure should be provided for by public taxation is open to debate. At its most basic, however, good government provides those conditions within which the people may flourish — going to school, getting married, staying safe from external attack, being subject to judgment in the event of wrong-doing, etc. Taxation

²³ Jamie Whyte, 'The Rule of Law v the Rule of Man', <http://www.bbc.co.uk/programmes/b0375db5> (accessed 7 August, 2014).

²⁴ This conclusion is reached by other ethical approaches too. Onora O'Neill argues that a Kantian approach to the morality of business is not satisfied by conformity to the law and restraint from coercion or deception, especially in those situations where people live close to the margins of existence: 'mere "noninterfering" conformity to ordinary standards of commercial honesty and political bargaining is not enough for justice toward the destitute. If the demands of the powerful constitute "offers that cannot be refused" by the government or by the citizens of a poor country, or if the concessions required for investment by a transnational corporation of a development project reflect the desperation of recipients rather than an appropriate contribution to the project, then (however benevolent the motives of some parties) the weaker party to such agreements is used by the stronger.' Onora O'Neill, 'Ending World Hunger', in Tom Regan, Ed., *Matters of Life and Death 3rd ed.* (New York: McGraw Hill, 1993), p.265. Her point is that Kantians will act to support the possibility of autonomous action, including where it is most vulnerable, which means not precluding the autonomous action of others and not failing to promote the conditions wherein people currently enduring severe poverty can establish indigenous capacities and trading practices — even if the law does not require this.

is the means by which the conditions for societal flourishing are made possible. Bad government neglects or harms these conditions, not least by the failure to collect and/or administer the expenditure of taxation. Tax provides the funds by which the common life of a society or people may be oriented toward peace and harmony; a primary means by which everyone appropriate is included within a functioning society characterised by lawfulness, good order and opportunities for advancement.

Discussion about the conditions for a people's flourishing has been conducted in Western philosophical tradition(s) —from Aristotle to the present day — in terms of the good of the city or the common good of the people(s). 'Aristotle used the concept of "the common interest" (Gr. *to koinei sympheron*) as the basis for his distinction between "right" constitutions, which are in the common interest, and "wrong" constitutions, which are in the interest of the rulers; at one point he seems to equate "the common interest" with "justice".'²⁵ Christian traditions, especially those with roots in Thomas Aquinas, have adopted the same kind of language and recast it in theological terms. God is the common good (*bonum commune*), says Aquinas, for whom and because of whom all things exist: 'Thus it is said in Proverbs (16:4): "God made all things for Himself"; and in the Apocalypse (22:13): "I am Alpha and Omega, the First and the Last."²⁶ All things are ordered to one end, God:

since the good has the essential character of an end, all things are subordinated to God, as preceding ends under an ultimate end. Therefore, God must be the end of all things.²⁷

Aquinas' belief in all-encompassing God allows him to affirm that every particular good is ordered toward the common good as its end; nothing stands alone in the flourishing it enjoys but depends upon being part of a larger whole. Within this kind of worldview, taxation makes possible the flourishing or well-being of the individual by bringing them into relation with the greater good. A family thrives in its relation to a wider community, local communities are part of a larger people or nation-state, a nation-state prospers through relations (e.g., trading relations) with other nation-states, and so on.

²⁵ Aristotle, *Politics* 3. 6-7, 12. Cited in B. J. Diggs, 'The Common Good as Reason for Political Action', *Ethics*, Vol. 83, No. 4 (Jul., 1973), pp. 283-293, p. 283.

²⁶ Thomas Aquinas, *Summa Contra Gentiles*, transl. Vernon J. Bourke (Notre Dame: University of Notre Dame Press, 1975), Bk III, Chapter 17.

²⁷ Aquinas, *Summa Contra Gentiles*, Bk III, Chapter 17.

It might seem odd to associate something as mundane as taxation to questions about our very humanity. Yet the vision of what it is to be human underlying both the Aristotelian and Thomist traditions has held for centuries that human beings are by nature communal animals whose co-existence must be treated as a common project if all are to survive and thrive. The common good does not just happen. Aristotle says that children are the good common (*koinon agathon*) to parents (NE 1162a28-9) — a shared task or responsibility oriented toward building a common life, a family.²⁸ The ‘common good’ is not an idea or thing whose substance may be defined but a set of responsibilities pertaining to a shared project of which all are part. Contrary to what some neoliberals have claimed, the common good neither has nor requires clearly defined substantive content that may be specified *a priori* because common good is more like an activity, set of responsibilities or common project, inconceivable when individuals are thought about as isolated one from another.

The Goods of Trade

A problem is that Christian thinking about common good can grind to a halt at this point because of failure to ‘drop down’ from fairly general levels of discourse to more specific considerations. Hence the move in this section to think more specifically about the good(s) of trade and the development of good trading practices internationally will have implications for debate about the ethics of tax. The argument against tax avoidance develops in terms of the harms done to trading practices as well as to those affected adversely by exposure to global economic forces. The harms to trade and from trade are held together.

Not everyone who trades seeks to be a ‘good’ trader. But most will have an opinion about what’s going wrong in some instances or how failing businesses could do better. In Jim Crace’s novel *Harvest*, it rapidly became apparent when villagers grew slow to tend the cattle, weed the vegetable patches, stack the straw carefully, and wash the water pots. Not everyone cared because, by this stage in the novel, village life was breaking down for fear of Edmund Jordan’s ambitions to enclose the common land to create pastures for sheep, remove the villagers’ livelihoods and transfer the profits from farming to himself. Violence had already broken out. In this instance, the entire village ceased to function well. Not everyone had the critical distance and strength of character to analyse what was going wrong and take steps to

²⁸ Aristotle, *Nicomachean Ethics*, NE 1162a28-9.

redress the situation. Most fled when the violence and threats of violence became too great. Until that time, however, villagers had reprimanded those who failed to care well for the animals or perform their daily labours. They might not have agreed about everything but were capable of evaluation, disputation, bargain-broking and planning for the future in ways that held the village together. Prior to the village dying, there was broad communal agreement about behaviour and what practices were likely to produce the best outcomes for everyone. Practical wisdom requires moral judgment, depends upon reciprocal relationship, and implies commitment to the good of others as well as oneself.

Responses to Human Sinfulness

The reality, of course, is that some people and companies will avoid tax in ways that go beyond morally responsible tax planning to the exploitation of loopholes and the kinds of problems identified by the G20 and OECD as shielding profits from meaningful taxation payments. Why bother paying tax if one can get away without doing so? As Plato observed, most people believe in their hearts that injustice is ‘far more profitable to the individual than justice’.²⁹

Three responses may be ventured. First, the good news of Christ is that sin will not triumph and death is defeated. This is why the believer does not fall into despair.

Second, the reputational risk to many companies is often too great these days for them to rest easy with being exposed as tax avoiders. Where companies brazen it out, consumer activism can be surprisingly effective over time in changing behaviour. Powerlessness to effect change is cited by many in the so-called developed world as a reason for doing nothing but every disciple of Jesus concerned about tax justice is capable in their own (perhaps small) ways of protesting and reading the scriptures to affirm ‘thus saith the Lord’. Remember: Mark 12:13-17 is sandwiched in Mark’s gospel between Jesus’ cleansing of the temple (Mark 11:15-19) and foretelling the destruction of the temple (Mark 13: 1-23). Tax justice, protest and prophecy within just a few verses!

Third, legal frameworks backed by coercive sanctions are essential to curb human sinfulness in trading relations and to prevent harm to the vulnerable. Hence the urgent need for commitment to the BEPS and G8 processes underway, and the need

²⁹ Plato, *The Republic* 2.359a–2.360d. 6.31.

for mercantile customary law to govern the formation and enforcement of trade and the resolution of commercial disputes.³⁰ For trade to flourish sustainably we need established practices and enforceable rules that bring good order to economic relations. Right now, the challenge is for regulation to keep pace with the global realities of tax avoidance. An eleventh principle should also be added to the UN Global Compact — which sets standards for global trade and currently address human rights, labor rights, environmental protection, and anti-corruption measures. As law professor David Sheffer advocates, the eleventh principle should be identified as ‘Fair Taxation’ and read: ‘Businesses should undertake measures to promote fair taxation of their revenues, including non-resort to tax avoidance schemes and prohibition of any tax evasion practices’.³¹

Globalization and Tax Justice

So far, this essay has linked Jesus’s teaching about tax to thinking about common good and to the good(s) of trade in local and national contexts. Yet issues of tax justice today concern not only how the nation-state should function as unit for thinking about justice but what should count as a just ordering of economic relations in a globalizing world. So the question becomes more sharply whether we can really speak of common good and the good(s) of trade internationally. Who counts as a fellow subject for the purposes of taxation on the global stage? What might be done to promote these reforms, and how?

Globalization is changing the way we think about tax and related questions of justice. Within the national public sphere, legal requirements give expression to what society holds that citizens owe one another. Individuals and politicians might disagree about the extent to which the state must engage in redistributive taxation in order to ensure a fair distribution of wealth and income in the society it governs. But the boundaries of justice have been relatively clear. The territorial nation-state has provided for many years the limits within which to debate the kind of societal infrastructure that will allow for the flourishing of all, and how to pay for it. A tax has been understood traditionally to be a compulsory payment imposed by a government

³⁰ Frank J. Garcia, *Global Justice and International Economic Law* (Cambridge: Cambridge University Press, 2013), p. 21.

³¹ David Sheffer, ‘The Ethical Imperative of Curbing Corporate Tax Avoidance’, *Ethics & International Affairs*, 27 no. 4 (2013), pp. 361-369, at p. 367.

on its citizens to meet public needs.³² Today, globalizing processes in trade and other financial transactions mean that the dividing line between ‘domestic’ and ‘international’ justice is often blurred. Decisions taken in one nation-state affect the lives of people elsewhere but the reference points against which to ask first-order questions of justice are shifting and blurred.

When legal and moral obligation is no longer framed by the concept of the sovereign state and democratic pressures, it becomes unclear who should be included amongst those entitled to make even minimal justice claims on one another. Familiar debates within nation-states about the levels of taxation payable on income, property, sales, imports, estates and gifts, etc., do not provide a template for the actions of transnational corporations. While many argue about what constitutes a just taxation policy and the appropriate ordering of social relations within the society of a nation-state, the bounds of the debate have been relatively clear. Taxes are paid for the sake of order and an infrastructure that puts out fires, keeps the streets safe, ensures legal safeguards for businesses and employees, makes sure that our food and water are safe, educates our children, and more. A nation-state is a kind of community with a sense of being ‘we’, belonging together, sharing resources and responsibilities, entailing diverse modes of neighbourliness, some of which are exercised locally in at the community level and some through national political institutions including the tax-office.

At the international level, it is less easy to make sense of the concept of common good in terms of the dynamics of community life, what’s required for business enterprise in a given location, political deliberation, and so on. The international community does not share a sense of membership, proximity, customs and culture, loyalty to political offices such as ‘President’ or a monarchy, ideals or commitments, or polity closely analogous to the nation-state. Hence moral vagueness around who (whether an individual or corporate agent) is (or is not) obliged to recognise extra-legal duties toward others across the borders of potentially many nation-states contributes to the ease with which we can satisfy ourselves that minimal moral duties have been met. Witness the wariness amongst some Christian people to talk about international law because it has no ‘place’ analogous to state law.

³² See *Black’s Law Dictionary* 1496 (8th ed.2004). See further Susan Pace Hamill, ‘The Potential of Applying Judeo-Christian Ethics to Tax Policy in Foreign Countries’ *Journal of Education Finance*, Vol. 34, No. 2 (Fall 2008), pp. 139-155, at p.140.

The challenge is how to frame the debate about moral obligation, tax and tax avoidance given that our (at least partially) post-Westphalian political context is no longer delimited by the concept of the sovereign state, when it is not clear who should be included amongst those entitled to make justice claims on one another, or what kinds of international trading law and global authorities are required to ensure the conditions for a sustainable and healthy global free market, including trade agreements between unequal partners.

'Who?'

A natural move in Christian ethics when faced with a 'Who?' question is to ask it with reference to Jesus' response to the lawyer: 'And who is my neighbour?' (Luke 10:29) and to observe, for instance, that Jesus answered not with a straightforward set of categories (i.e., all these people are your neighbours) but with a mode of behaviour enacted by one person (the Samaritan) in relation to another (the man who fell among thieves). This has the benefit of reinforcing the importance of personal encounter, being available for others, establishing patterns for responsible action, expecting neighbourliness to entail costs, and more. A problem is that reducing the 'Who?' question to answers that are predominantly personal can leave us ill-equipped to address questions of tax justice, and such like, at the international level where the question requires mediation through institutions, legal regimes, and authorities as dubious as that of the Caesar upon whose image Jesus gazed having requested the denarius.

Biblical teaching prepares us in many ways, however, to reclaim the political, institutional and transnational dimensions of love of neighbour although these are easy to overlook in favour of personal modes of interaction, including charitable giving. Jesus reminded Pilate that he would have had no political authority unless given from above (John 19:11). Paul teaches that every person should be subject to the governing authorities 'for there is no authority except from God' (Rom. 13:1). Biblical teaching is not monochrome. While Paul's instruction in Rom 13:1-7 to 'be subject to the governing authorities' because they are 'God's servants' sits uneasily with texts that appear to designate earthly governors as destroyers of the earth set themselves for destruction (Rev. 4:2-11, 5:6-10) we should still take seriously his emphasis on conscience in affirming that members of the church of Rome should pay tax:

for the sake of conscience (Gr. συνείδησις, *syneidēsis*). ... Pay to all what is owed to them: taxes to whom taxes are owed, revenue to whom revenue is owed, respect to whom respect is owed, honour to whom honour is owed. (Rom. 13:5-7)

Paul's context is different from our own.³³ Indeed, our problem is that international authorities are *not* demanding the payment of taxes for the sake of good governance. But the point is that Christian people should also expect diverse forms of earthly governance to play their role within divine providence, and that this will necessarily entail questions of authority, political institutions, fear and justice.

At a time when secularist theory has no clear answer to the 'Who?' question of tax justice but moves back and forth between new cosmopolitanism and state-based realism, Christian people are obligated perhaps to think harder about international modes of earthly governance for common good. Love of neighbour is not only about personal encounter (though it remains this essentially) because God's lordship extends over all history, the world's economic and political institutions, legal authorities and structures too. Some secularist ethical theorists talk about cosmopolitanism and see the world as a 'global village' of which we are all members, where the ethical challenge is to prioritize the equality of every citizen of the world are more likely to question the morality of national leaders acting exclusively in the best interests of their own people.³⁴ Others emphasise the moral and political significance of national borders in framing the debate about international justice, with the challenge on the international stage being to help all peoples to develop domestic capacities by which to exercise fair government including the collection of taxes.³⁵

³³ Elsewhere Paul places the corrupt Roman imperial order under the judgment of God in ways that attracted opposition and imprisonment (Acts 17:7; I Cor. 2:6-8; 6:1-4; 15:24; Phil. 1:7, 2:17; I Thess. 1:10; 2:2; 2:12; 5:23). This text appears to echo Jesus' teaching in Mark 12:13-17 that tax is to be paid to whom it is due.

³⁴ E.g., Peter Singer (along with Charles Beitz and Thomas Pogge) variously argues that a concept of global distributive justice is necessary if global economic benefits are to be realized. Beitz wants to extend Rawls's 'justice as fairness' model to the global realm urging governments to seek interdependence rather than independence upon the world stage. Charles Beitz, *Political Theory and International Relations* (Princeton University Press, 1979). See also Thomas Pogge, 'Recognized and Violated by International Law: The Human Rights of the Global Poor', Delivered on Monday 17th October 2005 at the School of Public Policy, University College London. http://www2.ohchr.org/english/issues/poverty/expert/docs/Thomas_Pogge_new.pdf (accessed 12 March, 2014).

³⁵ Thus John Rawls does not reproduce the famous contractualist procedure associated with the first 'Original Position' thought experiment where participants debate with reference to familiar principles of domestic justice. Instead he suggests a 'Second Original Position' where the principles and norms of international law and practice are to be negotiated by the political representatives of peoples. Responsibility for tax justice internationally would be mediated, we may suppose, through the political

Christian people line up on either side of the debate because each side has its merits. But perhaps this is not enough.

Three points may be ventured. First, it's clear that Christian people cannot answer the 'Who?' question of tax justice solely in terms of geographical proximity. Tax is now an international issue. Second, the demands of conscience and love of neighbour can, indeed must, be mediated — at least in part — through international economic and political institutions, legal authorities and structures. Third, the simultaneity of the believer's membership of the church local *and* universal (or 'catholic') is reason to resist false polarization between citizenship of a given country and of the world, cosmopolitanism and state-based realism. Christian people have both the resources and reasons to think about the 'Who?' question of tax justice in dynamic, interactive terms that take account of the many ways in which humans (and other creatures) belong one to another.

'What?'

The precise 'what?' of tax justice will vary from place to place but requires international framing too. The common good — that is, the collaborative project of working toward the good which includes the good(s) of trade, education, cultural exchange, and such like — will look vastly different on the outskirts of a Brazilian city from that of a farming community South Africa or trading corporation in Pakistan. Fundamentally, however, to the extent that tax avoidance undermines common goods, including the renewability of trade, it hurts everyone:

the good of the city is the greater and more perfect thing to attain and to safeguard. The attainment of the good for one person alone is, to be sure, a source of satisfaction; yet to secure it for a nation and for cities is nobler and more divine.³⁶

Whether experienced as the infrastructure of a city, the air that will poison us all if polluted, the seas from which we fish, or much more, the baseline 'what?' of tax justice is the common good or our shared project of living in which individual flourishing that exceeds immediate self-interest, contractual arrangements, possessions and barter, a mode of being human and/or kind of activity wherein our own potential is held open to the future in relation to the good of all. The 'what?' of

representatives of peoples on the international stage'. John Rawls, *The Law of Peoples* (Harvard University Press, 2001), p.40.

³⁶ Aristotle, *Nicomachean Ethics* 1094b.

tax justice is less about this or that specifically than the need to keep asking the question, putting effective regulations in place, and ensuring that they are observed.

But remember! The real tragedy of the commons, as Timothy J. Gorringer writes, was not the overgrazing *per se* but the failure of community such that neighbours did not police one another and maintain standards of behaviour collectively necessary for survival and mutual flourishing.³⁷ The ‘what?’ of tax justice demands not the same arrangements as in medieval England but common ‘ownership’ of tax justice as a challenge and responsibility that belongs to all relevant parties. There is no single global ‘who?’ or answer to the ‘what?’ of global justice. The common good is a common project for the benefit of all. All are variously responsible for keeping issues of tax justice ‘live’.

In so doing, the Christian may gain strength and resolve by remembering:

- i. The world was given by God to humanity in common. To believe that humanity is created in the image of God is to believe that every person is created for good.
- ii. The common good is humanity’s shared project of living together. (It takes different form(s) at different times and places.)
- iii. Many disordered loves, including the love of money, threaten to corrupt every person’s relationship with God and neighbour, and the common project of living together for the good of all.
- iv. People matter more than profit.
- v. Profit should never be the end but only the means of economic endeavour. The end (*telos*) of trade is to supply useful products or services to individuals and communities, thus furthering common good.
- vi. Politically, economically, and otherwise advantaged parties, are under the higher obligation, within their means, to ensure the sustainability of conditions required for the practice of good trade, including appropriate taxation.

³⁷ Gorringer, *The Common Good*, p. 26.

- vii. Taxation is a significant means by which the common life of a society or people is made possible. Hence tax justice is a key consideration for local and global common good, and their interrelation.
- viii. Tax justice in Christian perspective is governed by Jesus' command to 'give back to God what is God's' (Mk 12:17), and also the imperatives to love God and neighbour (Mk 12:30-31) and 'do unto others as you would have them do unto you' (Matt. 7:12; Lk. 6:31).
- ix. Tax justice demands trading practices undistorted by deception, coercion, contrived monopolies, collusions based on bribery, and all other manipulations of market conditions to avoid 'base erosion and profit shifting'.
- x. The realities of human sinfulness mean that coercive measures in both the nation-state and international community are necessary to prevent tax evasion, restrain tax avoidance, and prevent serious dereliction with respect to the practices of good, sustainable trade.
- xi. The practicalities of tax justice will be context-specific and various but are likely to entail 'proportionate reciprocity' between all relevant parties to the trade, reciprocity being proportionate to the different values of the products or services exchanged.³⁸
- xii. The resurrection is the believer's reason not to despair and keep working for tax justice amidst the realities of injustice.

'How?'

So 'How?' How can progress be made toward tax justice? Pope Benedict XVI called for the creation of a global public authority for the service of the common good. Primarily in the context of problems with financial and monetary systems, he articulated a vision of development in which the role of public authorities at the international level was more clearly defined.³⁹ In continuity with much Catholic social teaching, *Caritas in Veritate* urged the fundamental rights of every individual to food, water, and conditions conducive to their economic growth, approaches to

³⁸ Acknowledge Joan Lockwood O'Donovan's paper on Franciscan ethics.

³⁹ *Caritas in Veritate*, §6. See also 24 October 2011 Pontifical Council for Justice and Peace and released on Monday, Towards Reforming the International Financial and Monetary Systems in the Context of a Global Public Authority.

business enterprise that involve a wide range of social values (41), and an approach to globalization that does not succumb to fatalism but defines the role of public authorities, nationally and internationally, more clearly — with a view to respecting the rights of workers, meeting our duties toward the natural environment, and giving rise to a market that is ‘not only more civilized but also more competitive’ (46).

Many have criticised the inclusion of the call by Pope Benedict for the creation of a global public authority as reflecting the worst aspects of Roman Catholic hierarchy and belief that a strong international institution, similar to the Vatican in its governance of the Roman Catholic world, as controversial and uncomfortable for those who advocate minimally regulated markets.⁴⁰ Benedict XVI was explicit however, in appealing to the principle of subsidiarity:

In order not to produce a dangerous universal power of a tyrannical nature, the governance of globalization must be marked by subsidiarity, articulated into several layers and involving different levels that can work together. Globalization certainly requires authority, insofar as it poses the problem of a global common good that needs to be pursued. This authority, however, must be organized in a subsidiary and stratified way[138], if it is not to infringe upon freedom and if it is to yield effective results in practice.⁴¹

His priority, however, was the development of national and international infra structures to ensure just and equitable trade that can be beneficial to everyone.

We need both a ‘bottom up’ or transactional approach to the development of good trading and taxation practices (as outlined above) and the kind of ‘top down’ reform of the United Nations Organization, economic institutions and international finance, highlighted by Pope Benedict. A ‘bottom up’, transactional approach to good trading and taxation practices demands moral leadership from CEOs, shareholders, business people of all description, and more. Reform ‘from above’ approach requires the co-operation of world leaders, transnational companies, as well as the NGOs, if to succeed, to which end the G8 Lough Erne Declaration 2013 currently provides a reasonable set of objectives:

1. Tax authorities across the world should automatically share information to fight the scourge of tax evasion.

⁴⁰ Michael Novak http://www.nytimes.com/2009/07/08/world/europe/08pope.html?_r=0 (accessed 12 March, 2014).

⁴¹ *Caritas in Veritate*, §57.

2. Countries should change rules that let companies shift their profits across borders to avoid taxes, and multinationals should report to tax authorities what tax they pay where.
3. Companies should know who really owns them and tax collectors and law enforcers should be able to obtain this information easily.
4. Developing countries should have the information and capacity to collect the taxes owed them – and other countries have a duty to help them.
5. Extractive companies should report payments to all governments - and governments should publish income from such companies.⁴²

For What am I Responsible?

It seems a long way from international issues of tax avoidance to our living rooms but the bible and Christian tradition bear consistent witness that living responsibly before God is properly and centrally concerned with questions about social justice, including taxation. Few of us can act significantly on the international stage but this is not the extent of responsibility. We can all shop differently, learn more about how tax havens work, investigate further the economic, technical and political complexities involved, ask the ‘Who?’ question of tax justice that keeps us close to the faces and lives of all affected by tax avoidance, allow thinking locally about tax justice and common good to inform our thinking globally, and *vice versa*. ‘Politics is not the naked operation of power or an ethics-free agonism, it is an ethical practice that is driven by a response to situated injustices and wrongs’.⁴³ And something *has* gone wrong when the citizens of those countries in which products are sold and profits made do not benefit from the payments properly imposed and required by governments in order to meet public needs.

⁴² G8 Loch Erne Declaration
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207543/180613_LOUGH_ERNE_DECLARATION.pdf.

⁴³ Simon Critchely, *Infinitely Demanding* (Verso, 2007), p. 132.