

## DEVELOPING FISCAL LEGITIMACY BY BUILDING STATE-SOCIETAL TRUST IN AFRICAN COUNTRIES

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### Abstract

Developing countries continue to face the challenge of creating state-society trust and, in turn, compliant taxpayers. This endeavour is hampered by, amongst other things, state inefficiencies, inequalities and corruption, and a lack of accountability, responsibility and transparency, which continue to exist in developing countries, potentially resulting in unfair and unjust government administrations. The impact that a government and its tax administration have, through practices (either real or perceived) relating to these challenges, has an effect on taxpayers' compliance and trust in government. This article analyses elements of fiscal legitimacy of the fiscal state and posits that, in trying to widen a developing country's tax base and increase taxes, one must understand how to build taxpayer compliance. Using African examples, this article reflects on the context of taxpayers in African countries and the ways in which a state can go about building a culture of compliance and trust between state and citizens.

### 1. INTRODUCTION

Tax revenues, which are essential for development, are structurally falling short. Domestic regional, continental and global fiscal systems have not been properly designed and implemented, with poor legal and regulatory systems and even weaker enforcement systems being in place. The state is unable to keep up with modern developments in the economy. As a result, tax evasion and illicit financial flows are widespread, the tax base is too narrow, and the payment of taxes and tax morality are not embedded into the social fabric of states. Tax, however, is not solely to be viewed as a technical matter – it is at the heart of nation-building, politics and social justice (Martin, Mehrotra, & Prasad, 2009). Taxes are at the heart of the social contract between citizens and the state (OECD, 2012). Tax both shapes government legitimacy and promotes public accountability to tax-paying residents (Di John, 2009). However, weak political institutions and poor administrative capacities represent major constraints (The IMF, OECD, UN and World Bank, 2011). In Kenya, for example, when the current president was asked, in 2013, what he was intending to do to curb corruption, his response was that he could do nothing. This has, arguably, led to a spiralling increase in corruption within the state administration and a discourse in general society suggesting that there is no need to pay taxes as the money is all being stolen. Recent corruption scandals which have appeared in the press, such as that involving the National Youth Service, have reinforced this idea (Mukinda & Lang'at, 2018).

Public goods have become the property of the privileged few. Many countries on the continent do not provide good health care and many people are left to their own devices, making out-of-pocket payments as well as using insurance schemes when faced with medical problems (Tafirenyika, 2016). However, the limited public health services available in Kenya are not being maintained

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and staff are not well paid. In Kenya, doctors and nurses were on strike for several months in 2017, crippling the public health care system (Oketch, 2017). The academic staff in the universities were also on strike for more than four months last year, delaying the graduation of the students and, again, leading to a breakdown in the system and a compromise in the quality of local degrees (Wanzala, 2018). As a result, impunity, corruption, fraud and capital flight have become the norm.

Even when the system has been designed well, the regulatory environment does not work and enforcement is often subject to political whims and economic interests. The pressure on more developed governments to give preferential treatment to their multinational companies in lesser developed countries when granting tax advantages and exemptions is also high (Morisset & Pirnia, 2000). Although the traditional answer to the question of how best to increase revenues seems to rest on improved collections, one of the ways by which collections can be increased in developing and post-conflict states is to make a clearer link in the minds of citizens that taxes are, in fact, being used for their benefit, thus converting them from unwilling to willing and compliant taxpayers who then contribute to the state (Björklund Larsen, 2018).

A good state-led development policy, if disseminated properly, can be used to make the case that taxpayers' money, i.e. residents' money, has been used to improve their lives. Improvements to living standards must be linked to taxes as clearly as possible through proper tax collection, media awareness campaigns, and finance and tax literacy classes, as well as in a clear taxpayers' charter (Cvrilje, 2015). Unfortunately, there will always be tax evaders and, as a result, this article will move forward on the premise that there will never be a perfect solution, only a suboptimal compromise. However, in order for this compromise to be predominantly positive and progressive, the policy must begin with the dissemination of information about effective and efficient expenditure systems which are carried out transparently, accountably and responsibly, through a decision-making process that is fair and just in the eyes of society at large.

This article will consider the perspectives of the state and society in order to investigate the reasons for tax collection, the importance of taxes and the roles that both parties have to play. The state plays an oversight role in spending emanating from the levy and collection of taxes. If the relationship between taxes and spending is not carefully handled, the fiscal legitimacy of the state is potentially undermined through an erosion of taxpayer compliance. The focus of this article will be to delve into the structure, composition and actions of revenue authorities in their interactions with tax compliance and societal trust, as they grapple with how to achieve a tax collection system that works *with* rather than *against* fiscal legitimacy.

The analysis will be based on the theory that, firstly, one needs to build societal confidence in a state in order to collect taxes and, secondly, that the collection of taxes is an affirmation of societal confidence based on the willingness of the taxpayer. In an era of fiscal crisis, it is critical to ensure that taxpayers remain willing to comply. The manner in which to approach this, in a developing state, becomes critical for the financial survival of that state. As a result, this article is broken down into several parts. Part 1 introduces the issue. Part 2 explores the concept of fiscal legitimacy and the theory of the fiscal state as a mechanism by which to develop taxpayer compliance. Part 3 charts the practical problems with tax compliance in African fiscal states as elements within the rubric of fiscal legitimacy. Part 4 makes recommendations and Part 5 concludes.

## 2. BUILDING FISCAL LEGITIMACY

Fiscal legitimacy consists of the trust that the society has in the state and is expressed by a continuing willingness to pay taxes. Fiscal legitimacy has seven characteristics: the transparency, accountability, responsibility, effectiveness and efficiency, and fairness and justice of a tax system (Waris & van Kommer, 2011). However, the question of who is responsible for the system when it comes to achieving fiscal legitimacy remains a challenging one and the stakeholders in this process include the domestic society, state, donors, international institutions, educators, taxpayers and the media (Waris, 2013a).

It is impossible to discuss all elements of these very broad concepts within one paper and, as a result, this paper will identify and focus on the challenges of trust and taxpayer compliance facing most African countries for each of the seven concepts, which will be grouped together as follows:

- Fairness and justice.
- Transparency and accountability.
- Responsibility.
- Efficiency and effectiveness.

Undermining any of these concepts potentially results in some form of taxpayer non-compliance which, in turn, leads to an unfair distribution of the tax burden and a reduction in the resources available for redistribution. Before examining these seven characteristics of fiscal legitimacy, the article first explores the fiscal state, its typology and its relationship to tax compliance.

### 2.1 The Fiscal State and the Social Contract

Schumpeter argued that a good fiscal administration could delay or even avoid a fiscal crisis (Schumpeter, 1918). He stated, in his analysis of the collapse of the Austrian tax state, that its failure was not merely to do with the budgetary crisis, but was also a superficial sign of the link between fiscal affairs, the social structure and the understanding of its historical structure (Musgrave, 1992). In delineating the development of states into two types, Schumpeter broadly set out the characteristics that feature in the transition of a state from a domain state to a tax state (Schumpeter, 1918, pp. 102-116). Subsequently, in 1987, Kruger proposed a model of transition of a state from a domain to a tax state, based on Schumpeter's analysis (Ormrod, 1999).

In 1999, Ormrod and Bonney analysed Schumpeter and Kruger's models and supplemented them to create a typology of the stages of development of the fiscal state. They posited that there was a necessity to build upon the Schumpeter-Kruger "model for two reasons. Firstly, it was too limited to a particular era and part of Europe. Secondly, it failed to address the issue of the interaction between expenditure, revenue and credit, and the causes of instability and change in a fiscal system" (Waris & van Kommer, 2011). Instead, they argued that Schumpeter had posited that public expenditure was a circumstance to which tax must adjust, which has been supported by others (Musgrave, 1992, p.103). The Ormrod-Bonney (OB) model identifies several characteristics of states that can be used to distinguish states' different historical forms based on their levels of fiscal development, specifically: financial theory; form of government; central administration; local administration; office holders; state responsibilities; method of financing; public finance;

expenditure; revenues; credit structure; role in economy; economic policy; public enterprises; political participation; social consequences; statistics; and causes of instability / precipitants of change in the system. However, their analysis was based on the development of European states. Subsequently, there has been an attempt to begin to analyse the status of developing countries, in particular, Kenya (Waris, 2013a). Waris begins to categorise it using the OB model and adding inhuman rights as an indicator. A further reading of the model, however, makes one feel that, in the case of developing states, there are other requisite changes that need to be accounted for. Since then, scholars have added further features, including the structure of African tax administrations (Waris & van Kommer, 2011), and tax literacy in Rwanda and, more recently, South Sudan (Waris & Murangwa, 2012).

The OB model, developed through the historical analysis of European states, set out key indicators but did not explore the principles that developed in a society leading to the improvements in the indicators. This gap was subsequently addressed by Waris through an analysis of the OB Model while reflecting on, and developing, the principles of fiscal legitimacy (Waris, 2010). However, fiscal systems and models are, at best, suboptimal and a compromise between limited resources and unlimited requirements. It is accepted that no state's development mirrors another. While recognising the incompleteness of any solution, an attempt is undertaken in this section to utilise fiscal sociology and fiscal legitimacy, so as to draw a parallel between their diverse developmental processes and chart a way forward for the building of taxpayer compliance based on the direction African states have taken. The ensuing analysis will proceed on that basis, although all states may not, and should not necessarily, emulate the European experience in order to build state-societal trust and tax compliance. The next subsection will set out the principles of fiscal legitimacy in the context of tax compliance.

## **2.2 Fairness and Justice**

The influential, fourteenth-century, African historian, Ibn Khaldun, developed what is today referred to as the natural law view of justice. His perspective is different from that of Adam Smith and, basically, Ibn Khaldun argues that justice is an umbrella principle which must be considered when looking at all other tax principles (Waris & Latif, 2015). This paper will move forward on the grounds that, while fiscal legitimacy encompasses the seven principles set out, these two principles, fairness and justice, remain the umbrella principles, as argued by Ibn Khaldun, under which all others should be applied.

Ibn Khaldun's argument is, for example, reflected in the U.S. taxpayers charter, which lists ten rights, including the right to a fair and just system.<sup>2</sup> However, the terms of justice are traditionally for human taxpayers, while these are for all taxpayers, human and non-human. As a result, one must not confuse human rights under the Universal Declaration of Human Rights with taxpayers' rights under the taxpayer charters that are being developed globally. There are arguments for different types of fairness for companies versus individuals and domestic versus cross-border activities.

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<sup>2</sup> IR 2014-72. Other rights include the right to be informed; quality service; pay correct amount; IRS position challenge; appeal; finality, privacy, certainty retain representation.

When reflecting upon fairness and justice in respect of a society and its people, odd spending decisions can be pinpointed, especially in the context of development and its failure to tie spending and capacity-building to the national development plan of a state. For example, the Rwandan government insists that all donor aid spending must tie in with the state's National Development Plan, which shows the achievement of development priorities agreed upon with the society annually (Government of Rwanda, 2006). However, in 2014, the UK's Department for International Development funded the revenue authority, Her Majesty's Revenue and Customs (HMRC), to go to the Republic of South Sudan to train staff on transfer pricing. In a country where the nation is still in conflict, and the domestic society has never paid taxes and has no domestic education system in place at all, and where more than 90% of the population live on less than 50 US cents a day, to train staff on transfer pricing – a complex and often misunderstood law that takes years to understand – adds complexity to laws in a state that should be focussing on simple laws and the broadening of the domestic tax base through literacy and tax literacy campaigns.

Most African countries that receive aid or take loans from the International Monetary Fund (IMF) do not get to decide on their tax policies and, as a result, are constrained to implement what an institution that is not part of the society decides on their behalf. 19 African countries have had loans from the IMF in 2018 ("The IMF Is Back in Africa", 2017). From these few examples, one can see that fairness and justice must be placed in a domestic context and must answer domestic needs and requirements without undermining the governance of a state. However, in the case of fairness and justice, the result is always as affected by perception as it is by reality (openAfrica, 2015).

### **2.3 Transparency and accountability**

Transparency and accountability work hand in hand in two ways, firstly, in terms of the information being provided to tax authorities by taxpayers and, secondly, in terms of the information being provided to them by other revenue authorities and the information being provided by the government and revenue authority to their taxpayers. Without confidence in the system and trust, there cannot be integrity and, therefore, accountability and transparency go hand in hand. This needs to be balanced against the right to privacy, as well as taxpayer literacy and knowledge. More and more information is being released into the public domain, but not all African countries currently have freedom of information legislation and, even when they do, this is not always extended to taxation.

Access to information includes the ability of a citizen to obtain information in the possession of the state. That means real information, which is useful, practical and capable of helping the citizen to form an informed opinion about an issue. Unhindered access to information, in addition to being regarded as an essential ingredient in democratic governance, is regarded as a fundamental human right (Arko-Cobbah, 2007). Where freedom of information (FOI) is absent in a national legislative framework, citizens cannot effectively access information about basic services, fully participate in the social and economic development of their country, or hold their government accountable for public spending, which can, in turn, adversely affect their rights to health, employment and education, and their capacity to fight corruption (Mohan, 2014). Poor access to information disproportionately affects women, children, the poor and the marginalised, who are often adversely affected by a lack of vital information with respect to their legal, political and economic rights.

Furthermore, it negatively affects economic growth and development, where inadequate mechanisms for sharing information are often attributed to slow progress (Mohan, 2014).

Prior to 2011, the number of African countries with FOI legislation stood at five, representing just 9% of the continent; this number has since increased to 13, representing 24% of all countries in Africa. Currently, South Africa, Angola, Zimbabwe, Uganda, Sierra Leone, Côte D'Ivoire, Nigeria, Niger, Ethiopia, Rwanda, Tunisia, Guinea and Liberia have all adopted FOI laws (Mohan, 2014). A study by the African Platform on Access to Information (APAI) examined the state of access to information in 14 countries in Sub-Saharan Africa. It found that, in addition to existing legislation, 65% of the countries surveyed had more specific sectoral laws that supported the right of access to information (Mohan, 2014). The study found that in countries where no specific FOI rights existed – including Senegal, Tanzania, Zambia, Kenya and the Democratic Republic of the Congo – sectoral laws often provided an alternative mechanism by which citizens could access information. In the Democratic Republic of the Congo, for example, laws such as the mining code had been used to ensure greater access to, and disclosure of, information (Mohan, 2014). Mining communities have used the act to seek information about mining revenues and the amounts they are entitled to, as well as how licences are allocated (Mohan, 2014). Other examples of such laws include whistle-blower protection, data protection, public procurement, fiscal responsibility and extractive industry transparency initiative acts (Mohan, 2014).

In Angola, the biggest question related to freedom of information is: what has happened to the country's oil wealth? Angola has a freedom of information law in place, but it has no constitutional foundation other than parliamentary initiative (Darch & Underwood, 2010). In the Democratic Republic of the Congo, the 2002 Mining Code clearly establishes the procedures for obtaining licenses (Democratic Republic of the Congo, 2002). However, state-owned companies (SOCs) still hold many of the most lucrative titles and have signed numerous joint-venture contracts under opaque circumstances, undermining the competitive provisions of the Mining Code (Revenue Watch Institute, 2013). There is no equivalent of a Freedom of Information Act (Revenue Watch Institute, 2013). In addition, it remains unclear as to which royalties actually flow into the national treasury. In Mozambique, the government makes much information freely available. However, the media do not use it to hold the political class accountable in new ways and a draft access law has not gained widespread support (Darch & Underwood, 2010).

Tanzania provides some information about mineral production and revenue, but its failure to publish mining contracts and a lack of available data on the state-owned mining company contributes to a weak governance regime (EITI, 2017). Little information is available about the mineral licensing process before licences are granted (EITI, 2017). Once mining rights have been awarded, information is only available in a complex digital format for a fee and environmental impact assessments, which are often not submitted before a licence is granted, are released only upon request. In addition, Parliament does not regularly review mining earnings. Meanwhile, in South Africa, the laws on access to information are regarded as the "gold standard", but the government does not publish mining contracts or environmental impact assessments and the Mineral Resources Department regularly ignores requests for information, violating the provisions of the Promotion of Access to Information Act (Darch & Underwood, 2010).

Generalist or tabloid media cause a crucial block and their effect on transparency is crucial. Taxpayer rights would be problematic without a free, aggressive media. There must be no secrecy-based laws. The government, as the steward of the resources of the country, could be tempted into corruption and other forms of maladministration where there is no transparency or accompanying accountability. Throughout the world, therefore, there is a demand for more open, democratic, responsive and accountable governments. The key way in which this is being achieved is through transparency and increased access to information, which is the key to increasing taxpayer knowledge and improving taxpayer literacy, as well as to maintaining check and balance between the state and society.

Although accountability works with transparency, as discussed above, it is crucial that it can hold both government and taxpayers accountable in its own right. In addition, the right to a remedy varies between the substantive dispute in the case of bigger taxpayers while, on the other hand, smaller taxpayers may focus more on the amount due. However, accountability demands that all be held accountable. In light of scandals like the Panama Papers, LuxLeaks, WikiLeaks, SwissLeaks, more than 9.8 billion individual disclosures of information are said to have taken place. The sheer size of information exchange actually taking place is mammoth and governments must be able to hold taxpayers accountable for this.

Concerns being raised, for example, in dispute resolution processes, reflect on whether the taxpayer is present, visible and has a right of reply, and therefore a basis for challenging any decision. Transparency is a crucial component, even within accountability, and, as a result, cases should be made public, reports released and settlements shared, so all members of society are treated equally. When preference is shown in an accountability process, that process is undermined. In some African countries, like Rwanda, revenue decisions and tribunal decisions are currently made public. In Kenya, however, they are confidential, causing concern over the accountability of government. Perceptions of issues like corruption can often be stronger than the real level of corruption and accountability may actually protect the state.

## **2.4 Responsibility**

When it comes to taxpayers' rights, literacy and knowledge dissemination, the enforcement and the responsibility for enforcement would fall under the educational mechanisms of the country in question. Responsibility also needs to be taken for providing citizens with feedback. Indeed, delaying in doing so can increase perceptions that the system is unjust and unfair. However, the government is responsible to society and its citizens in respect of reporting failures to comply with the law and then following the courses of legal and disciplinary action set out by the law. The questions that then arise are: are cases of tax evasion noted? Are suspected tax evaders charged in court and tried? When found guilty, are they incarcerated? The biggest problems facing most African countries rest on their failure to proceed on issues of criminal responsibility. While limitations on the cross-border enforcement of tax liabilities impede governments in their efforts towards holding foreign nationals and corporations to account, actions on the domestic front can, depending on the country in question, be limited in a similar way. In Rwanda and Kenya, as well as in many other African countries, domestic businesses are padlocked if they fail to pay their taxes: revenue officers arrive and actually place padlocks on business premises, effectively preventing the owners and employees from entering them.

However, in Libya, Tunisia and Morocco, perception of corruption remains high, with a study carried out in 2014 showing that one of the identified causes of the Arab Spring was corruption (Teti & Abbott, 2017). In South Africa, during the 2014/5 financial year, 256 individuals/entities were convicted in cases involving R196 million and fines totalling R9.6 million were issued. An effective 555 years of imprisonment, 258 months of correctional supervision and 2480 hours of community service were handed down to those convicted. In terms of the different crimes involved, there were 32 convictions for VAT fraud, 73 convictions for income tax fraud, eight for tobacco-related crimes and nine involving the construction industry (largely for tender fraud), amongst others (South African Revenue Service, 2015).

Since most African countries pick the right to remedy from the human rights paradigm, it is important to ensure that developing countries' governments make it clear whether taxpayers rights would be tied into this particular right and, perhaps, nuance the article carefully to exclude the issue where the African Approach, as set out in the African Commission on Human and Peoples' Rights (ACHPR), is being followed, as is the case in all African countries since they are signatories to the ACHPR. Actions like these do not only show responsibility by the government actors and the revenue authority, but also show the government's intention to set up an effective and efficient system.

## **2.5 Efficiency and Effectiveness**

An efficient and effective system is one with minimal delays and with fairness and justice imbued in the process. However, this is not just about what is being done, but how and where it is being done. One of the biggest concerns now facing developing countries is where to limit the powers of revenue authorities or tax offices and where to place other matters of concern. Taxpayer literacy has been housed with the revenue authorities for a long time, but incidents in Kenya, Rwanda and several other African countries have shown that taxpayers are afraid to go to tax authorities or tax offices for guidance on filling in returns, as they fear that they will then be audited. As a result, taxpayer literacy ought to be housed in a different space. The next section will analyse the approach taken by governments in Africa to increase taxpayer compliance while reflecting on the need to have a system that builds the fiscal legitimacy of the state.

## **3. FISCAL LEGITIMACY THROUGH TAXPAYER COMPLIANCE IN AFRICA**

There are several settled methods of improving taxpayer compliance. The common themes used to evaluate compliance usually include: integrity and equality; certainty, efficiency and effectiveness; appeal mechanisms and dispute resolution; appropriate assistance, confidentiality and privacy; accuracy in determining liability; representation; and honesty. These are all sub-themes of the principles of fiscal legitimacy. However, before you can delve into this, you need to assess who your taxpayers are and ought to be. This subsection will first set out how and where tax compliance is administered in African countries, before elaborating upon three strategies for the development of taxpayer compliance – tax literacy, simplified laws and a risk-based verification programme – and how these strategies are operationalised on the African continent.



### 3.1.1 Unpacking Taxpayer Compliance through the Revenue Administration

Initially, each African government ran a tax office under the Ministry of Finance. However, as part of structural reforms which have been spearheaded by the IMF since the 1990s, African states were required to set up semi-autonomous revenue agencies as part of loan conditionalities (Ayee, 2005). Today, revenue authorities in African countries tend to be structured in one of two ways: either as a tax office housed physically within a ministry of finance or as a revenue agency that is semi-autonomous and separate from the ministry (Crandall & Kidd, 2010).

The country status is set out in Table 1, below.

**Table 1: Types of Revenue Administrations in Africa**

<b>Revenue Authorities</b>	<b>Tax Office within Treasury</b>
Angola, Burundi, Egypt, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, Sierra Leone, South Africa, South Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, Zimbabwe.	Algeria, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Côte d'Ivoire, Djibouti, Republic of the Congo (Brazzaville), Equatorial Guinea, Eritrea, Gabon, Guinea, Guinea-Bissau, Libya, Madagascar, Mali, Mauritania, Morocco, Niger, Nigeria, São Tomé and Príncipe, Senegal, Sudan, Tunisia, Western Sahara.
(24 countries)	(30 countries)

*Source: Author*

In 2018, the African continent seems to be equally split on whether to have a tax office or revenue authority. The table above also shows that the Anglophone countries tend to have revenue authorities while the francophone ones retain tax offices. Several key operational differences have started to emerge as a result of the adoption of the semi-autonomous model rather than the older model of the in-built tax office. These differences are set out in Table 2.

**Table 2: Legal Framework for Revenue Administration and Taxpayer Compliance in Africa**

	<b>Revenue Authority</b>	<b>Tax Office</b>
Connection to the Ministry of Finance	Semi-autonomous: physically separate but still under the ministry.	A department within the ministry.
Constitutional mandate	Constitutionally created.	Not necessarily referenced in the constitution.
Legislative Mandate	Usually has an act creating it.	No separate act to give the office mandate.
Policy Space	Lost space to the Ministry of Finance.	Housed in the Ministry of Finance, so tends to have better linkages to policymakers.
Separate Legislation for Types of Taxes and Procedures	Yes.	Yes.
Office of Taxpayer Education	Yes.	No (Ministry of Education).
Risk-Based Verification Programme	Yes.	Yes.

*Source: Author*

The table above shows that the tasks carried out by the two types of agency seem to be predominantly similar, with two exceptions. First, with regard to the development of laws and policies, there were no law and policy offices within the revenue authorities and, even after transition, these remain housed in the Ministry of Finance, whereas, in the tax office model, agencies maintain their law and policy spaces. Second, the function of taxpayer education seems to be housed in the revenue authority while the traditional space was within the Ministry of Education. However, since the IMF continues to advocate for these revenue authorities to be set up, the challenge to taxpayer compliance remains unaddressed. The following subsections will analyse the three elements of tax literacy, simplification of laws and risk-based verification in order to assess their effectiveness.

### **3.1.2 Tax Literacy and Legitimacy**

Improving tax literacy is already a challenge for many countries in the developing world, including those in Africa. Achieving financial literacy is a step that can only be taken after literacy has been achieved. Tax literacy thus becomes a third step and, since literacy remains weak, improving the tax literacy of local rural and urban populations, so that they understand the following five points, has not been prioritised in most African states:

1. All members of society are taxpayers, whether through direct or indirect taxes.
2. All members of society are supposed to pay taxes.
3. Taxes are supposed to be collected for a purpose.
4. All state resources belong to the people and ought to be used on their behalf for communal, and sometimes specific, purposes.
5. The collection and use of tax must be in line with the constitution and laws of the state, which reflect the people and society, and which they understand.

As a result, tax literacy does not depend on the sophistication of the tax system, although it does play a particularly important role when a state is developing. However, what does matter is who is selected to be the communicator of the information for purposes of tax literacy. In many African countries, during the colonial era, refusal to pay taxes was an act of civil disobedience, and tax collectors were feared and avoided (Tarus, 2004). To use a tax administrator to build tax literacy is an exercise in futility; this task needs to be the responsibility of a non-threatening ministry, like education. In Kenya, for example, this is carried out by the revenue authority and, more often than not, the information desk has no customers. In Rwanda, attempts to improve tax literacy within companies resulted in people shutting their shops and disappearing when they saw the tax collectors coming.

Advancement through the indicators of the development of the fiscal state, as set out in section 2.1. above, can be directly linked to tax compliance and morale, as citizens tend to refuse to comply and have low morale where governance is poorly managed and where there is evidence of non-tariff barriers, like corruption. Tax literacy becomes critical, especially in developing countries, where confidence in the state is low and governments are perceived as being incapable of carrying out the mandates that societies have granted them. The direct link between state-societal trust, tax compliance and the legitimacy of the fiscal state lies here.

### **3.1.3 Simplified Laws, Policies, Regulations and Procedures**

One area that is frequently ignored is the need for developing countries to simplify their systems and the way in which they communicate with their citizens. The previous subsection looked at what needs to be communicated, but this section will focus on how, i.e. simply. This subsection focusses its attention on this particular challenge for securing compliance.

Firstly, laws must reflect society. The tax laws currently in place in developing countries are frequently those that were inherited during colonisation. Most former British colonies continue to operate variations of the colonial Model Income Tax Ordinance (1922). Using laws like this, which were clearly developed to remit revenue to the imperial state, and which do not take modern developments and the present realities of the African continent into account, cannot help but be problematic.

Secondly, taxpayer education and assistance programmes help taxpayers and their advisors understand their obligations and entitlements, on the basis that taxpayers cannot comply if they do not understand the tax laws and procedures (United Nations, 2000). The language of laws enacted must reflect the literacy level in a state and of the population they seek to administer. Legitimacy can only be built if the laws that are mandatory are in the language that people communicate in, such as vernacular languages, and use words that allow for easy compliance.

Thirdly, these programmes should be completely reliant on simple laws and procedures that make it easier and less expensive for taxpayers to comply with their obligations and access their entitlements (World Bank, 2004). It is common knowledge that taxpayers may not voluntarily comply if the tax system itself makes it too difficult or too expensive for them to meet their obligations. Mandatory use of electronic self-assessment filing and use of tax agents in Kenya, for

example, simply makes it harder for people to comply in a country where there are frequent electricity cuts and where the internet has not reached all parts of the country.

Finally, the taxpayers need to see results of their contribution, i.e. receive feedback from the government on the collections made. For example, in Rwanda, on Taxpayers' Day, citizens receive feedback on the collections made and the percentage of the national budget that these represent (Waris & Murangwa, 2012). This adds to the growth of tax morale, state-societal trust and tax compliance, as members of the taxpaying community get feedback on the contribution they make as corporations or individuals (Waris & Murangwa, 2012).

### **3.1.4 Risk-Based Verification Programme**

Traditionally, tax non-compliance has been dealt with through stringent responses, such as risk-based verification programmes, which counteract poor compliance behaviour by detecting and deterring non-compliance through the use of risk management approaches (OECD, Forum for Tax Administration Compliance Sub-Group, 2004). Arguably, taxpayers are more likely to comply if they perceive that there is a strong chance of detection and see blatant non-compliers being brought to account. Increasingly, information and communications technology are playing critical roles in compliance management (through, for example: the automatic gathering of third-party information as a by-product of natural business processes; the use of electronic invoices to facilitate real-time transaction monitoring and verification; and the analysis of revenue risks) (OECD, Forum for Tax Administration Compliance Sub-Group, 2004).

The analyses of taxpayer compliance are usually the responsibility of the tax administrations and this, unfortunately, is not a burden they have created or, indeed, should shoulder. The presumption is that revenue and expenditure are unrelated when, in actuality, they are related. Whenever tax collectors speak about their collections, they are usually questioned on the use of tax literacy programmes, information that they are not privy to. In addition, these types of risk-based verification programmes are crippled by countries emerging from conflict who do not have enough electricity available, let alone the resources to purchase systems like this for their states. As a result, forcing compliance through systems of this nature tend to predominantly fail on the continent. However, in Kenya, all persons applying for public office are required to have tax compliance certificates, although people are, incidentally, still able to receive these and be interviewed despite the fact there are pending cases against them in court, as in the case of the Kenya Power (KPLC) directors (Mutavi, 2018).

## **4. RECOMMENDATIONS: CHANGING TAXPAYER CULTURE**

It is impossible to change all parts of taxpayer culture and, as a result, focussing on prioritised areas on an annual basis may be crucial if there is to be a change in the culture which will, in turn, build the legitimacy of the state. However, the one set of principles that should be consistently maintained is the principles of fairness and justice. If these principles were to be compromised, it would conflict with idea of a system built on legitimacy of the state through the viewpoint of society. As the social contract continues to develop, it is important that there is a statutory basis; that includes obligations and rights which are linked and that also reflect culture and behaviour.

One of the main challenges that seem to arise from the analysis is the misplacement of tasks within government in order to achieve taxpayer compliance. Table 3, below, sets out the possible challenges facing the different arms of government where elements of taxpayer compliance seem to be housed and recommendations in respect of where they should be moved.

**Table 3: Agency Change Recommendations**

	Challenge	Recommended Responsible Agency
Transparency	The figures and their access.	Bureau of Statistics.
Accountability	Corruption; relationship with the Ministry of Finance.	Better linkages between agencies.
Responsibility	Taxpayers education...misplaced in Revenue Agency/Tax administration.	Ministry of Education.
Efficiency	IT and its limitations in African countries.	Phased implementation; electricity; internet; education.
Effectiveness	The antagonism it creates.	Development resulting from collections.
Fairness	More tax from those more able to pay; incentives; tax holidays.	Ministry of Finance and other industry-based agencies.
Justice	The robustness of the legal system.	Ministry of Education.

*Source: Author*

## 5. CONCLUSION

Good governance paves the way to fiscal legitimacy by building people's faith in the state and ensuring their acceptance of its laws and policies. Good governance has become the centre of attention for many post-colonial fiscal states in the drive to improve efficiency and effectiveness through transparency, accountability and responsibility in order to be both just and fair. States can enhance fiscal legitimacy by: firstly, involving independent third parties (third parties do not include the government but can include citizens and watchdog institutions within a state) in the auditing and evaluation of public policies to strengthen transparency and accountability; secondly, promoting better, fairer and more transparent spending; and, thirdly, broadening the tax base and making tax systems fairer and more balanced. Finally, in the African context, it is important to reinforce the capacity, authority and accountability of subnational government bodies. Fiscal legitimacy is not only an issue of capacity; in addition to strengthening a state's administrative capabilities, societal participation and open and informed debate can result in more transparency. Independent actors with the capacity and the financial independence to carry out critical evaluations of policies and proposed reforms can also contribute to the development of good governance and fiscal legitimacy (Waris, 2013b, p. 155).

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