“Tax And Tax Justice: Expanding The Frontiers of Public Finance”

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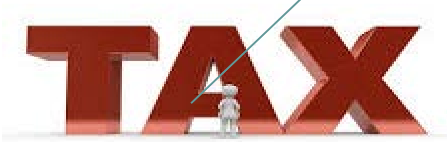
OVERVIEW

- Opening Shot
- Introduction
- Relationship Between Taxation, Tax Justice and Public Services/Public Finance
- Sources and Means of Disbursing Government Revenue
- Roles of the Nigerian Government in the Use of Public Finance to the Benefit of the Citizenry
- Tax Justice in Nigeria: How Far?
- Areas Requiring Review
- Canadian Experience

1. Opening Shot

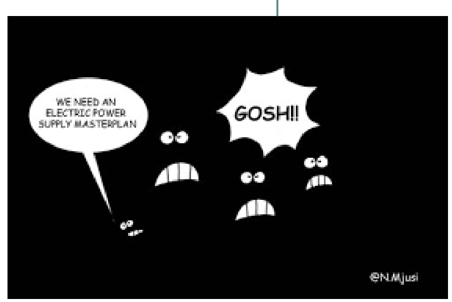


(2016)

₦2,000

(2018)

₦12,000



"Tax Justice" demands that taxpayers who bear the brunt of paying taxes on their hard-earned income must continue to perceive, enjoy and realize the dividends accruing from such taxes as the taxpayers are being compelled to pay over to the government every month or year. Leading to these questions:

- In which equitable and justiciable manner has Nigeria exercised its taxing powers and taxing jurisdiction?;
- What are the driving policies behind the spending of revenue accruing from internal and domestic sources?;
- What has the Nigerian government achieved with internal revenue accruing to the federal, states, & local governments via the taxes, royalties, licenses, and fees accruing from the exploration of natural resources and taxes imposed on corporate entities within Nigerian jurisdiction?; and
- Whether the current domestic revenue generation and spending policies in Nigeria promote Tax Justice?

Opening Shot

The above questions are important because over the years, Nigerian economic policy and its resource dependency have promoted

- **Outward looking accountability**
- **While undermining internal accountability of rulers to citizens,**
- **Entrenching unequal power relations, and**
- **Lack of effective representation of citizens in policy making spaces.**

There is little or no Tax Justice in policy making in Nigeria.

2. INTRODUCTION

In Nigeria, tax revenue has an impact on economic development, while tax evasion and avoidance has negative consequences, with Nigerian citizens being encouraged to pay tax.

Generally, taxes paid by the citizenry are meant to support the government towards providing social services and development projects, hence when that contract becomes unfulfilled, the government would find it very difficult to secure the citizens’ support.

What are the effects of the absence of Tax Justice?.

The absence of a justiciable environment whereby taxpayers should be witnessing a translation of increasing tax revenue leading to the improvement of their lives will occasion a discouragement and perceived injustice, especially in a country riddled with corruption such as Nigeria, as corruption prevents the translation of increased revenue from leading to massive improvement in infrastructure, job creation, improved standard of living, fairness, creation of a prosperous environment, and/or protection of the underprivileged citizens. This leads to:

- **Rising inequality and the underfunding of Quality Public Service (QPS), such as health and social services, as the essentials of a good taxation system depend on a progressive taxation system when higher income groups pay more tax than lower income groups**; and

- **Absence of an effective government tax authority, that is competent to collect taxes since this depends on well-paid tax inspectors, a lack of corruption and transparency of personal and corporate financial information. In Nigeria, the cuts in government services often affect the ability of national tax authorities to collect taxes.**

Issue: **In Nigeria and other African countries, the connections between collecting more taxes and the allocation of revenues in a manner that makes public services better are not straightforward, and it remains difficult for citizens to see improvements in their lives**.

It is now crystal clear that tax justice must be sought in Nigeria by all stakeholders working for the improvement of the lives and life chances of the citizenry. To achieve tax justice, the Nigerian government must:

- **Put an end to tax holidays for big business and abolish unfair tax incentives;**
- **Make sure foreign companies pay better wages;**

*** Curtail Corruption, leakages, and illicit capital outflows from Nigeria; and**

- **Improve public services such as education, healthcare, housing and water**.

3. Relationship Between Taxation, Tax Justice and Public Services/Public Finance

Generally, “Taxation” is an essential part of a good government and it has four main goals:

- **To raise revenues for public spending, which can be used to meet the basic needs of population – food, healthcare, shelter, provide quality public services, for example, health, education, economic development stimulus, maintain institutions and governance structures;**
- **Redistribution of income between high and low income groups**;

- **Representation – an effective taxation system enables citizens to feel that they contribute and own public policies. An ineffective taxation system can lead to social exclusion and increasing levels of inequalities; and**
- **Changing behaviour of individuals and companies – through taxes that shape or inhibit behaviours, e.g. taxes on alcohol & tobacco, taxes on environmental pollution.**

Taxation is a fiscal, legal, institutional and global issue which dates back to distant history. In most economies of the world, including Nigeria, tax is the major source of income for the government at all levels, and it is metaphorically referred to as the “blood of any economy.”

Tax, despite being a source of income for the government, also plays a key role in strategic planning, institution building and developmental process and assessment, with the relative predictability of tax enhancing government’s fiscal and developmental forecast while contributing to greater certainty.

Consequently, governments largely depend on income from tax, while striving to increase tax as needed for greater revenue generation as the need arises.

However, domestically, African governments lack political and policy capabilities to organize and lead a socio-economic transformation for sustainable and equitable development. Thus, despite the statutory nature of tax and its importance to national economy, various entities and individuals are not disposed to paying tax and have always employed various schemes to avoid payment of tax and consequently shorten governmental earnings.

There is therefore a need for Tax Justice in the implementation and enforcement of tax

The connection between Taxation and Tax Justice is based on the fact that while public funding and finance may be sustained both by domestic resources and external finance, good governance and public policy initiatives suggest that domestic resources sans foreign loans is the more optimal choice as a veritable domestic source is tax.

* However, despite efforts to finance public projects with domestic tax revenue, Nigeria's current "Tax to GDP Ratio" is about 6% and it is severely and comparatively low when compared with similarly situated countries.

Table 1:

Tax Revenue as % of Gross Domestic Product (GDP) 2008-2012

	2008	2009	2010	2011	2012	2013
Africa						
Burkina Faso	-	-	-	-	15.6	
Ghana	13.9	12.6	13.4	14.9	-	
*Nigeria		0.3	-	-	-	1.6
Mali	-	-	-	-	13.0	
Senegal		-	-	-	-	19.2
Australia		24.3	22.2	20.7	21.3	
Sweden		21.7	21.7	21.3	21.9	26.1
UK	28.8	25.8	26.7	27.4	25.5	
US	10.4	8.5	9.2	10.1	9.8	

Source: World Bank

Regarding the subject of “Tax Justice,” the aim of Public Finance are as follows

- Generate revenue for the government;
- Fund developmental projects;
- Redistribute wealth;
- Meet the citizens’ needs;
- Encourage inclusive growth;
- Engender sustainable development; and
- Ensure a shared future.

In essence, an efficient Public Finance system must make an optimal use of domestic revenue accruing from Taxation, to achieve Tax Justice.

4. Sources and Means of Disbursing Government Revenue:

4.1. Taxation

Taxation is a compulsory levy imposed on individuals, corporate bodies, goods and services. There are several different types of taxes:

- **Personal taxes** – paid on income earned, or earned interest;
- **Property taxes** – paid on property owned – annually or on buying/selling;
- **Service taxes (VAT)** – paid on goods and services e.g. consumer durable goods;
- **Commercial/ business taxes** – companies pay taxes on profits;
- **Import/export taxes** – paid on goods being imported and/ or exported.

4.2. Borrowing

Nigeria has a much higher government debt to GDP ratio than other West African countries. Debt is a temporary source of revenue to the government. Government can borrow and/or also obtain loans from individuals or financial institutions both within and outside the country which require future repayment of both the principal and interests as a reward to the lender for parting with the capital.

Table 2: Government Debt To GDP Ratio

	2009	2010	2011	2012	2013	2014	2015
*Nigeria	11.5	15.1	9.4	10.2	10.4	10.6	11.5

Trading Economics

http://www.tradingeconomics.com/nigeria/government-debt-to-gdp.

4.3. Royalties and Rents

Government also collects rents for the use of public lands as a reward and compensation as the land owner. Government also collects royalties from the companies that are granted the right to exploit Nigerian lands for mineral resources.

4.4. Fees, Fines, and Other Charges

These include licence fees, school fees, certificate of occupancy fees, court fines, etc These also generate income to the government as well.

4.5. Grants and Aids

This represents financial assistance that flows from richer nations and corporate institutions to poorer countries without any conditions as to repayment back to the donor countries. This has contributed to the growth of the world economy since it is a means of maintaining international liquidity worldwide. As well as taxation revenues, countries are also dependent on aid, to varying degrees, although ***Nigeria is less dependent on Aids than many West African countries.***

Table 3: Net Aid Received As % Of Gross Domestic Product (GDP) 2010-2014

		2010	2011	2012	2013	2014
Africa						
Burkina Faso		**11.3**	**9.4**	**10.6**	**8.7**	**9.1**
Ghana		**5.3**	**4.7**	**4.5**	**2.8**	**3.0**
Mali		**10.6**	**10.1**	**8.3**	**10.9**	**8.8**
Niger		**13.1**	**10.1**	**13.0**	**10.6**	**11.3**
***Nigeria**	**0.5**	**0.5**	**0.4**	**0.5**	**0.4**	
Senegal	**7.3**	**7.3**	**7.7**	**6.8**	**7.1.**	

5. Roles of the Nigerian Government in the Use of Public Finance to the Benefit of the Citizenry

The market, by itself, cannot allocate resources efficiently, hence there is the need for the government to intervene.

5.1. Provision and Maintenance of Infrastructure

Some public goods (goods jointly consumed) are usually provided by the government because many people benefit from those public goods and share consumption to reach all the populace.

Table 4: Expenditure On Health As % GDP

	2010	2011	2012	2013	2014
Burkina Faso	7.1	5.1	5.3	5.9	4.9
Ghana	5.3	4.8	4.8	4.6	3.5
Mali	6.3	6.5	6.4	6.5	6.8
Niger	6.3	6.6	6.1	5.0	5.8
*Nigeria	3.4	3.6	3.3	3.7	3.6
Senegal	4.6	4.4	4.3	4.5	4.6

World Bank: http://data.worldbank.org/indicator/SH.XPD.TOTL.ZS.

Table 5: Expenditure On Education As % GDP

	2010	2011	2012	2013	2014
Africa					
Burkina Faso	3.9	4.4	4.0	4.5	N/A
Ghana	5.3	5.5	8.1	7.9	5.9
Mali	3.7	4.2	4.3	4.9	6.7
Niger	3.7	4.2	4.3	4.9	6.7
*Nigeria	N/A	N/A	N/A	N/A	N/A
Senegal	5.6	N/A	N/A	N/A	

Table 6: Agriculture As Value Added % Of GDP

	2010	2011	2012	2013	2014	2015
Africa						
Burkina Faso	33.8	35.0	34.7	34.1	32.9	N/A
Ghana	26.0	23.6	23.1	22.3	21.0	N/A
Mali	36.2	37.6	41.3	39.8	40.3	40.9
Niger	23.8	22.2	22.0	20.9	20.2	20.8
*Nigeria 18.7	20.9	18.8	17.9	19.1	18.8	
Senegal 17.6	15.6	16.7	15.6	15.8	16.2	

Source: World Bank.

5.2. Maintenance of Macroeconomic Policies

To facilitate the effective working of the economy, government usually designs and implements monetary and fiscal policies, for establishing stability in prices, employment, and economic growth. E.g., for inflation government can reduce total spending in the economy by reducing its own expenditure or it may increase taxes on household and business to reduce the amount of money that the private sector spends.

5.3. Income Distribution and/or Re-Distribution

Government attempts to bridge the gap between the rich and the poor in form of taxation and establishment of non-profit organisations that will provide employment and welfare support services.

5.4. Maintenance of Law and Order

The federal government provides legal protection to individuals in the form of right to ownership of property and investment, freedom of expression, movement, and association. Government enforces these laws through the establishment of courts and the law enforcement agencies that are charged with the responsibility of enforcing the laws.

6. Tax Justice in Nigeria: How Far?

- The vast petroleum oil deposits and the earnings therefrom have mostly not translated revenues and/or development
- Funds earned from oil exploration are generally looted and siphoned by the public servants and the elites, offshore to Tax Havens.
- The campaign for tax justice insists that foreign investors who come to Nigeria must pay appropriate taxes to the Nigerian government.
- Nigeria must adopt a developmental role within its borders. This needs adequate financial resources to provide essential services to its citizens and to promote inclusive and sustainable development.
- Yet, the prevailing situation is rather different, as Nigeria’s ability to raise adequate revenue is hampered internally by self-seeking elites at the helm of power and tax dodging practices of multinational corporations.
- Government must work to tackle these practices and, more broadly, harmful fiscal policies that hamper the ability of African states to raise adequate domestic resources to finance development.

6.1. Multi-National Corporations' Tax Evasion/Avoidance Devices

Multi-National Corporations (MNCs) usually structure their subsidiaries to avoid the incidence of taxes in the host countries while shifting profits to countries with lower tax regimes, denying Nigeria its legitimate revenues and hindering the developmental needs of Nigerians. Although Nigeria and 95 other countries have signed on the BEPS initiative of the Group 20 and OECD countries designed to solve these international fiscal problems, the practices have not significantly abated.

- According to the African Union/Economic Commission for Africa High Level Panel on Illicit Financial Flows from Africa report, the continent lost about One trillion dollars (US$1 trillion) between 1980 and 2008, while other estimates are even higher.
- The multiplier effects of these losses are much larger. They mean loss of jobs, income, decent education, health facilities and other basic infrastructure critical to structurally transform the Nigerian economy and its socio-economic conditions.

6.2. Corruption and Tax Evasion By Other Business Entities and Individuals

As Nigeria braces up to the MNCs' challenge, the situation is further compounded by the under-declaration and outright evasion of tax liabilities by other business entities, high net-worth individuals, politicians, politically exposed persons as well as the non-or-low compliance by informal sector players. Nigeria is one of the top 10 countries in the world which has the greatest outflows of illicit funds. In 2013, Nigeria was ranked 10th in the world.

Table 7: Nigeria Outflow of Illicit Funds and Trade Mis-Invoicing (US$)

2008	2009	2010	2011	2012	2013	Cumulative Average
24,192	26,377	19,376	18,321	4,998	26,735	178,040

Table 8: Nigeria Illicit Hot Money Outflows

2008	2009	2010	2011	2012	2013	Cumulative Average
20,783	26,377	15,144	5,265	4,998	26,735	148,197

Source ILL 2015 Appendix Table 4 p.14.

6.3. Concentration of Taxing Powers at The Centre Contrary to The Principles of Federalism

There is a high concentration of taxing powers at the centre of the country which is contrary to the principle of federalism, the Federal Inland Revenue Service (FIRS) collects more than others.

Table 9: Taxation income by source in Nigeria

Federal Inland Revenue Service	**$30 billion**
Nigeria Customs Service	**$5.2 billion**
States and Local Councils	**$4 billion**
Total	**$39.2 billion**

6.4. Outdated and Ineffective International Tax Rules Combined With a Race to The Bottom Tax Competition Between African Countries.

Outdated and ineffective international tax rules combined with a race to the bottom tax competition between countries remain the biggest challenge to enhance DRM, and the widely tolerated existence of tax havens that offer financial secrecy and low or zero tax rates exacerbates the situation, with companies exploiting, with ease, loopholes in the global tax system to shift profits to jurisdictions with low or zero tax

6.5. Indiscriminate and Manipulative Use of Tax Incentives/Holiday

In Nigeria, majority of those paying taxes are the public servants or the average workers. Specifically, the past four years have witnessed a lot of tax incentives, which have denied the government substantial amounts which runs into several billions and trillions of naira in terms of revenue, where the government would just unilaterally grant tax holiday to foreign investors under the guise/pretense that the government was trying to woo the foreign investors. There has also been series of manipulative tendencies on the part of the investors who would come into Nigeria at different times with different names in order to evade tax

7. Areas Requiring Review

To combat Tax Injustice, tax reforms should address both contentious and contemporary issues.

- Concentration of taxing powers at the center contrary to the principles of federalism;
- States are hijacking taxes that are supposed to be collected by the local governments;
- Imposition of multiple taxes on income—Companies Income Tax; Tetfund; NITDA, etc as well as imposition of multiple taxes on Consumption—VAT, Consumption Tax, etc;
- Concentration of tax administration on Personal Income Tax's PAYE Scheme while high networth are able to escape while paying little or nothing;

- With endemic corruption, income from illegal and unlawful sources escape taxation;
- The introduction of the Tax Amnesty (Voluntary Assets and Income Declaration Scheme—VAIDS) allows those defaulters who should go to jail to be granted pardon;
- Non-prosecution of tax evaders;
- Indiscriminate and unilateral grants of Tax Incentives/Tax Holidays;
- Non-regular review of tax legislation;
- Lack of strict adherence to tax policy direction and procedural guidelines by the various tax authorities;
- Efforts must be made to tackle the myriads of problems besetting tax administration amid global outlook of low oil price that would otherwise limit the

nation’s revenue base and at the same time creating some level of inequity within the system;

• Rather than compelling a larger percentage to be more tax complaint, the Nigerian government should deal with the issue of trust deficit. Trust deficit arises when citizens believe that government will not act in their best interests, and then it becomes harder for the government to secure public support for reforms being introduced.

• Whether there is enough technological impartation into the Nigerian tax system. Government at all levels must accelerate technology adoption in tax administration towards boosting compliance and improving efficiency, as leveraging technology for full electronic customer service would not only

enhance efficiency but also reposition the Tax Sector for the crucial journey of transforming the entire nation’s tax system;
• All existing and future taxes must align with equity, fairness, and simplicity with low compliance costs.

8. Solutions

- **Nigeria must optimize revenue generation from taxation.**
- **Generally, the higher the debt, the higher the cost of borrowing, so there are some benefits to be gained from reducing debt**
- **If taxes were raised or even collected more effectively, there would be more money available to invest in infrastructure and industrial development which would generate products which could be sold in the domestic market or exported, with this resulting in less money spent on imports.**
- **Resultant industrial development and public services will also stimulate employment which would contribute to greater demand for domestically produced goods.**

- **Resultant increased jobs would also generate higher tax revenues, which could be spent on public services, for example, health and education, which both contribute to higher levels of economic growth.**
- **A recent 2012 OECD study has found that progressive personal taxes play a significant role in reducing inequalities, with social security contributions, consumption taxes and property taxes having a more regressive effect, while policies and institutions contribute to reducing inequalities**
- **The 2012 OECD Study concluded that education, anti-discrimination and labour market policies can make the biggest impact on inequalities and also help to boost economic growth**
- **Looking at the issue of Tax Justice from the perspective of business, businesses will thrive more where taxpayers are not overburdened with payment of more taxes than reasonably expected.**

- **Where “heavy taxes” are paid by the taxpayers, it has its effect on businesses, because profits are likely to reduce and this may also lead to the collapse in different and several businesses with a resultant effect and reductions of tax payable by all.**
- T**he Nigerian tax authorities should be lenient on taxpayers and should not always play the role of the hangman. In *Ward & Cullity*, the Abuse of Rights and Business Purpose Test was stated thus**:

> “if taxes are minimized or postponed, more capital will be available to run the business and more profit would result…it would be naïve to suggest that businessmen can, or should conduct and manage their business affairs without regard to the incidence of taxation or that they are not, or should not be attracted to transactions or investments or forms of doing business that provide reduced burdens of tax.”

Efforts must be made to strengthen Tax Justice Movement within the Nigerian territory

- **Strengthen National Awareness—by raising coordination mechanisms between Nigeria and its closest partners;**
- **Enactment of the most equitable tax policies and laws;**
- **Encourage the different governments to make the most of exploitation of mineral resources for the promotion of the development and for reduction of the gap between the rich and the poor; and**
- **Tax justice to be included as part of the national tax policy.**

The driving policy that must emanate from domestic revenue mobilization in Nigeria must not undermine internal accountability of rulers to citizens, and must not entrench unequal power relations and lack of effective representation of citizens in policy making spaces.

9. Canadian Experience

The July 18th, 2017 Canadian Fair Tax Plan (Liberal Government small Business Tax Proposals Aka "Tax Proposals For Private Corporations")

On July 18, Finance Canada launched a consultation on how "tax-planning strategies involving corporations are being used to gain unfair tax advantages." Under the Proposals, the Department of Finance Canada proposed major changes to how corporations are taxed.

The proposed rules are to have a significant impact on many Canadian businesses:

- potentially raising taxes,
- increasing the administrative burden on SMEs and
- heightening the impact on family-run businesses.

The Proposals contains proposed policies to close what the Government is labelling “loopholes.” There are four key changes that will affect business:

1. **Sprinkling income using private corporations:** The government wants to tighten rules to prevent a business owner from unfairly transferring income to family members who are subject to lower personal tax rates. In certain circumstances, owners would have to demonstrate that wages and dividend payments are “reasonable.”

2. **Multiplying the Capital Gains Exemption:** When an individual sells a small business, the first $850,000 of capital gain is exempt from taxes. The government wants to prevent tax planning structures that enable multiple family members to use their exemptions.

3. **Reducing the tax deferral advantage on portfolio investment inside a corporation:** Currently, an owner can accumulate portfolio earnings inside a corporation and pay corporate income tax rates (which are generally much lower than personal rates). The owner defers paying personal income or dividend taxes until the money is taken out of the business. The government is considering alternatives that would reduce this tax advantage.

4. **Converting a private corporation's regular income into capital gains:** Income is normally paid out of a private corporation in the form of salary or dividends that are taxed at the owner's personal income tax rate. In contrast, when a

business is sold, it is taxed as a capital gain, where only one-half of capital gains are included in income, resulting in a significantly lower tax rate on income that is converted from dividends to capital gains. The government wants to tighten the rules to prevent certain tax planning structures, but it is open to more favourable treatment for genuine family business transfers.

During the week of October 16th, 2 weeks after the October 2nd end date of the official Public Consultation Period for the July 18th Proposals, the government announced plans to drop 2 of the 4 main proposals that were first part of the July

18th plan, namely their surplus stripping proposal (changing dividends to capital gains) and the proposals that would have limited the ability to use family members to multiply the small business capital gains exemption.

Little to no detail has been provided to the public on the 2 proposals that the Government says will go ahead with. No implementation dates have been updated regarding

The lack of transparency by the Government with respect to these rules makes planning for small businesses very difficult at the current time.

Uncertainty does not bread economic success.

The Canadian Senate has assembled a Finance Committee and has tasked them to undertake a thorough review of the proposals.

The Canadian Tax Justice is spearheading providing well thought out feedback to the Canadian Senators on this subject towards the Senate stopping any related legislation that might be bad for the Canadian economy, healthcare system and the Country.

It has provided the email list of all Canadian Senators and a separate email list of the Senators serving on the Finance Committee, with templates to be used to provide feedback to the Senators regarding these Tax Proposals as they are currently drafted.