

Watching the Watcher: Evaluating the Tanzania Revenue Authority in Its Administration of Tax

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ABSTRACT

This article evaluates the role of the Tanzania Revenue Authority (TRA) in the administration of tax in Tanzania. It works on the premise that proper tax administration enforces tax compliance by taxpayers, with tax administrators better placed to understand principles, laws and procedures of taxation than taxpayers. Yet, tax administrators are not always impartial in collecting revenue from taxpayers. Therefore, this article argues that tax administrators in Tanzania must acquaint themselves with laws governing tax and adhere to their core values to enhance tax compliance and boost revenue for the country's development. Moreover, the article calls for the amendment of the tax laws to make them much more tax-payer friendly to facilitate compliance and further boost government coffers.

Keywords: *Tax administration, Tanzania Revenue Authority, Autonomy, Tax compliance.*

INTRODUCTION

The past thirty years have witnessed the establishment of revenue authorities in many African countries. These revenue authorities are governmental agencies charged with collecting tax revenue to fund public services (OECD 2019). Before the establishment of these revenue authorities, tax collection departments were placed under the Ministry of Finance in many countries (Fjeldstad and Moore 2009). However, the actual revenue collection and general tax administration were problematic. Most of the departments were unable to raise revenues and many countries suffered enormous budgetary deficits, hence failing to cater for social services and run their respective governments (Fjeldstad 2003). In response to such budgetary deficits, many countries established revenue authorities to engender better revenue administration performance (Fjeldstad 2007).

These authorities have more autonomy than many governmental departments under respective country's Ministry of Finance.

The semi-autonomous revenue model is used to design the revenue authorities in many African countries including Tanzania (Crandall 2010). The model aimed to achieve the following- Firstly, it seeks to limit direct political and executive interference in the revenue authority's operations (Devas and Delay 2001). This implies creating a government agency as a corporate board with a separate legal status with clear responsibilities and duties. Moreover, such a legal entity ought to operate under a board of the management whose members are independent of government and are nominated from a diversity of sources from both inside and outside government, with relatively long, fixed tenure revocable only on clear criteria and through open and legal processes; moreover, they have remunerations that cannot be affected by any government in power (Fjeldstad and Moore 2009, 5). In addition, it entails placing all the employees under the authority of the chief executive, chosen by and answerable to the management board. Furthermore, such an entity requires an operational budget independent from normal annual national budget through constitutional provisions or self-financing by appropriating a fixed share of the revenues it collects (Fjeldstad and Moore 2009,5).

Secondly, the model requires the creation of a revenue managerial autonomy. This refers to the extent to which managers can dispense with standard public service rules about staff recruitment, deployment, remuneration, procurement and operating procedures (Fjeldstad and Moore 2009, 6). Thirdly, it facilitates tax administration reforms (Fjeldstad and Moore 2009, 4). This facilitation refers to the extent to which revenue authorities are committed to instituting various reforms within the authority including introducing taxpayer identification number, establishing separate offices or departments, improving tax-auditing and records, reducing corruption, providing user-friendly procedures and embracing information communication technology (ICT) in increasing revenue collection (Fjeldstad and Moore 2009,9). However, the autonomy under this model does not make revenue authorities fully independent of the government and cease to be part of the public sector. Conversely, oversight on the part of minister responsible for finance and external audit bodies outside government must be strengthened (Junquera-Varela et al, 2019). Thus, these revenue authorities oversee over all taxes with specific

responsibilities related to collection of tax revenue. Accordingly, they also assess, collect and account for government revenue in addition to promoting tax compliance.

Tax administration is an art of legally administering taxes in a respective country. As such, revenue authorities are tax administrators established and empowered by the laws to administer taxes of the country, enhance public revenue, create efficiency in public resource utilisation, promote taxpayer compliance to reduce compliance costs, corruption and bureaucracy among other reasons (Fjeldstad and Moore 2009,9). Additionally, revenue authorities are privy to providing solutions necessary to attain better revenue collections than the defunct departments under the Ministries of Finance. However, most of the revenue authorities have not lived up to the full expectations of both taxpayers and governments. Although there are positive progresses in collection of tax revenue, the functioning of the revenue authorities still suffers from similar challenges that faced tax departments before their own establishment. Therefore, this article evaluates the TRA in the administration of taxes in Tanzania. Specifically, the article evaluates tax laws governing TRA operations and the interplay with its core values in raising revenue collections and promoting tax compliance.

METHODOLOGY

This article applied doctrinal method, which was complemented by empirical method addressing the concern surrounding administration of tax in Tanzania. Typically, the doctrinal method focuses on statutes and case laws because the primary legal data are obtained from legislation through critical reading (McGrath 2007). This descriptive article interprets the application of tax laws in tax administration. The historical approach was used in outlining the challenges the TRA counters in administering taxes since its inception. The article critically evaluates how tax laws have been enforced by the TRA to enhance tax compliance with a view of increasing revenue collection. The focus is to establish the extent to which tax legislation addresses the current issue raised. The doctrinal qualitative data was analysed through canons of statutory interpretation particularly literal meaning. To complement doctrinal method, empirical method used to establish the effect of the law in practice and its effect in the society (Makulilo, 2012). This method helped to establish the effect of tax legislation as enforced by TRA and its interplay with core values to taxpayers. The empirical data was collected

using face-to-face interviews held with taxpayers and field observation in Mabibo and Tegeta, Dar es Salaam region. Observation entailed listening to various testimonies and claims by business community or individuals during executive meetings and parliamentary proceedings. The data obtained through empirical method was interpreted in the context of legal provisions and drawing conclusions and coming up with recommendations.

TAX ADMINISTRATION IN TANZANIA

The Tanzania Revenue Authority

Like many other African countries, Tanzania embarked on reforming its tax administration in the 1990s. The Tanzania Revenue Act 1995 (revised in 2019) established the Tanzania Revenue Authority (TRA) as the tax administrator, which became operational in 1996. The TRA is a corporate body with a perpetual common seal constituted by a governing board and other operating departments (TRA Act 2019, s.4). The board is responsible for formulating and implementing TRA's policy. The law empowers the board to direct the Commissioner-General to provide information, reports and other relevant documents for monitoring purposes, determine terms and conditions of the TRA's staff and provide for organisation structure among other functions. However, the board has no power to intervene in the determination of tax liability of a taxpayer (TRA Act 2019, s. 13). The Chief Executive of the TRA is the Commissioner General, a Presidential appointee, who is responsible for executing daily operations of the TRA under general supervision and control of the board. Accordingly, the Commissioner General is responsible for the management of funds, property, administration, organisation and control of other officers and staff in TRA. The Commissioner-General is assisted by the Deputy Commissioner General, other commissioners, and staff. (TRA Act 2019, ss16, 17, 20 and Tax Administration Act 2019, s.5). In running its activities, the TRA is financed by the general government budget through the annual parliamentary budget (TRA 5th Corporate plan, 27).

The TRA as tax administrator is vested with power to administer and enforce tax laws, monitor and ensure collection specified revenues from the government and private sector, promote voluntary tax compliance and advise the government accordingly on matters of fiscal policy. In discharging its functions, the TRA has the power to identify, suggest amendments of tax laws to improve the administration and compliance,

among other things (TRA Act 2019, s.5). To curb any revenue loss, it determines steps to counteract fraud and any other form of tax including other fiscal evasions (TRA Act 2019, s.5 (1)g). The following part revisits the TRA corporate plans enshrining its operations and core values and their implication for administration of tax.

Revisiting the TRA's corporate plans is necessary to establish the historical development and achievement of the authority's objectives, specifically its purpose tied to the mission and associated challenges of such corporate plans. The historical approach is necessary in establishing whether the same challenges affect all the five corporate plans. In each corporate plan, the TRA had a specific mission aimed to achieve specific goals. Such missions mostly feed on each other with a slight point of departure caused by changes in the material condition of a particular period of a corporate plan. The remarkable change in all the TRA plans was automation of TRA's activities in a bid to enhance administration of taxes. However, largely, challenges remained the same in almost all the corporate plans. Hence, it is necessary to evaluate the TRA as tax administrator based on its core values.

The TRA has formulated five corporate plans since its establishment. The First corporate plan was from 1998/1999 to 2002/2003. Its mission was institutional setup and capacity-building for its staff. The second corporate plan was from 2003/2004 to 2007/2008 whose mission was the improvement of service delivery to taxpayers. The first and second plan missions differed from the rest but are compatible since they built the foundation of future TRA plans. The third corporate plan was from 2008/2009 to 2012/2013 with a mission to transform the TRA into an efficient tax administrator meant to promote voluntary tax compliance by providing high-quality customer service with fairness and integrity through the competent and motivated staff (TRA 5th corporate plan,8). Its vision was to make the TRA a modern tax administrator. Increasing revenue collection through cost-effective, modernisation of operations, provision of high quality and responsive customer services, promotion of voluntary tax compliance and enhancing staff performance management system was key in the plan (TRA 5th corporate plan,8). Essentially, the plan was a continuation of activities in the two previous plans. The point of departure was the automation of the TRA activities and restructuring of the organisation. During this period, TRA divided revenue collections into three departments, namely, large taxpayers, domestic revenue, and

customs and excise. Other seven small departments supported these departments. The information and technology dealt with the automation of TRA operations while, the Planning and Modernisation Unit coordinated the TRA's activities. Both these TRA wings were instrumental in strategically streamlining, modernising and automating TRA.

The fourth corporate plan started from 2013/2014 to 2016/2017 to bolster convenience, compliance and continual improvement of the authority. This mission was almost the same as that of the third plan which aimed to promote voluntary tax compliance and boost revenue collection through tax compliance. Unlike its predecessor, the fourth plan operated for four years only. The TRA was obliged to re-plan and re-strategize its business to accommodate the newly-elected fifth government's desire of increasing domestic revenue. Other reasons included the desire to be in line with the United Nations' Sustainable Development Goals of 2015, the National Vision of 2025, and the second five-year development plan 2016/17 to 2020/21. Moreover, it needed to address concerns raised by the International Monetary Fund report of 2016 (TRA 5th corporate plan,1) and to accommodate all these concerns, the TRA developed the fifth corporate plan of 2017/18 to 2021/22 under its motto: "We make it easy to pay tax and make lives better." The duality of "easy to pay tax" and "makes lives better" underscores the value of boosting the state coffers through facilitated voluntary tax compliance for the betterment of the lives of Tanzanians and socio-economic development. Such voluntary tax compliance could be achieved by expanding the tax base and enhancing efficiency in tax administration (TRA 5th corporate plan,16).

The 5th corporate plan has three strategic goals. The first is to foster convenience by supporting voluntary compliance and enhanced trade facilitation. Generally, compliance entails improving compliance management, enhanced risk management, and good governance. The second strategic goal is to continually improve the operational efficiency. The third strategic goal is strengthening institutional capacity (TRA 5th corporate plan,1). It is in its fifth plan that TRA embarked on collecting tax from local government authorities. Why is this shift? This was a measure to expand the tax base. As such, taxes originating from local government that were initially meant to be collected and used by the Local Government Authority were taken to the Central Government to reduce the gap (Tanzania Budget Speech for 2016/2017 2016). Consequently, the tax law was amended to accommodate taxation of the

informal sector (TAA2019, s.22). However, this turning point is not explicitly stated in the TRAs' fifth plan despite arguing that it capitalised on the zeal of the fifth government in increasing the tax revenue. This could partly explain TRAs' change of plan. Arguably, the TRA's initiatives in increasing tax revenue collection seems partly to depend on the will of the government in power.

Since its establishment, the TRA managed to set institutional and capacity-building goals for its staff (TRA 1st Corporate plan). It strengthened operational efficiency, integrated its operations, enhanced customer services, promoted tax compliance among taxpayers and fostered transparency in the application of tax laws (TRA 3rd corporate plan, 2). Other achievements include providing convenience services to taxpayers. This was achieved by introducing new customs information and business community management systems, establishing one-stop border posts and call centres. Furthermore, the TRA enhanced compliance by integrating collection and accounting systems, promoting tax investigation capacity, developing risk-based compliance, and anti-corruption strategy. Additionally, the TRA introduced an automated tax payment and stamp system (TRA 5th corporate plan,3). More significantly, it increased revenue collections from Tanzanian Shillings 9.383 in 2013/2014 financial year to 11.11 trillion in the first half of 2021/2022 financial year by December 2021 (TRA quarterly statistics 2022).

Despite these achievements, TRA still faces challenges in the implementation of the objectives of its establishment. These challenges include still rather low tax compliance from taxpayers, low number of registered taxpayers, taxation of electronic transaction, corruption, inadequate knowledge, skills and expertise in some of the tax areas, tax evasion, legal barriers, and lack of integrity among some of the staff (TRA 5th corporate plan,8). Subscribing to this view, Mzalendo and Chimilila (2020, 276) posit that an increase in revenue resources is undermined by low level of tax compliance. These challenges, however, do not make TRA irrelevant or less important in the administration of taxes in Tanzania. Even though the achievements of the TRA are commended, it leaves much to be desired in terms of tax administration. For the TRA to achieve its establishment objectives, it must address the challenges outlined here thus far.

In its operations, the TRA is guided by three core values in executing its plan. The first core value is professionalism that entails commitment to applying tax laws consistently and responsibly with credibility using skills and knowledge as a prerequisite in administering tax. The second is accountability that entails creating and sustaining an organisation that values and promotes accountability. The third core value is integrity built on fairness and honesty in dealing with taxpayers and other stakeholders (TRA 5th Corporate plan). Generally, these three core values define TRA's personality and standards, upon which TRA is evaluated because they serve as a commitment to taxpayers and other stakeholders. The following part provides an overview of the law governing Tax administration in Tanzania.

Tax Administration Legal Framework

Taxation does not take place in a vacuum. Tax laws regulating taxation in Tanzania ought to be consistent with the Constitution of the United Republic of Tanzania of 1977 (CURT). From a legal point-of-view, tax laws must be clear and, thus, unambiguous to enable statutory interpretation of tax laws. Where the tax laws are vague or inconsistent with the Constitution, such tax laws are likely to affect both the taxpayer and the tax administrator. In fact, taxpayers can end up having such a big burden of tax and end up resorting to non-compliance and, hence, loss of government revenue. It is in this context; therefore, the CURT requires all the taxes to be imposed by law enacted by the parliament according to the procedures lawful prescribed (CURT 1977, Art.38[1]). This means that no one should be taxed except as per the law (Ongwamuhana 2011,79). It is in this context the Constitution empowers the government to present bills related to financial matters in Parliament.

Similarly, administration of tax is required not to be done arbitrarily but rather it has to be founded in tax administration laws. Such laws must ensure fairness and justice to both taxpayers and the government. Action Aid explains tax justice to mean 'a transparent, accountable, and efficient set of arrangements that raise a set of substantial revenue for public services and government infrastructure through broadening the tax base with proportional largest contribution coming from those with greatest wealth and income (Action Aid, 2013, 2). Generally, fairness in taxation entails a fair tax administration regime that will enable taxpayers to pay what is required as stipulated under the law and that will make the government obtain its right share of the revenue. The effectiveness of the

tax administration is found in tax administration laws. Thus, fair and just tax administration balances between powers of the tax administrator and the rights and obligation of the taxpayers (OECD 2019,110). Tax administration laws can be fair and just if they incorporate principles of justice in governance and enforcement of tax laws. If tax administration laws do not guarantee fairness and justice in tax administration, they may result into a loss of revenue on part of the government and create big tax liability to taxpayers hence lack compliance.

In Tanzania, administration of tax is governed and regulated by the Tax Administration Act, 2019 (TAA). According to its long title, TAA is an Act consolidating tax administration and easing administration and enforcement of tax laws by the TRA. Generally, it provides approaches, directions, powers and obligations upon which the TRA officials may manage taxes. The TAA ought to be crafted in such a way as to ensure taxpayers pay their tax liability justly and timely. Similarly, taxes administered by the TRA are not arbitrary; they are rather provided for by the law. The term ‘taxes’ for tax administration include tax, charges, fees, tolls, rates, levies, duties, penalty and interest imposed in any tax law and any other additional tax payable under any agreements or arrangement (TAA, 2019 s.3). Part II of the Act provides for the manner upon which tax laws are interpreted. This part is important to both the tax administrator and taxpayers because it affects their rights and obligation.

Part III of TAA places responsibility for administering tax laws firmly in the hands of TRA. Thus, TRA officials ought to act in accordance with tax administrative laws. In addition, it provides for the manner and procedures for taxpayers’ identification (TAA 2019, ss. 22, 23, 24 and 25). As a matter of fact, these provisions are a key stone in establishing taxpayers’ database for the projections of tax revenue. This part further establishes Tax Ombudsman Service responsible for reviewing and addressing taxpayers’ complaints regarding service, procedural or administrative matters arising during enforcement of tax laws by TRA. Part IV provides for the manner upon which both the tax administrator and taxpayers communicate and handle documents. In addition, it provides for the rights and access to information. Part VI provides for primary tax liability to taxpayers. This part is crucial in tax administration as it is the main source of disputes between taxpayers and the TRA. Part VII provides for a dispute resolution mechanism between taxpayers and the TRA. It empowers the Commissioner General to make any tax

decision on the assessment, judgement, direction, opinion, approval consent satisfaction or determination of the Commissioner General under tax law that directly affects a taxpayer (TAA 2019, s.50).

Part VIII provides for the manner and time upon which the tax is paid and tax is recovered. The TAA also provides for the interest, penalties and offences for failure to comply with tax laws under part X. Generally, the law governing the administration of tax must be impartial and unambiguous and must meet the objective of its establishment. In this context, the provision of the TAA ought to treat both the taxpayer and administrator equally by providing clear rules and procedures upon which both parties are guided sufficiently. This is important because tax administration plays critical role not only in shaping economic development but also in developing effective country (Bird 2015, 1).

However, this has not always been the case. Some provisions of the law seem somehow in favour of the tax administrator because the law guarantees wide chance for tax administrator to act arbitrary. For example, the Commissioner-General is a key player in tax administration, who is vested with powers to enable smooth tax administration. The powers conferred upon commissioners are mandatory and discretionary. Mandatory powers are those prescribed by the which the Commissioner-General must carry out such as to enforce tax laws, collect tax, and recover tax liabilities (TAA 2019, s.5(2)). By contrast, discretionary powers are the ones that give the Commissioner-General freedom and authority to decide how to act or decide based on independent judgment. As a norm, such discretion powers need to be exercised judicially as was stated in the case of *Karibu Textile Mills v the Commissioner General* [2008] 2 TLR 197. Such a limitation is based on the principles of natural justice and the law conferring such powers. Under the TAA, discretionary powers include determining the objection raised by the taxpayers on tax decisions that is made by the same Commissioner General, which is provided under section 51 of the TAA, 2019 and Regulations 53 and 92 of Tax Administration (General) Regulations, 2016. Such powers violate the principle of justice, which requires no person to be a judge on his cause. Likewise, the power to have free access to premises without prior notice provided under section 42 of TAA 2019 violates the right to privacy and injures taxation justice. The existence of such provisions are likely to negatively affect administration of tax if are not exercised in the spirit of the law.

The Income Tax Act, 2019 (ITA) is the main substantive tax law. According to the long title this Act provides for the charge, assessment and collection of the income tax, for the ascertainment of income charged and for matters incidental thereto. Part I of the Act essentially provides for the scope of application and interpretation upon which TRA officials are required to rely on when executing the primary responsibility of collecting tax revenue. Part II of the ITA stipulates eligibility and liability to pay taxes. It provides for income base and means upon which income tax should be calculated, particularly chargeable income, exemptions from tax and deductions. It also provides for tax accounting and timing for submission returns. Part III provides for quantification, allocation and characterisation of the tax amount. Equally important, Part IV provides rules applicable to the types of persons such as partnership, trust and corporations. Parts VI and VII provide procedures and taxpayer obligations on income payable upon assessment. Further, Part VIII provides for the consequences of non-compliance for which offences, penalties, and interests are prescribed. Part X is of particular interest as it provides for the administration of tax by the commissioner.

Generally, an overview of the laws discussed thus far provide for relevant rules and procedures that TRA officers are required to be acquainted with and act in accordance with the spirit of the law. Hence, tax administration provisions in both administrative and substantive tax laws should support effective and efficient tax administration (D'Ascenzo 2015, 88). This is because the effectiveness of tax administration is governed by the legal provisions, culture of tax administrator, and integrity of its officers. The commitment by TRA to apply the provisions of the law consistently and responsibly triggers evaluation to establish whether the tax laws are applied consistently in administering taxes.

FINDINGS AND DISCUSSION

Lack of the Autonomy of the TRA

The TRA was designed as a semi-autonomous corporate body with considerable independence. The notion of semi-autonomy in the context of revenue authority refers to the independence of the revenue authority in terms of management, legal status, financing, budgeting, and human resources (Kidd and William 2006,11). The main objective of such autonomy is to limit direct interference by politicians and executives in its daily operations. TRA is a separate legal entity with clear responsibilities

and wide powers in administering taxes. However, the minister responsible for finance has general supervisory and oversight role over the TRA. TRA is empowered to hire and fire but it follows public service rules in recruitment. The TRA board is a governing body having relatively long and fixed period of tenure revocable on clear criteria as provided for under section 11(2) of the TRA Act 2019. Regarding funds, the operational budget is independent and funded via the parliament with limited budget flexibility.

Even though TRA seems to have autonomy in terms of legal status, funding and human resource, the autonomy in terms of governing board and its chief executives, are partial. The TRA board is not independent of the government because members are not nominated by diverse sources inside and outside government, but by the Minister responsible for Finance. The Chairperson of the board is a presidential appointee. Consequently, the chair and board, as presidential appointees, may subject them to termination and dissolution at any time by the appointing authority. For example, in 2016, the President of the United Republic of Tanzania terminated the appointment of the chair of the TRA board and dissolved the board (Mtulya 2016). Likewise, the commissioner and deputy commissioner-general are presidential appointees and thus may be dismissed by the him or her. Although section 16 (4) of the TRA Act provides for conditions upon which commissioners are terminated, this has not always been the case. For example, the TRA General Commissioner and his deputy were axed over tax evasion fraud on November 28, 2015 (Malanga 2021). Likewise, between 2015 and 2016 three commissioners had their services terminated. The lack of desired management autonomy and security of tenure in the TRA is likely to create uncertainty and does not ensure independent and objective decisions of its board for effective tax administration.

Also, the daily operations of the TRA are not free from executive interference. For example, the TRA in implementing its fifth plan pertaining to the taxation of the informal sector in corroboration with the National Identity Authority introduced special identity cards for informal sector taxpayers (TAA,2019, s.22). While implementing this move, the office of President issued new special identity cards for informal sector taxpayers (Msikula 2018). Unlike the former identity cards that were prepared by the TRA, the identity cards issued by the President contained secret features with no details of the taxpayers and nature of the business.

The only determinant factor for one to qualify was to have 4,000,000/= (four million) Tanzanian shillings as a threshold. The cost of obtaining the cards were 20,000/= (twenty thousand) payable to the TRA directly in the central government account. This scenario prompted the TRA to stop what it was doing, hence leaving taxpayers from the informal sector in a lurch and confused. An interview with small vendors in 2018 in Kinondoni district revealed that some of them were denied identity cards because their capital was too small. Notably, at that time, the implementation was done without having clear rules and guidelines. Similarly, there has been confusing directives by the executives to the TRA on matters related to tax dispute resolution. For example, the Prime Minister in a meeting with the Kariakoo business community held on 28th February, 2019 directed suspension and arrest of some TRA officials accused of corruption. In another scenario, the President in a meeting with businessmen representative across the country held on 7th June 2019 ordered compensation for the aggrieved taxpayers.

One of the core values of the TRA is professionalism, which entails commitment to applying tax laws consistently and responsibly as well as credibly using skills and knowledge as a prerequisite in administering tax. Such professional traits ought to be evident in TRA's discharging its of main responsibility of tax collections. However, this has not always been the case. Empirical evidence shows that the government was concerned about what it perceived as TRA not timely collecting tax from large taxpayers. To ensure that paying tax was not evaded, the government established a special tax force to collect tax in cases where reliable indicators of tax evasion on the part of the businessmen was evident. The said task force created by the executive for collecting revenue created uncertainty and fear among taxpayers by subjecting some taxpayers to cases related money laundering. (Kamagi 2021). Consequently, some of the key businesses were closed because business owners were unable to meet the demands set by the task force. Responding to queries regarding the justification of the use of tax force, the government argued that the was necessary to collect huge overdue amounts of taxes from large taxpayers. (Kamagi 2021). The government further charged that the TRA was involved in the processes and that the task force was not ousting TRA's primary responsibility of collecting revenue (Kamagi 2021). The use of special tax force outside the TRA framework to collect certain kind of overdue tax, however, amounts to an interference of the TRA daily

operations. In essence, the establishment of a tax force sounds more like ousting the primary responsibility of collecting revenue by the TRA.

This discussion suggests that the TRA is not free from executive and political interference. Even though the interference by executive might somehow bring about positive results, the question that arises is: Why has the TRA been interfered with in its daily operations? The answer could be lack of autonomy on the one hand. On the other hand, the TRA seems to create conducive environment for the executives to interfere in its daily operations primarily because some of the actions and directives by the executives ought to be an integral part of their responsibilities in enforcing the tax law. This situation raises questions regarding the commitment of the TRA in applying tax law professionally, consistently and responsibly as well as with credibility using skills and knowledge at their disposal as a prerequisite in administering tax.

Relationship between TRA and taxpayers affecting tax compliance

The TRA's primary responsibility is to collect tax revenue from taxpayers for the country's development. This responsibility, however, depends on the relationship between the tax administrator and taxpayers based on the rights and obligations of both parties. The OECD provides for the rights of taxpayers to include the right to information, assistance and being heard, to pay the correct amount of tax prescribed, certainty, privacy, confidentiality and secrecy. Meanwhile, the obligation of the taxpayer includes being honest and co-operative, providing accurate information and documents on time, keeping records and paying tax on time (OECD 2019). Implicitly, if both parties play their roles, the compliance rate is likely to increase as well as revenue collections.

Tax compliance means the willingness of the taxpayers, whether as individuals or as a legal entity, to act within the spirit and the letters of the tax laws and administration without applying force in fulfilling their tax liability. For taxpayers to comply in the first place, the public should have trust in the government. An interview conducted with small vendors at Tegeta and Mabibo markets in Dar es Salaam in 2021 revealed that many Tanzanians have trust in the government because they were sure of social services provided by the government such as free primary and secondary education; improvement of health services in both rural and the cities; enhanced transport infrastructures, water services, and improved electricity in their areas. According to the Tanzania budget of 2019/2020,

most of these development projects were funded internally from revenue collections. This developmental growth has brought about positive taxpayers' attitudes towards the government, which were likely to enhance tax compliance. Equally important, tax compliance is likely to increase by providing public education to the people in such a way that the culture of paying tax becomes part of their practices. For example, the TRA Mbeya region launched taxpayer education programme for three months to enhance compliance in digital tax collection (Mathias 2021).

Despite the positive attitude by the taxpayers and TRA's taxpayer initiatives, the TRA seems unable to meet full taxpayers' expectations. The responsibility of the TRA to induce tax compliance to taxpayers remains a major challenge. For the last five years, many taxpayers had been complaining about the way the TRA was handling tax matters. For example, in 2020 it was reported that about 600 businesses in Geita closed shop. The reason for the closures was the high taxes levied and the use of force by TRA officers (Matowo 2021). In parliamentary proceedings of 15 May 2019, it was reported that in the 2018/2019 fiscal year running from July 2018 to April 2019, a total of 16,252 businesses were closed for failure to pay various taxes on time. Subscribing to businessperson's concerns, the Members of Parliament of the URT argued that most of the businesses closed due to unfavourable approach adopted by the TRA in collecting pending taxes. The unfavourable approach includes imposing high penalties and indiscriminately closing businesses, harassment of business people by freezing their bank accounts and forcefully remitting tax due by deducting from the taxpayers' monies (Kamagi 2021). This situation is likely to create a hostile relationship between taxpayers and TRA, which inevitably also affected tax compliance. Consequently, government lose revenue for funding social services.

The use of police force in collecting taxes is another concern. Empirical evidence adduced by some businesspersons shows that some of the TRA officers had allegedly been using the police force in a manner not authorised by the law and for their self-serving interests. For example, in a meeting of the Prime Minister with the Kariakoo business community held on 28 February 2019 one businessman imported goods from South Africa and paid all the required taxes at the Tunduma border post and he goods were cleared to enter in the country. However, when he reached Dar es Salaam, TRA officers in collaboration with police arrested him.

This was after refusing to give them a bribe of two million Tanzanian shillings. In addition, his goods were impounded for three years from 30th June 2016 to April 2019.

Surprisingly, the use of force and police in inducing tax compliance seems to have the support of the executive. On different occasions, the Prime Minister paradoxically blessed the TRA to use the anti-corruption agency and the police when TRA staff were collecting revenue from taxpayers with serious pending tax backlogs. Justifying the use of the state instruments, the Prime Minister argued that some businesspersons were using such opportunity to bribe TRA officers (Parliamentary proceedings, 19 April 2019). However, such a requirement is not provided for in law but rather it is an executive directive. By contrast, the law provides room for the commissioner or an authorised officer to request the assistance of the police in obtaining taxpayers' information where there is resistance (ITA 2019, s. 138 (6)). The situation raises concerns of commitment of the TRA's core value in handing taxpayers with integrity and fairness in administering taxes.

Right to information

Right to information is very important during tax assessment to enhance tax compliance. Tax assessment in the context of tax administration relates to processing returns, including issuing assessment, refunds, notices and statement, processing and payment. Notably, tax assessment is the cornerstone of the tax revenue collection of any tax administrator (OECD 2019). So far, the TRA has made positive progress in assessment. For example, the establishment of an electronic filing system enabled taxpayers to file liable tax returns. In addition, the TRA has simplified the payment system whereby all the revenues are collected in a single account using automatic generated control numbers. This is achieved by using online banking, mobile phones, payment agents, debt and credit card. The automation of filling and payment systems has significantly reduced the number of procedures and amount of red-tape, which hitherto existed. Accordingly, the TRA has simplified the administration cost and boosted time efficiency to taxpayers contributing to an increase in revenue collection.

These commendable TRA efforts notwithstanding, there are still challenges when it comes to tax assessment. Empirical evidence shows that for a long time, small businesses were taxed upfront during the

process of opening a business even before making any business operations. The government addressed this concern by allowing a small taxpayer to pay tax six months from the date of opening the business (ITA 2019, First Schedule as amended by Finance Act, 2019, s.9 (a) (ii). However, this has not always been implemented by the TRA. An interview with taxpayers in

Tegeta establishing small retail shops reported having paid prescribed tax forthwith before starting the business contrary to the requirement of the law.

Further interviews with small retail shop owners in Mabibo and Tegeta revealed that they understand their obligation to pay tax given improved social services in the country. However, they did not know the procedures required to fulfil their obligation of paying tax. It also emerged that taxpayers' education is not well-disseminated among small taxpayers with capital ranging from four million to ten million Tanzanian shillings. They posited that the TRA and the government have given special attention to street vendors and hawkers commonly known as 'Machinga' and large taxpayers. Even when they visited TRA offices seeking clarification of certain matters, they claimed that customer services were not always positive. The argument by these taxpayers was that there was a denial of their right to information. Such acts of some TRA officers were likely to create moral ambivalence among taxpayers and increase non-compliance. As a result, some of the taxpayers decided to close their businesses and opt for special identity cards meant for small vendors. An interview with lady's salon owners at Tegeta Boko in Dar es Salaam revealed that the closure of their businesses was necessitated by uncertainties pertaining to TRA and they opted for small vendors' identity cards to pay only twenty thousand shillings a year rather than one hundred thousand Tanzanian shillings they used to pay under the TRA.

Furthermore, it emerged that some TRA officers used double standards in assessing goods of the same nature and issued high and unreasonable assessment of tax to various businesses, hence leading to the closure of businesses by some of the potential taxpayers. This was revealed during the meeting between the President and business community representatives held on June 2020. For example, one Kariakoo businessman, who had been paying Tanzanian shillings 150 million a month, closed his business due to high tax assessment by the TRA. The evidence by taxpayers suggests that the TRA's initiative to protect the

rights of taxpayers still had a long way to go. The testimony by business community indicates that some of the TRA officials were taking advantage of the taxpayers who were not well-acquainted with the law and tax procedures. This is contrary to TRAs' taxpayer service charter that requires tax officers to provide information in areas of the taxpayer's choice to fulfil their tax obligations.

Apparently, the use of force, corruption and improper procedures by tax officers have significant negative effect on tax compliance. The evidence adduced by the taxpayers interviewed may lead to a decline in tax compliance and bring about negative attitudes towards the TRA. This scenario suggests that the TRA in administering tax laws is not always acting consistently and fairly and, in some instances, it fails to fulfil its primary responsibility of collecting tax. These concerns also may suggest that somehow the TRA is not sufficiently playing its role of assisting taxpayers to understand their tax obligations in paying tax, hence violating its core values. The impact of such acts is the loss of revenue owed to the government coffers and the nation's development.

CONCLUSIONS AND RECOMMENDATIONS

The recent improvement in the enforcement of tax laws by the TRA has brought a dilemma in the administration of tax in Tanzania. Even though enforcement of the law represents an important step towards increasing revenue, it also calls into question the balance among accountability, professionalism, and integrity. Generally, the TRA, as tax administrator, has done commendable work in increasing revenue collection from time to time as its primary responsibility. However, the empirical evidence adduced shows that some of the TRA officers were not fully committed to its core values in enforcing tax laws, hence leading to the malpractices by some of its staff which affected TRA's image and subsequently its performance. Nonetheless, in some areas, there is a clear hostile relationship between the taxpayers and the TRA. Consequently, the taxpayers may harbour a negative attitude towards the government. Dissatisfaction with the integrity of the TRA has led a growing number of potential taxpayers to transform their businesses into small ventures with limited capital of four million Tanzanian shillings to qualify for informal sector identity cards. The results are that the government is likely to lose more revenue due to tax avoidance and diversion. Thus, the empirical evidence by taxpayers on compliance challenges suggests that the TRA has set the bar too high for it to reach.

As noted earlier, the administration of tax may shape the economy of the state. The failure of some of the TRA staff to adhere to its core values within which the TRA operates has affected and shaped the current business operations in Tanzania. This may partly be due to direct interference by the executive in TRA and lack of the required level of autonomy in administering tax. Hence, the sustainability of the TRA depends on its core values while recognising the interest and expectations of the taxpayers. Thus, striking a balance between the TRA's integrity and taxpayer's compliance is critical in achieving increased revenue.

Therefore, this article recommends for the amendment of the TRA Act to provide for more autonomy to TRA and free it from direct political interference in its daily operations. The appointment of the chairman of the board should remain with the President while the appointment of the Commissioner General and deputy require a different appointment mechanism. Instead, the law should empower the Minister for Finance to appoint the Commissioner General and deputy based on the recommendations of the board. The board before recommending any person to hold the posts should subject the procedures to transparent public processes and strive for meritorious appointments. The law should also provide minimum criteria and qualifications for the posts. This is likely to strengthen the powers of the TRA board in their advisory responsiveness to the commissioners and the Minister regarding the TRA operations. As a result, it will minimise direct executive and political interference and their role will be limited to policy directives on the one hand. On the other hand, it is likely to enhance co-operation between the board and management because of the differences in appointing authorities. The directives likely to flow from executives to board which in turn will direct the authority instead of receiving advices and directives from either the Minister or the board as provided for under section 16 (5) of TRA Act, 2019. Accordingly, it will provide security of tenure on part of the commissioners for them to make objective decisions. Moreover, the TRA board must be visionary enough to see tax in broader perspective based on policy and strategy in expanding the tax base and enhancing compliance.

Equally important, the TRA should strive to adhere to its core values in administering taxes and solving problems within its reach before external intervention. It is important for TRA to enhance taxpayers' education,

expand and simplify taxpayer services using technology in addition to respecting taxpayers' rights. This is necessary in striking a balance between enforcement and taxpayers' services. Meanwhile, the TRA should be seen as a friend rather than an enemy. However, this positive image depends on the ability of the taxpayers to understand applicable laws, on the one hand, and on integrity of the TRA staff in executing their duties, on the other hand. Increasing technical capacity-building including sharpening of skills and knowledge in interpretation of tax laws and respecting the rule-of-law in administering taxes can reduce the use of force significantly, which is ineffective in the long run-in inducing tax compliance on sustainable basis.

More importantly, the relationship between TRA and the taxpayer should be laid down in a system of rights and obligations as provided in tax laws. It is important for TRA to understand its strengths and challenges. It ought to thrive to see how best it can work with taxpayers and other stakeholders to improve tax administration. Apart from that, the TRA should use its various organs as well as units to enhance public education among taxpayers to build self-awareness on the value of paying tax. Moreover, the TRA through its board guided by specific research should assist the government in considering how and where improvement can be made to make the TRA a much more efficient and effective tax administrator than at present.

REFERENCES

- Action Aid, (2013) 'Tax Justice: The Domestic Perspective, A synthesis of Studies of the tax System in developing countries. nds_report - final_version.pdf (actionaid.org).
- Bird, RM, (2015) Improving Tax Administration in Developing Countries, Journal of Tax Administration, Vol11, Issue 1.
- Crandall, W., (2010) Revenue Administration: Autonomy on Tax Administration and the Revenue Authority Model, IMF Technical Notes and Manuals, Washington, Dc: FAD, IMF.
- D'Ascenzo M, (2015) Global Trends in Tax Administration, Journal of Tax Administration, Volume 1, issue 1.
- Devas N, Delay S and Hubbard M, (2001) 'Revenue Authorities are They Right Vehicle for Improved Tax Administration? 21(3) Public Administration and Development 211, 222.

- Fjeldstad O and Moore M., (2009) Revenue Authorities and Public Authority in Sub Saharan Africa, *Journal of Modern African Studies*.
- Fjeldstad, O. (2007) Revenue Authorities, Experience from Sub Saharan Africa, Poverty, policies and Budgetary processes conference, Windhoek, July.
- Fjeldstad, O., (2002) Fighting Fiscal Corruption: Lesson from the Tanzania Revenue Authority, *Public Administration Development*, 23.
- Junguera-Varela R, Awasthi R, Balabushko O and Nurshaikova A, (2019) Thinking Strategically about Revenue Administration Reform: The Creation of integrated, Autonomous Revenue Bodies, The International Bank for Reconciliation and Development/ The World Bank 1818 H Street, NW Washington, DC 20433.
- Kamagi, D, (2021) 'MP calls for Business Protection' *The Daily News* (Dar es Salaam) <https://dailynews.co.tz/news/2021-02-106024142c7d24d.aspx> accessed 11 February 2021.
- Kidd, M. and Crandall, W. J (2006) 'Revenue Authorities: Issues and problems in Evaluating their success,' IMF Working paper WP/06/240, 11.
- Makulilo, A. B. (2012) Protection of Personal Data in Sub-Saharan Africa, PhD Thesis, University of Bremen, Germany.
- Malanga, A. N. (2021) Tax administration and Taxation during Magagula Era,' *The Citizen*, (Dar es Salaam) <https://www.thecitizen.co.tz/tanzania/news/business/-tax-administration-and-taxation-during-magufuli-era-3328186>.
- Mathias H, (2021) 'TRA Takes education on digital tax collection systems to Mbeya', *The Citizens*, (Dar es Salaam 17 February 2021).
- Matowo R, (2021) Over 600 traders close business in Geita Region, *The Citizen*, (Dar es Salaam)
- McConville, M., and Chui, W.H., (2007) (eds)., *Research Methods for Law*, Edinburgh University Press.
- Msikula, A. (2018) Ids for Machinga Launched, *The Daily News* (Dar es Salam) <https://dailynews.co.tz/news/2018-12-115c0f4aad6c071.aspx>.
- Mtulya, A, Magufuli (2016) Sacks TRA Chairman, Dissolves board, the *Citizen*, 21 November, 2016 available at <https://www.thecitizen.co.tz/news/Magufuli-sacks-TRA-chairman--dissolves-board/1840340-3459204-15a7j5fz/index.html>.

- Mzalendo, R., and Chimilila C, (2020) ‘Tax administration, Taxpayer’s Reciprocity and Compliance in Tanzania: Empirical Evidence from a Survey;’ 8(2) African Journal of Economic Review, 276.
- OECD (2019), *Tax Administration 2019: Comparative Information on OECD and other Advanced and Emerging Economies*, OECD Publishing, Paris, <https://doi.org/10.1787/74d162b6-en>.
- Ongwamuhana K, (2011) *Tax Compliance in Tanzania: Analysis of Law & Policy Affecting Voluntary Tax Compliance*, Mkuki na Nyota, Dar es Salaam, 2011.
- Tanzania Revenue Authority fifth corporate plan 2017/18 to 2021/22.
- Tanzania Revenue Authority first Corporate plan 1998/1999 to 2002/2003.
- Tanzania Revenue Authority fourth Corporate plan 2013/2014 to 2016/2017.
- Tanzania Revenue Authority second Corporate plan 2003/2004 to 2007/2008.
- Tanzania Revenue Authority third Corporate plan 2008/2009 to 2012/2013.
- The Constitution of United Republic of Tanzania, 1977.
- The Income Tax Act, 2019.
- The Tanzania Revenue Authority Act, 2019.
- The Tax Administration Act, 2019.
- Tax Administration (General) General Regulations 2016.