May 2017 Edition of Africa Law Today, the ABA-SIL's Africa Committee Newsletter

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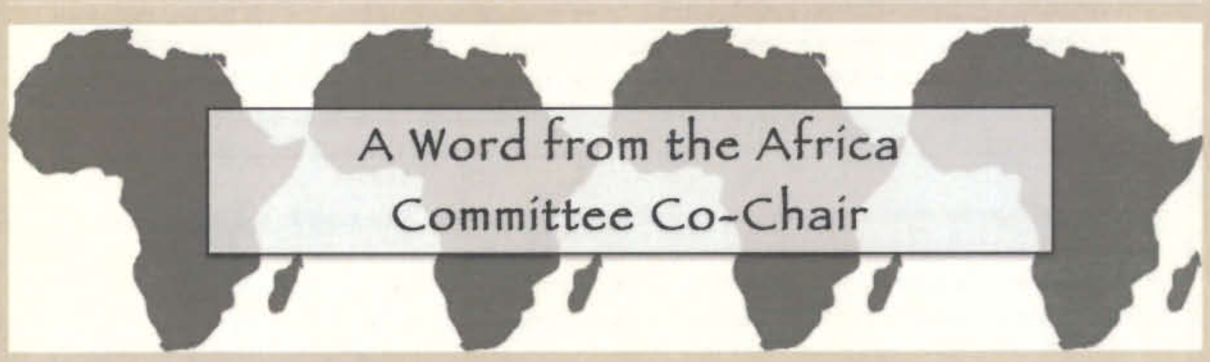
May 2017



Dear ABA/SIL Africa Committee Members:

Welcome to the 2017 Spring edition of Africa Today!

Greetings to the hardest working team dedicated to the improvement of the rule of law and the human condition in Africa. The Africa Committee (AC) is tasked with "fostering increased professional dialogue and efforts for legal professionals with an interest in and ties to the [African] continent." As a committee, we critically examine legal reform efforts in the African countries, coordinate our efforts with civil society organizations in the continent, and make recommendations that can help these countries deepen and institutionalize democratic rule in their communities. The committee is also interested in the establishment and the sustaining of rule of law regimes in the African countries.

Members of the Africa Committee have long been interested in the improvement of living conditions in Africa. However, it is important to recognize the fact that without peaceful coexistence, it is very difficult for citizens to undertake those productive activities that create wealth and provide the resources that they need to fight poverty and improve their living conditions. The rule of law is the foundation for peaceful coexistence. Hence, our members have long been interested in research activities that address capacity building in public sectors in Africa, as well as those that seek ways to enhance governance and the rule of law.

The Africa Committee continuously seeks ways to improve the way that lawyers and the legal profession can help improve peace and security in the continent. The committee is particularly interested in the protection of human rights, especially those of historically marginalized groups (e.g., women, infants, children, and religious and ethnic minorities). In carrying out these duties, committee members continuously engage colleagues in Africa—this robust dialogue involves, not only seasoned lawyers and legal scholars, but also law students and young lawyers.

With the help of the American Bar Association (ABA), the committee has created opportunities for lawyers, law students, and legal scholars, including especially those in Africa, to participate in the committee and its activities. The opportunities for involvement and participation include, but are not limited to the following: (1) the Africa Committee Internship Program; (2) publishing opportunities in our newsletter, Africa Law Today; and (3) the committee's monthly phone conferences, which offer participants the opportunity to listen to an address by a guest speaker on a specific issue and then be able to ask questions. For example, during a call early this spring, two senior members of the International Criminal Court (ICC) made presentations on the functioning of the ICC, with specific emphasis on its relationship with Africa and the African Union.

The Africa Committee offers its members and others interested in the rule of law in Africa many opportunities for public service within the framework of the American Bar Association. Service, of course, can significantly enhance one's professional career. Nevertheless, many of our members engage in public service because they want to make a difference in the lives of the peoples of Africa. They work to improve prospects for peaceful coexistence, the protection of human rights, the provision of opportunities for self-actualization, especially for vulnerable groups (e.g., women and girls), and the maintenance of governance systems undergirded by the rule of law.

As Co-Chairs, we invite you to increase your efforts and help us continue to excel as a service organization. We commend all former co-chairs and vice-chairs for the great job that they have done in helping the Africa Committee emerge as one of the most dynamic and active committees in the ABA's Section of International Law (SIL). We also want to thank all the members of our committee for their incessant efforts, not only to advance the interests of our committee, but also to improve the legal environment in the African countries and advance the rule of law throughout the continent. Congratulations and please keep up the good work.

As we challenge our members to continue to work for the betterment of Africa and its peoples, it is important to remind you of some of the major achievements of the recent past and thank and commend those individuals who have contributed to this success. Below, we provide highlights from the last several months: The compilation and editing of the Africa Committee's contribution to the Year-in-Review (YIR) was completed with great efficiency by Vice Chair, Anne Bodley, and submitted in December 2016. The YIR is a survey of the most significant legal changes that have taken place across regions, in our case, across Africa, during the previous year. Contributions are due to the Committee Editor not later than October 31. The Committee Editor then edits the contributions and consolidates them into a final document that is submitted by December 1 to be published. Typically, the YIR has been published by the Dedman School of Law at Southern Methodist University in Dallas, Texas. In preparing its submissions for the year, the committee has usually adopted a regional, country, and institutional focus by highlighting key developments in various countries, regions and institutions in the entire continent of Africa.

As usual, this is a well-written and well-edited issue of Africa Law Today. It contains timely, rigorous, and informative articles on a variety of issues that are very important to the committee and anyone who is interested in peace and security, justice, human development, and the protection of human rights in Africa. These include the assassination of human rights lawyer, Willie Kimani, in Kenya; and human rights for girls in northeast Nigeria.

We send special thanks and commendations to ALT's editor, Beverly Nwanna, and the many contributors who have made this edition of Africa Law Today a very exciting and informative one to read. We look forward to receiving your future contributions to our esteemed journal.

In addition to the co-chairs, Emilia Siwingwa and John Mukum Mbaku, the dynamic leadership team for the ABA/SIL Africa Committee for the 2016/2017 year includes colleagues with a long history of service to the committee and Africa and those who are coming aboard for the first time. We acknowledge immediate past co-chair Yvonne Fladjoe, who is currently serving as an advisor to the committee; vice-chair Anne Bodley (Projects & Year-in-Review); vice-chair Obiamaka Madubuko (Diversity); vice-chair Rose Rameau (Programs); vice-chair Nelson Ogbuanya (Rule of Law); and vice-chair Joyce Williams (Communications).

With warmest regards and best wishes,

Emilia Siwingwa
John Mukum Mbaku

The Death of Human Rights Lawyer Willie Kimani and the Need for Continued Reforms to Prevent Police Abuse in Kenya

by Mason Hubbard and Muthoni Muchiri

On June 30, 2016, Kenyan human rights lawyer Willie Kimani, his client Josephat Mwenda, and their taxi driver Joseph Muiruri, were found dead approximately one week after being reported missing following a court appearance alleging police abuse. Mr. Kimani, who was employed by International Justice Mission, a Non-Government Organization working to combat police brutality in Kenya, was representing Mr. Mwenda in the matter. Mr. Kimani had filed a claim with Kenya's Independent Policing Oversight Authority, an independent supervisory body, alleging that Mr. Mwenda had been wrongfully shot during a routine traffic stop. Subsequent to filing the claim, Mr. Mwenda was charged with various petty crimes, a move Mr. Kimani and the legal team believed was an effort to intimidate and silence their efforts.

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Negotiating Human rights for Girls in Nigeria (Northern Nigeria): The Child Marriage Issue

by Nkeiruka Aduba

Negotiating human rights for girls in Nigeria, focusing particularly on the issue of child marriage, is a complex topic that requires the examination of several issues and different perspectives in order to come up with a holistic approach to end the problem of child marriages in Northern Nigeria. This paper will look at the history of Nigeria; historical views on women's rights in Nigeria; the child marriage issue in Nigeria, its causes and also child marriage as a human rights violation; the legal framework for girls' rights relating specifically to the issue of child marriage; and negotiations on how the child marriage problem may be solved considering various options from collaborations with NGOs, government and international bodies to mobilizing teachers, human rights activists, heads of religious and traditional organizations to utilize tools of education and dialogue to resolve the impending child marriage crisis. This paper would highlight the importance of all these key players in ending child marriage and promoting girls' rights.

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Africa Committee Year in Review

by Englebert Akong, Susan Bishai, Anne Bodley, Michela Cocchi, D. Porpoise Evans, Pamela Fapohunda, Katherine Flannery, Sara Frazão, Rebecca Gerome, David Hofisi, Tyler holmes, Jennifer Ismat, Alexandra Kerr Meise, Linda Lowson, Anis Mahfoud, Adeshola Mos-Shogbamimu, John Mukum Mbaku, Kelly Newsome, Ivan Allan Ojakol, Kingsley Osei, Danielle Rowland Lindahl, Ricardo Alves Silva, Matthew Snyder, Anna Toubiana, and João Luís Traça

1. Algeria

I. NORTH AFRICA

Constitutional Amendments

Algeria experienced continued political uncertainty under ailing President Abdelaziz Bouteflika. In February, Parliament passed constitutional reforms increasing defendant rights in the criminal justice process, setting two-term presidential limits and, controversially, limiting presidential candidacies to those holding solely Algerian citizenship, disqualifying dual Algerian-French nationals and others.

Investment Code

In July, the country passed an investment code to diversify oil-centric Algeria's economy in the wake of falling oil prices. The laws give incentives to invest in non-oil industries such as communication technology and tourism, and reinforce a rule requiring Algerian residents to hold the majority stake in companies or projects.

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Lex:lead

Africa Law Today is proud to feature winners of the 2014 and 2015 Lex:lead annual student essay competition. Lex:lead is a non-profit, volunteer organization comprised of international lawyers and friends, and is dedicated to tackling the issue of poverty and economic development in the world's least developed countries. Its core program is an annual essay competition on topics of law and development, open to students in the world's least developed countries, and reviewed by a panel of international judges. Each year, the organization makes $500 USD awards to about ten winning students, as well as internship placements with World Bank-affiliated organizations and other partners. Lex:lead was founded by Africa Committee Vice-Chair Anne Bodley.

2014 Contest Winners:

How can tax law stimulate economic growth and finance development?

Lulbahri Afeworki Araya*
Baye Tsegaw Asamro
Bereket Alemayehu Hagos
Nahom Abraham Weldeabzgi
Pius Ntazinda
Haftu Amare Girmay*
Lumela M. Lumela
Walter Mandela
Mary Musoni
Dieudonne Nzafashwanayo

2015 Contest Winners:

How does poor economic development contribute to health-related concerns; and how can the law control these concerns and improve lives?

Sara Kiflemariam Abraham*
Moses Baguma
Tsidkenu Paul Moono
Ivan Allan Ojakol
Nsofwa Puta
Ftsum Sbhatu Tewolde
Negese Tujuba Erba*
Binita Pandey
Tsebaot Getahun Kiflu
Marga Fekdu Angerasa

** Students' essays were revised to include more Africa-related subject matter.*

Legal News & Insights

Random breath tests illegal, Kenyan court rules
By BBC World News – 8 April 2017
A Kenyan court has banned random breathalyser tests as a way to catch drivers who are over the limit. The decision was made following a three-year battle by bar owner Kariuki Ruitha, who complained breathalysers were ruining his business. Mr Ruitha argued they violated Kenyans' constitutional rights to make their own lifestyle decisions - including how much to drink. Kenya has some of the most dangerous roads in the world. In the first half of last year, 1,574 people died in accidents. However, sitting in the Court of Appeal, the three judges said drink drivers could still be charged under traffic laws - after which point a breathalyser can be used.
Read more at:
http://www.bbc.com/news/world-africa-39537446?intlink_from_url=
http://www.bbc.com/news/topics/7d7c35fa-f724-4b36-90a0-21f71d99857d/kenya&link_location=live-reporting-story

Fighting in South Sudan's Raga kills at least 14 people
By Aljazeera News – 15 April 2017
Violence in eastern South Sudan forces 60 aid workers to flee as new battles erupt in the northwestern town of Raga. At least 14 people have been killed after new fighting erupted between government forces and the main rebel group.
Read more at:
http://www.aljazeera.com/news/2017/04/fighting-south-sudan-raga-kills-14-people-170415132143449.html

Uganda Tries to Commit Critic of President to Mental Institution
By Kimiko de Freytas-Tamura – 13 April 2017
Uganda's top prosecutor sought this week to crack down further on dissent, trying to use a colonial-era law, once used by the British to quash African resistance, to commit a prominent critic of the president to a mental institution. It was only the second time in recent memory that the law, the Mental Treatment Act of 1938, was invoked in a case over free speech, according to lawyers. The first involved a student who was forcibly taken several times to a psychiatric hospital after lampooning the president on social media. This time, Stella Nyanzi, who until recently was a research fellow at Makerere University in Kampala, the capital, was charged on Monday with "cyberharassment" and "offensive communication" after a series of Facebook posts this year, particularly one in which she described Mr. Museveni as a "pair of buttocks." In addition to the charges, State Attorney Jonathan Muwaganya, a lawyer educated in the United States, submitted an application to commit Ms. Nyanzi to a psychiatric hospital for two weeks so that doctors could "determine" her mental health.
Read more at:
https://www.nytimes.com/2017/04/13/world/africa/uganda-yoweri-museveni-protest-mental-institution.html?rref=collection%2Ftimestopic%2FUganda&action=click&contentCollection=world&region=stream&module=stream_unit&version=latest&contentPlacement=1&pgtype=collection&_r=0

Ethiopia rejects UN investigation over protest deaths
By BBC World News – 18 April 2017
Ethiopia's prime minister has rejected calls by the UN and EU for independent investigations into the deaths of hundreds of people during months of anti-government protests. Hailemariam Desalegn has said that Ethiopia is able to carry out the investigations itself. Protesters from the Amhara and Oromia regions have been complaining about political and economic marginalisation. The government has imposed a state of emergency in response to the protests. The country was hit by an unprecedented wave of demonstrations, which began in November 2015.
Read more at:
http://www.bbc.com/news/world-africa-39619979

Kenya's Olympic marathon champion Jemima Sumgong fails drug test, IAAF confirms
By BBC World News – 07 April 2017
Jemima Sumgong, who last year became the first Kenyan woman to win Olympic gold in the marathon, has tested positive for the banned blood-booster EPO in an out-of-competition test carried out by the IAAF, the sport's governing body has confirmed.

Read more at: http://www.bbc.com/sport/athletics/39522434

Anti-Zuma protests take place across South Africa
By BBC Reporters – 7 April 2017
Protesters have marched in cities across South Africa including Cape Town, Durban, and the capital, Pretoria calling for the removal of President Jacob Zuma. The demonstrations came after Mr Zuma's sacking of a respected finance minister, Pravin Gordhan which led to the country's credit rating being cut to junk status. The move added pressure to South Africa's already embattled economy. But supporters of Mr Zuma also turned out to defend the president. This week Mr Zuma survived calls by powerful groups allied to the governing ANC for him to go. He also got the backing of a major decision-making body within the party. He is not due to leave office until 2019 when his second five-year term comes to an end.
Read more at:
http://www.bbc.com/news/world-africa-39526313

S&P downgrades SA to junk status
By Herald Reporters – 4 April 2017
Standard and Poor's has placed South Africa's credit outlook at junk status. The agency has downgraded the country to B-B plus – otherwise known as junk status – from Triple B minus. The outlook for the country also remains negative. The agency is citing the latest changes to the country's cabinet as a contributing factor. The changes saw Pravin Gordhan and Mcebisi Jonas being sacked as Finance Minister and deputy minister.
Read more at:
http://www.enca.com/south-africa/sp-downgrades-sa-to-junk-status

DRC: Anti-Kabila protests banned by police, streets deserted
By Aislinn Laing- 10 April 2017
Police in the Democratic Republic of Congo have banned all political protests across the country, the move comes in the wake of opposition plans to hold anti-government demonstrations. The main opposition coalition led by Felix Tshisekedi, had called for nationwide mass action to pile pressure on the government over its failure to implement a peace deal brokered by the Catholic Church. Opposition protesters in the DRC and security forces have a history of violent clashes. Last September, scores were killed during protests calling for Kabila to step down. Similar occurrences were recorded in December 2016 upon the expiration of Kabila's final mandate.
Read more at:
http://www.africanews.com/2017/04/10/drc-anti-kabila-protests-banned-by-police-streets-deserted//

Govt squandered diamond revenues
By Owen Gagare/Obey Munayiti- 13 April 2017
Zimbabwe was a major diamond producer between 2009 and 2013, yet this resource has not contributed much to national development. Despite complaints from government which make it appear as though Treasury did not receive meaningful remittances from diamond mining companies, it has emerged the fiscus got US$472 million from one of the leading mining companies, Mbada Diamonds in royalties, dividends and other taxes between 2010 and 2015. Mbada Diamonds generated sales totalling US$1,2 billion during the period. The company's financials and government payments spreadsheet, seen by the Zimbabwe Independent, reveal Mbada paid US$472 186 206,84, which was 42% of its sales value. The money however, was largely diverted to fund salaries and recurrent expenditure at the expense of capital projects and the provision of social services. As a result, the Zimbabwean government has nothing to show for the money it received which could have made a huge difference in resuscitating hospitals, schools and other social amenities.
Read more at:
https://www.theindependent.co.zw/2017/04/13/govt-squandered-diamond-revenues/

Barclays deal gathers momentum
By Bernard Mpofu – 13 April 2017
Malawi-Based First Merchant Bank is conducting due diligence on Barclays Bank Zimbabwe to ensure the affairs of the local financial institution are in order before a US$60 million purchase deal can be finalised. Should the transaction materialise, the British-headquartered Barclays Bank Plc would become a minority shareholder in Barclays Zimbabwe with a 10% stake. Barclays Bank Plc last year said it was looking to dispose of its African assets to focus on the British and American markets. Barclays Bank Zimbabwe, alongside the Egyptian business, was not part of the 2013 deal that saw Barclays Africa, formerly ABSA, acquire eight African operations from its parent company because of political uncertainty, although it already manages their operations.
Read more at:
https://www.theindependent.co.zw/2017/04/13/barclays-deal-gathers-momentum/

AU commits to combat genocide ideology in Africa
By James Karuhanga – 18 April 2017
The Peace and Security Council of the African Union (AU) on Monday published a statement in which, after recalling the horror of the 1994 genocide against the Tutsi in Rwanda, reiterated commitment to prevent recurrence of similar mass atrocities, hate crime and genocide ideologies throughout the continent. According to the statement, the PSC had at its 678th meeting, received a briefing on the prevention of hate crimes and

the ideology of genocide in Africa and adopted the decision to convene, annually in April an open meeting on hate crimes and fighting genocide ideology in Africa.
Read more at:
http://www.newtimes.co.rw/section/article/2017-04-18/210873/

The Comesa Competition Commission Signs Memorandum of Understanding with the Competition of Mauritius
By COMESA Competition Commission News- 03 April 2017
The COMESA Competition Commission ("the Commission") concluded a Memorandum of Understanding ("MOU") with the Competition Commission of Mauritius ("CCM") regarding the Application and

Enforcement of their Competition Laws. The signing Ceremony of the MOU was held on 24th March 2017 in Port Louis, Mauritius. The Ceremony was attended by the Permanent Secretary of the Ministry of Financial Services, Good Governance, and Institutional Reforms, Mr Chettandeo Bhugun; Board of Commissioners of the Commission and the CCM; media houses and other Officials. The signatories of the MOU were the Director of the Commission, Mr George Lipmile and the Director of CCM, Mr Deshmuk Kowlesseur. The MOU is expected to facilitate and promote coordination between the Commission and the CCM in the harmonization and implementation of their competition laws and policies and lessen the possibilities or impact of divergent outcomes.
Read more at:
http://www.comesacompetition.org/?cat=20

Immigration Sub-Sub Committee & other Experts Consultative Meeting on Free Movement of Persons &implementation of the African Passport
By SADC News – 6 April, 2017
The SADC Member States convened a First Consultative Meeting of Experts on free movement of persons in the SADC Region and in Africa at the Grand Palm Hotel, Gaborone, Republic of Botswana, from 28-29 March 2017. The meeting comes at an opportune time to reflect on how SADC can enhance facilitation of movement of persons in the region, pursuant to the SADC Protocol on Free Movement of Persons, and also to support implementation of the African Union Agenda 2063, in relation to free movement of persons in Africa and the African Passport.
Read more at:
http://www.sadc.int/news-events/news/immigration-sub-sub-committee-other-experts-consultative-meeting-free-movement-persons-implementation-african-passport/

Egypt Court Acquits Charity Worker Aya Hijazi
By BBC World News – 16 April 2017
US-Egyptian charity worker Aya Hijazi has been acquitted by a court in Egypt after almost three years in prison. The charity co-founder was accused of human trafficking and sexually abusing children, but human rights groups called the charges bogus. Supporters cheered as Ms Hijazi, 30, her husband and six others were found not guilty. The high-profile case caused concern in Washington at the highest levels of the Obama and Trump administrations. Activists who have been campaigning for the group's release said the arrests were symptomatic of Egypt's crackdown on civil society.
Read more at:
http://www.bbc.com/news/world-middle-east-39614870

South Sudan Takes First Steps to a New Constitution
By Africa News - 23 April 2017
South Sudan is racing against time to draw up a new constitution in line with the 2015 Peace Agreement, this comes even as the security situation in the country degenerates. The National Constitution Amendment Committee (NCAC) led by Gichira Kibaara, a former Kenyan Permanent Secretary for Constitutional Affairs, on April 13 presented a draft constitution to the Minister for Justice and Constitutional Affairs, Paulino Wanawilla. But the country is behind schedule, as the agreement required that the country would have a new constitution 18 months after the establishment of the Transitional Government of National Unity.
Read more at:
http://www.africanews.com/2017/04/23/south-sudan-takes-first-steps-to-a-new-constitution/

ICC Unseals Warrant for Libya's Gaddafi-era Official
By Al Jazeera – 23 April 2017
The International Criminal Court (ICC) has unsealed an arrest warrant for Libya's former security chief, accusing him of carrying out war crimes in 2011 to stop opposition against the country's former leader Muammar Gaddafi. The warrant, first issued in 2013 by the ICC, charged Al-Tuhamy Mohamed Khaled with three charges of war crimes and four crimes against humanity. The prosecutor's office asked for the warrant to be made public as it "may facilitate [his] arrest and surrender as all states will then be aware of its existence", the court said on Tuesday. According to Libyan media, he was arrested in Cairo in April 2012, but was released as there was no warrant against him.
Read more at:
http://www.aljazeera.com/news/2017/04/icc-unseals-warrant-libya-gaddafi-era-official-170425142925312.html

Algeria Could Amend Oil Law To Draw Investment

By Reuters – 11 April 2017
Algeria could change its hydrocarbons law to boost energy partnerships with foreign firms and draw more investment into its oil and gas sector, Energy Minister Nourredine Bouterfa said in a statement on April 11. Any move to amend its law—criticized by some oil companies as too tough—would be a major shift as Algeria looks to boost production. But changing the law may face resistance from the country's political old guard wary of ending more nationalist policies.
Read more at:
http://www.epmag.com/algeria-could-amend-oil-law-draw-investment-1492741

Trial in Tunisia Beach Massacre Set to Begin April 26
By Middle East Online – 22 April 2017
The first public hearing into the June 2015 attack in the Tunisian resort of Sousse that killed 38 foreign tourists has been set for next week, the prosecution said Friday. "The trial on the attack at the Imperial Marhaba Hotel will begin on April 26," spokesman Sofiene Sliti said. A total of 33 people are being prosecuted in the case, including six members of the security forces who are charged with "not assisting people in danger."
Read more at:
http://www.middle-east-online.com/english/?id=82712

Nigerian High Court Grants Conditional Bail To Pro-Biafra Leader
***By Ludovica Iaccino** – 25 April 2017*
The Federal High Court of Abuja, the capital of Nigeria, has granted bail to the leader of a separatist group on grounds of ill health as long as he meets some conditions, the News Agency of Nigeria reported. Nnamdi Kanu, leader of the Indigenous People of Biafra (Ipob) and director of UK-based Radio Biafra radio station, is standing trial on treasonable felony charges. He was arrested in Lagos on October 14, 2015. Ipob and other Pro-Biafra movements are calling for the independence of contested Biafran territories that were forcibly annexed to Nigeria during British colonization. The territories lie in southeastern Nigeria and are inhabited mainly by the Igbo, one of the country's largest ethnic groups.
Read more at:
http://www.newsweek.com/nnamdi-kanu-bail-biafra-nigeria-589664

Outrage Over Military Conviction of Cameroon Journalist
By Rosy Sadou – 26 April 2017
THE conviction and ten-year sentence a Cameroonian military court has imposed on a journalist for alleged terrorism has been denounced as a travesty to justice. Radio journalist, Ahmed Abba, has been convicted after torture and a trial deemed unfair by human rights groups. He was also fined a whooping € 84 000 (R1, 2 million) on charges of "non-denunciation of terrorism" and "laundering of the proceeds of terrorist acts." The journalist has been acquitted of the charge of "glorifying acts of terrorism." "Ahmed Abba's conviction, after torture and an unfair trial, is clear evidence that Cameroon's military courts are not competent to try civilians and should not have jurisdiction in these cases," bemoaned Ilaria Allegrozzi, Amnesty International's Lake Chad researcher.
Read more at:
http://allafrica.com/stories/201704260714.html

'Time to Harmonize Telecom Regulations in West Africa'
by David A. Yates – 26 April 2017
A series of two back-to-back meetings of telecommunications governance bodies, Internet Cooperation for Assigned Names and Numbers (ICANN) and the West Africa Telecommunications Regulators Assembly's (WATRA) 14th annual general meeting of the conference of regulators opened yesterday in Monrovia with a call to harmonize telecommunications polices within the West African region. Madam Angelique Weeks, Chairperson of the Liberia Telecommunications Authority (LTA), stressed that the pace of development in the industry would continue to accelerate and regulatory institutions in developing countries, especially in Africa, need to develop strategies to keep abreast with the trend. "Our intent is to harmonize regulations across the region, so that you can move from one country to another in a similar fashion.
Read more at:
https://www.liberianobserver.com/news/time-to-harmonize-telecom-regulations-in-west-africa/

Disorganized Legal Education Could Spell Doom For Ghana – Chief Justice
By News Ghana – 26 April 2017
The Chief Justice, Mrs Georgina Theodora Wood has observed that the proliferation of faculties of law in the last decade has not been accompanied by promotion and maintenance of standards. She said while opening of Faculties of law was good thing generally, shambolic legal education could only spell doom for Ghana's young democracy.
"Indeed, it is common knowledge that some of these schools are deprived of teaching faculty that they have had to depend on staff of other schools to teach in their schools on part time basis… simply put they do not have the wherewithal to run a good law programme."
Read more at:
https://www.newsghana.com.gh/disorganized-legal-education-could-spell-doom-for-ghana-chief-justice/

Mali Extends State Of Emergency As Jihadist Attacks Persist

By Daily Nation – 20 April 2017
A state of emergency that has been in force almost non-stop for 17 months in Mali was extended by 10 days from Thursday, the government said. The measure has been renewed several times since jihadists stormed the Radisson Blu hotel in Bamako in November 2015, killing 20 people in an attack claimed by Al-Qaeda's regional branch. The west African nation's troubled north has witnessed a spate of jihadist strikes despite the emergency. On Tuesday armed men killed five soldiers and injured 10 others in an attack on an army post in the tense Timbuktu region.
Read more at:
http://www.nation.co.ke/news/africa/Mali-extends-state-of-emergency/1066-3896554-qc6amez/

AFRICA COMMITTEE LEADERSHIP

Co-Chairs:

Mbaku, John

Siwingwa, Emilia

Vice-Chairs:

Bodley, Anne

Madubuko, Obiamaka

Rameau, Rose

Advisor:

Fiadjoe, Yvonne

Upcoming Committee Calls

Committee calls are always on the second Wednesday of every month at 1pm EDT/EST

- June 14, 2017 @ 1pm EDT/EST
- July 12, 2017 @ 1pm EDT/EST
- August 9, 2017 @ 1pm EDT/EST

Committee Links, Events & Announcements

Africa Committee Website

Africa Committee LinkedIn Website

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Africa Law Today Spring/Summer 2014 Edition

Africa Law Today Publication Guidelines

ABA Section of International Law
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Lex:lead

2014 ESSAY QUESTION: HOW CAN TAX LAW STIMULATE ECONOMIC GROWTH AND FINANCE DEVELOPMENT?

by Lulbahri Afeworki Araya

This essay is concerned with how tax law is linked to stimulating economic growth and financing development. In order to achieve its purpose, it will first try to define the basic terms: tax law, economic growth and financial development. Then, it will try to find out the relationship of tax law with both economic growth and financial development. After that, it will discuss the impact of tax law on economic growth and financial development, with special reference to the different types of taxes (personal income tax, corporate tax and consumption tax, as examples). At last, a conclusion will be given.

> The political, economic and social development of any country depends on the amount of revenue generated for the provision of infrastructure in that given country. However, one means of generating the amount of revenue for providing the needed infrastructure is through a well-structured tax system.[1]

Taxation is a means used by governments to generate revenue in order to counter its expenses. "Taxation provides governments with the funds needed to invest in development, relieve poverty and deliver public services."[2] Therefore, having clearly defined, certain, consistent, uniform and publicized tax laws will strengthen the economy and result in financial development. It is through tax reforms that we can achieve changes and progress in the economy of a country, and that's why in most election campaigns we see candidates vowing to make changes through tax reform.

I. NATURE AND SCOPE OF TAX LAW

Tax law is an area of legal study dealing with the law applicable to taxation. Taxation is defined as the compulsory transfer or payment from private individuals, institutions or groups to the government.[3] Taxation is a means by which governments finance their expenditures by imposing charges on citizens and corporate entities. The importance of tax law in the system of taxation is to set out the principles by avoiding uncertainty and arbitrariness. It also helps the taxation method to be conducted in a more effective, efficient, and equitable way by a legitimate body.

There are three basic objectives of taxation. They are "to raise revenue for the government, to regulate the economy and economic activities[,] and to control income and

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[1] G.N. Ogbonna & Appah Ebimobowei, *Impact of Tax Reforms and Economic Growth of Nigeria: A Time Series Analysis*, 4 CURRENT RESEARCH J. OF SOC. SCI. 62, 62 (2012) [hereinafter Ogbonna & Ebimobowei], *available at* http://www.maxwellsci.com/print/crjss/v4-62-68.pdf (last visited on Nov. 24, 2014).

[2] IMF, OECD, UN & WORLD BANK, SUPPORTING THE DEVELOPMENT OF MORE EFFECTIVE TAX SYSTEMS 8 (2011), *available at* http://www.imf.org/external/np/g20/pdf/110311.pdf (last visited on Nov. 24, 2014).

[3] Ogbonna & Ebimobowei, *supra* note 1, at 63.

employment."[4] These objectives can be fulfilled by the general functions of taxes, which are allocation, distribution and stabilization of economic activities. The scope of these functions depends on the extent to which a government can perform its functions through its "ability to design tax plans and administration[,] as well as the willingness and patriotism of the governed."[5]

II. PRINCIPLES OF TAXATION

The principles of taxation mean the appropriate criteria to be applied in the development and evaluation of the tax structure. "In order to achieve the broader objectives of economic growth[and social justice], the tax system of a country should be based on sound principles."[6] The basic principles that need to be followed are as follows:

> The *equity principle* states that every taxpayer should pay the tax in proportion to his income. The rich should pay more and at a higher rate than the other person whose income is less. It is only when a tax is based on the taxpayer's ability to pay that it can be considered equitable or just. Sometimes this principle is interpreted to imply proportional taxation.
>
> The *certainty principle* of taxation states that a tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, and the quantity to be paid ought to be clear and plain to the contributor and every other person.
>
> The *convenience principle* of taxation states that the time and manner should be convenient to the taxpayer. This principle of taxation provides the rationale for Pay-As-You- Earn (PAYE).
>
> The *economy principle* states that every tax should be economical for the state to collect and the taxpayer to pay. This principle implies that taxes should not be imposed if their collection cost exceeds benefits.
>
> The *productivity principle* states that a tax should be productive in the sense that it should bring large revenue that should be adequate for the government. This is the major reason why governments in all parts of the globe continuously employ tax reforms.
>
> The *simplicity principle* states that the tax should be plain, simple and intelligible to the common taxpayer. There should be no hidden agenda in the tax law.

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4 *Id.* at 64.
5 *Ibid.*
6 *Ibid.*

The *Diversity Principle of taxation* states that there should be a variety of taxes. It is risky for state to depend upon too few as source of public revenue.[7]

III. ECONOMIC GROWTH AND FINANCIAL DEVELOPMENT

Economic growth is defined as an increase in the total amount of production and wealth in an economy over time. It implies that national output should be composed of such goods and services that satisfy the maximum want of the maximum number of people. The growth of an economy is thought of not only as an increase in productive capacity, but also as an improvement in the quality of life to the people of that economy.[8]

Financial development is also defined as "the establishment and expansion of institutions, instruments and markets that support th[e] investment and the growth process."[9] Both economic growth and financial development imply an increase in the overall economic activity of the country. Therefore, in order to increase investment and productivity and to result in overall growth, the role of tax law is believed to be of great importance.

IV. THE ROLE OF TAX LAW IN ECONOMIC GROWTH AND FINANCIAL DEVELOPMENT

Several empirical studies have been conducted by scholars on the impact of taxes on economic growth. And they have provided different explanations on the relationship of taxes to economic growth. However, all the studies conclude that reducing the distortive effects of the tax structure would result in permanent economic growth. But the question is how.

Too often public officeholders first embrace lowering taxes and creating tax incentives as their chief economic development tools, in order to attract investment. But this does not have to be at the expense of the public. Governments use tax proceeds to provide public goods, maintain law and order, defend against external aggression, regulate trade and business, and render other functions maintained by the government.[10] When setting up the tax system, their goals and objectives have to benefit the taxpayers as well as the government.

In a study provided by the OECD, focus on tax structure is more important than on tax level. The tax structure of a country needs to be set up to minimize taxpayers' compliance costs and the government's administrative costs, while also discouraging tax avoidance and evasion. Taxes "affect the decisions of households to save, supply labor and invest in human capital, the decisions of firms to produce, create jobs, invest and innovate,

[7] *Ibid* (alterations and citations omitted).
[8] John L. Cornwall, *Economic Growth*, ENCYCLOPEDIA BRITANNICA, http://www.britannica.com/EBchecked/topic/178400/economic-growth (last visited on Nov.11, 2014).
[9] Valpy FitzGerald, *Financial Development And Economic Growth: A Critical View*, WORLD ECON. & SOC. SURVEY 2006 1 (Oxford Univ. 2006), *available at* http://www.un.org/en/development/desa/policy/wess/wess_bg_papers/bp_wess2006_fitzgerald.pdf (last visited on Nov. 18, 2014).
[10] Ogbonna & Ebimobowei, *supra* note 1, at 63.

as well as the choice of savings channels and assets by investors."[11]

Since the system of taxation affects almost everyone, tax reforms should be based on small tax changes rather than on shifting the revenue base entirely to one particular tax instrument.[12] "A revenue-neutral, growth-oriented tax reform would be to shift part of the revenue base from income taxes to less distortive taxes."[13] "[A] greater revenue shift could probably be achieved [through] consumption taxes."[14] However, with consumption taxes being less progressive than personal income taxes, or even regressive, such tax shifts "imply a nontrivial trade-off between tax policies that enhance GDP per capita and equity[.]"[15] More generally, most taxes would benefit from a combination of base broadening and rate reduction" in order to improve efficiency, and maintain tax revenues.[16]

"Most of the personal income tax reforms have tried to create a fiscal environment that encourages saving, investment, entrepreneurship and provides increased work incentives."[17] "Likewise, most corporate tax reforms have to be driven by the desire to promote competition and avoid tax-induced distortions."[18]

"Reducing corporate tax rates and removing special tax relief can enhance investment . . . if the primary aim is to reduce distortions that hold back the level of domestic investment, and to attract foreign direct investment."[19] This can in-turn result in a high production rate and the creation of job opportunities by reducing the unemployment rate. "In addition, multinational enterprises are attracted by tax systems that are stable and predictable, and which are administered in an efficient and transparent manner."[20]

Consumption taxes and particularly VAT (indirect taxes) are often thought to have a less adverse influence on the decisions of households and firms, and thus on GDP per capita, than income taxes. However, these advantages have to be balanced against equity concerns that arise from their lack of progressivity.[21]

In particular, there is little evidence that tax cuts when paid for by reducing public services stimulate economic activity or create jobs.[22] However, "there is evidence . . . that increases in taxes, when used to expand the quantity and quality of public services, can

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[11] Åsa Johansson, Christopher Heady, Jens Arnold, Bert Brys & Laura Vartia, TAX AND ECONOMIC GROWTH, ECONOMICS DEPARTMENT, OECD 5 (2008), *available at* https://www.oecd.org/tax/tax-policy/41000592.pdf (last visited on Nov. 11, 2014).

[12] *Id.* at 7.

[13] *Ibid.*

[14] *Id.* at 8.

[15] *Ibid.*

[16] *Ibid.*

[17] Åsa Johansson, Christopher Heady, Jens Arnold, Bert Brys & Laura Vartia, TAX AND ECONOMIC GROWTH SUMMARY AND MAIN FINDINGS, MENA-OECD INVESTMENT PROGRAMME 2 [hereinafter SUMMARY & MAIN FINDINGS], *available at* http://www.oecd.org/mena/investment/41997578.pdf (last visited on Nov. 18, 2014).

[18] *Ibid.*

[19] *Id.* at 6.

[20] *Id.* at 7.

[21] *Ibid.*

[22] Robert G. Lynch, RETHINKING GROWTH STRATEGIES HOW STATE AND LOCAL TAXES AND SERVICES AFFECT ECONOMIC DEVELOPMENT, ECON. POLICY INST. vii (2004), *available at* http://epi.3cdn.net/f82246f98a3e3421fd_o4m6iiklp.pdf (last visited on Nov. 24, 2014).

promote economic development and employment growth."[23] Therefore, the best solution is to know the right mix and to employ the different types of taxes without creating distortions. Policymakers will need to examine very carefully the tradeoff between these growth-enhancing proposals and other objectives of tax systems and particularly equity.

V. THE ROLE OF TAX LAW IN THE ECONOMIC DEVELOPMENT OF SELECTED AFRICAN COUNTRIES

The amount of revenue generated in developing countries, which includes African countries, has not been that satisfactory. According to a study conducted by the IMF, tax revenues have been stagnant across developing countries for decades, especially in Low Income Countries (LICs) and in Sub-Saharan Africa (SSA).[24] The reason is viewed as something of a mystery. But, it can be said that a large proportion of the population is in agriculture or informal sectors. So it becomes difficult to tax them, since they have low income.[25]

For example, Uganda's difficulty in taxing the informal sector has contributed to low tax revenue, even after they have reformed their tax system.[26] To the contrary, the Ghanaian government has tried to tax the informal sector.[27] The government used the Standard Assessment method, which uses a single tax – that is, a fixed lump sum tax was levied on individuals or businesses on the basis of occupation or the business activity in which they were engaged.[28] Ghana's experience in taxing the informal sector can be taken as an example for other African countries.

Weak tax administration and poor governance in African countries encourage non-compliance and increase costs of enforcement, which in return encourage tax avoidance and evasion; so this also contributes to low tax revenues.[29] Compliance costs are high in LICs: there are lengthy processes, frequent tax payments, bribes and corruption.[30] Estimates of tax revenue losses from evasion and avoidance in developing countries are limited by lack of data and methodological shortcomings.[31] For example, even though "Uganda has worked hard at improving the administration of its tax system, . . . it is still not collecting sufficient revenue, debt loads continue to rise, and budget deficits continue to mount."[32]

"The reduction of import tariffs and the elimination of many export taxes as part of trade liberalisation policies have [also] contributed to declining tax revenues[.][33] For example,

[23] *Ibid.*
[24] TAXATION AND DEVELOPING COUNTRIES: TRAINING NOTES, EPS-PEAKS 13 (2013) [hereinafter TAXATION & DEVELOPING COUNTRIES], *available at* https://www.odi.org/sites/odi.org.uk/files/odi-assets/events-documents/5045.**pdf** (last visited on Nov. 19, 2016).
[25] *Id.* at 14.
[26] Lisa Kayaga, *Tax Policy Challenges Facing Developing Countries: A Case Study of Uganda* 1 (Queen's University 2007) [hereinafter Kayaga], *available at* http://www.collectionscanada.gc.ca/obj/s4/f2/dsk3/OKQ/TC-OKQ-850.pdf.
[27] *Id.* at 13.
[28] *Id.* at 13-14.
[29] SUMMARY & MAIN FINDINGS, *supra* note 17, at 2.
[30] TAXATION & DEVELOPING COUNTRIES, *supra* note 24, at 9.
[31] *Ibid.*
[32] Kayaga, *supra* note 26, at 26.
[33] TAXATION & DEVELOPING COUNTRIES, *supra* note 24, at 14.

in Eritrea, goods produced for direct export are exempted from the payment of taxes, which results in low tax revenue in countries that follow the same approach.

"In many LICs[,] the majority of revenue is collected from a narrow tax base, sometimes due to a limited range of taxable economic activities."[34] "There is therefore dependence on a few taxpayers," which results in low tax revenue.[35] VAT performance in LICs is the weakest.[36] While only few countries in SSA have VAT, implementing a broad-based VAT and improved compliance might raise the revenue from tax collection in these countries.[37] For example, in Eritrea the tax base is narrow, which mostly depends on income tax, sales and excise tax, and tax from mining and petroleum operations. If it is critically studied, this kind of taxation system hinders economic growth, since there are many kinds of taxes like VAT, capital gains tax and a more developed corporate tax that have not been incorporated in with the overall tax laws of the country. As a similar example, the dependence on oil revenue by all tiers of government in Nigeria has also made the federal government reform its existing tax laws. So the concept of broader base and reduced rate needs to be worked on in African countries in order to increase revenue and to achieve long-term economic growth.

VI. CONCLUSION

It is evident that a good tax structure plays multiple roles in the process of economic growth and financial development of any nation. The tax structure of any country has to be reformed by broadening the base and reducing the rate. The different types of taxes have to be employed, rather than limiting them to the specific types of taxes. Striking the right balance between an attractive tax regime for domestic and foreign investment, by using tax incentives, and securing necessary revenue for public spending, is a key policy dilemma. Having the right mix and less distortion is the best way to improve the tax structure.

As the choice of taxes exercised by policy makers affects everyone, policy makers have to be careful in designing the tax structure. It should have to be simple, transparent, efficient, and most of all equitable. Above all, accountability and transparency on the part of government officials in the management of tax revenues for the benefit of the citizens is as important as designing an effective tax structure.

[34] *Id.* at 9
[35] *Ibid.*
[36] *Id.* at 11.
[37] *Ibid.*

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2014 ESSAY QUESTION: HOW CAN TAX LAW STIMULATE ECONOMIC GROWTH AND FINANCE DEVELOPMENT?

by Bereket Alemayehu Hagos*

I. INTRODUCTION

All governments, their divergent economic, social and political philosophies notwithstanding, need finance to subsist and function. To this end, they utilize an array of public revenue sources, which generally comprise of tax and non-tax sources. Nevertheless, taxes, which are levied via tax laws, take the lion's share in funding the undertakings of governments by "accounting for 90 percent or more of their income."[1]

The theme of this essay is that tax law can stimulate economic growth and finance development. As a prelude to this, the essay commences with explanations of the nature and purposes of taxation and tax law, the meaning of the concepts of economic growth and development, and the state's obligations with respect to taxation and development. Then, it expounds on how tax law can effectively stimulate economic growth and finance development. Lastly, it makes some concluding remarks and recommendations.

II. TAX AND TAX LAW: LAYING THE FOUNDATION STONES FOR GROWTH AND DEVELOPMENT

A tax may be defined as a "charge, [usually] monetary, imposed by the government on persons, entities, transactions, or property to yield public revenue."[2] A government "may [also] raise or lower taxes to achieve social and economic objectives, or to achieve political popularity with certain groups."[3] Orthodoxly, in taxation, there is no give and take between a government and taxpayers and, as a result, the latter should expect no direct and equivalent benefit from the former in return for discharging their duty to pay taxes. This, however, is without losing sight of the government's responsibility (constitutional or otherwise) to utilize the tax revenues in the best public interest in view of the social contract it has with the people. The power of taxation rests on necessity, and is an essential and inherent attribute of sovereignty, belonging as a matter of right to every independent state or government.[4] The need for compulsorily imposing taxes is, among other things, a corollary of the free rider problem associated with public or social goods and services.

To cover their expenses and achieve their other objectives, governments typically enact tax laws under which they oblige persons to contribute their fair share to society. Hence, tax law can be categorized as a branch of public law that "covers the rules, policies and laws that oversee the tax process, which involves charges on estates, transactions, property, income, licenses and more by the

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1 *See* Taxation. Redmond, Washington: Harvey S. Rosen, 2009. DVD.

2 *See Black's Law Dictionary* (10th ed. 2009).

3 Taxation, *supra* note 1.

4 *See* 84 C.J.S. *Taxation* § 4 (1954).

government."[5] The law of taxation can either be national, which mostly regulates domestic tax bases, or international, which addresses "the law of conflict resolution that arises from the collision of national tax systems."[6] A country's law of taxation is usually incorporated in its constitution, statutes, codes and treaties. By and large, tax law is designed to regulate the amount, timing and procedures of taxation as well as the powers and functions of tax administration bodies.

But what sort of tax law should a country have? Though each country is at liberty to pass a tax law which suits its own circumstances, countries are generally advised to give due consideration to certain invaluable principles in order to effectively promote economic growth and finance development. Adam Smith's four "maxims of taxation," which are incorporated in The Wealth of Nations, are ranked at the forefront of such principles. Accordingly, applying his maxims, a tax law should be crafted in a manner which: (a) obliges taxpayers to pay taxes in proportion to their respective abilities (equality), (b) plainly specifies the amount of tax which each taxpayer must pay, and the time and manners of payment to avoid arbitrariness (certainty), (c) levies every tax at a time or in a manner convenient for the contributor to pay it (convenience) and (d) makes the costs of tax administration inexpensive so as not to make the tax collection process a futile exercise (economy).

Over the passage of time, other principles have been identified. Thus, a tax law should be passed (a) on different sources rather than concentrating on a single source, taking into account a country's capability to administer them (diversity), (b) which allows authorities to revise a tax structure both with respect to its coverage and rates to suit changing requirements of an economy (flexibility and elasticity), (c) which can yield enough revenue for the treasury and a government should have no need to resort to deficit financing (productivity) and (d) that creates an uncomplicated tax system (simplicity).[7] Also, a tax system must include accountable tax administration institutions and officials, as well as transparent taxation processes to ensure the proper execution of tax laws and to foster the economic growth and development of a country.

III. ECONOMIC GROWTH AND DEVELOPMENT: MEANING, AND STATES' LEGAL OBLIGATIONS

Economic growth and development are correlated but are not the same. Economic growth can be described as the "increase in the total amount of production and wealth in an economy."[8] Development shows us how growth impacts society by increasing the standard of life.[9] This means the growth of an economy, though indispensable for development, does not necessarily bring about development since "history offers a number of examples where economic growth was not followed by similar progress in human development."[10] Instead growth was achieved at the cost of greater inequity, higher unemployment, weakened democracy, loss of cultural identity, or overconsumption

[5] *See Tax Law- Guide to Taxation Law*, HG.ORG LEGAL RESOURCES, http://www.hg.org/tax.html (last accessed on Dec. 15, 2014).
[6] *See* Éva Erd□s, *Conflicts in the International Tax Law and Answers of the European Tax Law*, 47 Curentul Juridic, 159, 161 (2011), *available at* http://www.upm.ro/facultati_departamente/ea/RePEc/curentul_juridic/rcj11/recjurid114_11F.pdf (last accessed on Dec. 15, 2014).
[7] *See* Gaurav Akrani, *What is Tax? Definition - Adam Smith's Canons of Taxation*, Kalyan City Life (2010), http://kalyan-city.blogspot.com/2010/12/what-is-tax-definition-adam-smith.html (last accessed on Dec. 18, 2014).
[8] *See* Economic Growth. Redmond, Washington: Microsoft Corporation, 2008. DVD.
[9] *See* Alina-Petronela Haller, *Concepts of Economic Growth and Development: Challenges of Crisis and of Knowledge*, 15 Econ. Transdisciplinary Cognition 66, 66 (2012).
[10] *See* TATYANA P. SOUBBOTINA & KATHERINE A. SHERAM, BEYOND ECONOMIC GROWTH: MEETING THE CHALLENGES OF GLOBAL DEVELOPMENT 8 (2000).

of resources needed by future generations.[11] Therefore, development goes far beyond a rise in the capacity of an economy, and is about accessibility to shelter, education, health facilities, and jobs for the people (amelioration of living conditions) and, generally, the proper respect and enforcement of all human rights.

These days, development is no longer considered to be an issue of exclusively domestic concern, as demonstrated by the emphasis given to the right to development by the scores of international human rights documents (particularly as of 1945). For example, the United Nations Charter obliges both the UN itself and all its Members to promote and take actions to achieve "higher standards of living, full employment, and conditions of economic and social progress and development."[12] In addition, article 22 of the Universal Declaration of Human Rights (UDHR) provides for everyone's right to social security and entitlement to the realization of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. Likewise, under article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), states have pledged to take steps, to the maximum of their available resources, for the progressive full realization of the rights it recognizes, particularly by adopting legislative measures.

More specifically, Paragraph 2 of the Preamble of the United Nations Declaration on the Right to Development (UNDRD) further describes development as a "comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom." In other words, development is not only about respecting, fulfilling and promoting economic, social and cultural rights, but also about respecting, fulfilling and promoting their civil, political and third generation counterparts on account of their indivisibility and interdependence. The Sustainable Development Goals, which are a continuation of the Millennium Development Goals, are also germane to economic growth and development, as they encapsulate numerous targets relating to development and growth such as promoting sustained, inclusive and sustainable economic growth.

In all the aforementioned and in other instruments, states are duty-bound to take various actions in order to translate human rights into reality. Since the enforcement of these rights is inconceivable without adequate financial resources, states pass and execute tax laws.

IV. TAX LAW'S EFFICACY IN STIMULATING ECONOMIC GROWTH AND FINANCING DEVELOPMENT

Tax law can efficaciously stimulate economic growth and finance development in multifaceted ways. Most importantly, it may be the primary means by which a country may collect revenue to invest in education, which, in the words of Nelson Mandela, "is the most powerful weapon which [we] can use to change the world." This helps a country to have greater human capital, which can solve problems and innovate new technologies, thereby positively stimulating its economic growth and increasing its people's living standards. Moreover, law of taxation can support the development of a country by enabling its government to deliver other crucial social services, such as healthcare facilities, social welfare and housing. This is because, without these basic

[11] *Ibid.*

[12] *See* United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, art. 55(a), 56.

necessities, people will not have the capacity and willingness to productively work to foster the progress of their country.

The role that tax law plays in the establishment and functioning of essential state organs (such as courts, defenses and the police) is also of paramount importance for development and economic growth of a nation. This is due to the fact that economic growth and development are difficult, if not impossible, to attain unless there are institutions that can watch over the peace and stability of a country (internally and externally) and enforce human rights in general.

In addition to using tax law for generation of revenue to invest in human capital and to fund vital state bodies, tax law can provide for the funds necessary to establish and operate public enterprises in those industries where the private sector is unable or unwilling to invest (for example, in infrastructure and highly capital-intensive industries). The formation of such enterprises creates employment opportunities, and generally results in improved infrastructure and less costly goods and services for people and further revenues for governments, all of which are important to stimulate economic growth and finance development.

Also, during business cycle fluctuations, a country may use its tax law as a reaction to counter the resultant economic problems and to stimulate economic growth. For instance, in times of recession, which involve "decline in economic activity within an economy, usually characterized by higher unemployment and less investment in new plants and equipment,"[13] a "government might lower tax rates to try to fuel economic growth."[14]

Other means by which tax law stimulates economic growth and finance development include narrowing the gap between the rich and the poor, and enabling a government to serve as a lender. A government can bridge the gap between the rich and the poor by "imposing a heavier tax burden [such as the progressive Ethiopian income tax law] on one group in order to fund services for another."[15] Furthermore, a country's tax law can make a government a source of finance (lender) for many investments. This is particularly important in developing countries where finance is less accessible to the poor. If money is made available by a government, individuals will be in a better position to use their entrepreneurial expertise to venture into businesses, which will create jobs, result in greater tax revenue and ultimately foster a country's economic growth and development.

Tax law can also deter the production and use of some methods or goods, which harm public health and the environment. Imposing environmental taxes on polluters can stimulate the economic growth of a country, since it discourages them not to damage the environment and contemporaneously compels them to adopt state-of-the-art and environmentally-friendly equipment as well as production or service-rendering systems. These techniques of businesses reduce the rapid depletion of natural resources and bring about efficiency in production, which contributes to an increase in economic capacity and sustainable development. Besides, the law of taxation may be a tool for discouraging the making, importation and consumption of certain products which are

[13] *See* Recession. Redmond, Washington: Microsoft Corporation, 2008. DVD.

[14] *See* Investopedia, *"Fiscal Policy"*, <http://www.investopedia.com/terms/f/fiscalpolicy.asp>, (Last accessed on December 16, 2014)

[15] Taxation, *supra* note 1; *see also* Ethiopian Federal Income Tax Proclamation No. 979/2016 (This Proclamation uses the progressive tax system structure on such incomes as employment income and individual business income. However, it also uses proportional tax system with respect to other incomes such as those that are derived from dividends and games of chance.).

perilous to public health and well-being (mainly tobacco products). By imposing high excise (sin) taxes on manufacturers or importers, a country can protect the health of its productive population and help its economy to grow. It is worth noting that in recognition of the significance that tax law has in reducing the demand for tobacco, article 6 of the World Health Organization Framework Convention on Tobacco Control (FCTC) obligates states to take tax measures on tobacco products. In this regard, the 2002 Ethiopian Excise Tax Proclamation, in its Preamble, states that "it is believed that imposing [excise] tax on goods that are hazardous to health and which are cause(s) to social problems will reduce the consumption thereof." Accordingly, it imposes 20 per cent and 75 per cent excise tax rates on tobacco leaf and tobacco products respectively.

Viewed from another vantage point, a tax law of a country, by granting tax exemptions in certain fields of activities, may stimulate its economic growth and development. This is to say that sometimes intentionally forgoing the collection of taxes, in the forms exemption from taxes, results in long-term advantages for a country. Typical cases in point are the income tax and customs duty exemptions given in Ethiopia to investors by the Investment Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers Regulation No. 270/2012. Such incentives encourage investors to make investments with high expectations of profit, thereby creating job opportunities, transferring technologies and skills, becoming sources of tax revenues and fostering the economic growth of a country. Further, by targeting tax exemptions towards investments in disadvantaged sections of a country, a government can attract more investments to these areas to prevent or reduce regional economic disparities and attain more balanced national economic growth and development in its country. For example, with the intention of promoting investments in some parts of the country, the Ethiopian government grants additional tax incentives to investors that invest in the areas, as per Regulation No. 270/2012.

Similarly, a country's economic growth may be stimulated by providing for tax exemptions of non-commercial entities (such as non-governmental organizations) in its tax law to create propitious environment for their establishment and operation. Such organizations can help a government to resolve societal problems, thereby freeing up tax revenues the government would have had otherwise to spend on such problems and enabling the government to reallocate its funds to other productive activities.

Finally, international tax law is also capable of promoting economic growth of countries by avoiding or minimizing the adverse impacts of repetitive taxations of the same subject matters and, in this manner, encouraging international trade and investment. For instance, Ethiopia signed treaties with some countries to avoid double taxation and to promote foreign investments.

V. CONCLUSION

As explained in this essay, tax law can serve as an instrument to effectively stimulate a country's economic growth and finance development in several ways. But to realize these goals, a tax law should be enacted mainly in accordance with the basic principles of taxation. Therefore, as the Persian adage "a stone thrown at the right time is better than gold given at the wrong time" advises us, any country that wishes to achieve economic growth and development should first embark on revising its tax laws and signing treaties regarding taxation pursuant to these principles. Then, it should set up institutions and employ officials who are accountable and have transparent working systems to deal with the administration of tax laws. Finally, it is recommended that other stakeholders (such as the World Bank and the International Monetary Fund) also contribute to the endeavors of countries in enacting, implementing and improving their tax laws.

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2014 ESSAY QUESTION: HOW CAN TAX LAW STIMULATE ECONOMIC GROWTH AND FINANCE DEVELOPMENT?

by Haftu Amare Girmay

Economic growth refers to responses that increase income and output. From this point of view, economic growth shows the relationship between inputs and output, i.e., a return. It is a sustained increase in per capita national output or net national product over a long period of time. Economic growth can be determined by four important determinants, namely, human resources, national resources, capital formation and technological development.[1] If this is how economic growth is viewed, then how can tax law pave the way for the attainment of this goal?

Countries create with tax policies in order to, among other things, expand revenue sources and enhance economic growth. Ethiopia's economic policy framework commits government to address apparent market failures.[2] Tax law is the pillar instrument in realizing this policy in that it provides tax incentives, including import duty exemptions, and tax holidays. Tax laws express the objectives of tax policies. Such expressions usually are to be found in legislative preambles. Sometimes, clear policy objectives are found in the substantive articles of the legislation. Notable in this regard is Ethiopian tax proclamations that clearly stipulate their aim in their preamble. But it does not mean that it fails to include it on its substantive articles.

Finance development, on the other hand, is related to what the financial system of the country looks like, i.e., revenue and expenditure of a country. In this regard, tax law also plays a huge role. The following section is devoted to how tax law stimulates both by looking at certain measurements.

I. INVESTMENT

The economic growth of a country is mainly dependent on the level of investment that country has.[3] Investors may be domestic or may come from outside. Tax law has a stimulating effect on the investment rate, provided it fulfills the basic principles of taxation, i.e., equity, certainty, simplicity, clarity, fairness and having a low rate with a broad base.

The main purpose of taxation is to expand a state's avenues of revenue. The political, economic and social development of any country depends on the amount of revenue generated for the provision of infrastructure in that given country.[4] A tax system offers itself as one of the most effective means of mobilizing a nation's internal resources, and it lends itself to creating an

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[1] G.N. Ogbonna & Appah Ebimobowei, *The Impact of Tax Reforms and Economic Growth of Nigeria: A Time Series Analysis*, 4 CURRENT RESEARCH J. SOC. SCI. 62, 65 (2012), *available at* www.maxwellsci.com/print/crjss/v4-62-68.pdf.

[2] Henok Assefa, et al., *Ethiopia's Investment Prospects: A Sectoral Overview*, 4 AFRICAN REV. ECON. & FINANCE 203, 214 (2013).

[3] WILLIAM MCBRIDE, PH.D., HOW TAX REFORM CAN ADDRESS AMERICA'S DIMINISHING INVESTMENT AND ECONOMIC
GROWTH 4 (2013), http://taxfoundation.org/article/how-tax-reform-can-address-america-s-diminishinginvestment-and-economic-growth.

[4] Ogbonna & Ebimobowei, *supra* note 1, at 62.

environment conducive to the promotion of economic growth.[5] Some may ask what this has to do with economic growth and finance development. A government is there to provide public goods that are hard for private actors of a market to provide, watch for externality, protect the economy from monopoly abuse, and regulate market failure in general. In order to look after such things, the government needs revenue, and tax is the main source. By constructing infrastructures, the government creates a fertile field for investors, who are the main actors of economic growth. It is easy to imagine how hard economic development would be without infrastructure. By setting out how taxes are to be levied, tax law stimulates economic growth and finance development.

Tax law provides incentives for certain investments and promotes tax policies that are favorable to the operation of market forces. Investors, especially foreign investors, look at the tax rate and available tax incentives of a given legal system before they decide to invest in a country. If one looks at Ethiopia, a country following the scheduler system of taxation, it has incorporated "foreign tax credit principle, loss carry forward principle and deductible assets, bad debts, etc. of a business" in order to attract investment.[6]

II. WHAT KIND OF TAX LAW ACHIEVES THIS?

1. Tax Incentives

Tax laws that provide incentives encourage investment, which is the main machinery of economic growth. Incentives exploit and develop the immense nature of resources of the country in return for the development of the domestic market through the growth of production, productivity and service. With this regard, Ethiopian tax laws follow customs duty payment exemption on capital goods and construction materials, and on spare parts whose value is not greater than 15 per cent of the imported capital goods' total value.[7] Besides, it has a room for income tax exemption from two to seven years for manufacturing or agro processing and agricultural investments.[8]

2. Tax Rates

Economic growth can be encouraged by lowering tax rates. Coming up with lower tax rates has the effect of attracting or stimulating domestic investors and attracting foreign ones. With capital becoming increasingly mobile, national corporate tax rates have an increasing influence on where multinational companies locate their operations, locate their jobs, and report their income. If a country's laws are conducive to investment, it stimulates economic growth by creating productivity, employment opportunity and boosting wages. This has to do with how a country's tax law sets the tax rate. The moment a country sets a higher tax rate, it discourages investment. This shows how tax law contributes to economic growth because economic growth is directly related to investment. As to tax rates, since Ethiopia has come up with different forms of taxes, we can say that it imposes moderate tax rates compared to other countries. In order to encourage investment it comes up with 30 per cent flat rate for business, 15 per cent in the form of VAT.

[5] *Ibid.*
[6] Income Tax Proclamation No. 286/2002, 8thYear, No. 34, arts. 7, 20, 20-28 (Ethiopia).
[7] Assefa, *supra* note 2, at 203.
[8] *Id.* at 230.

The tax rate also affects finance development. It is a fact that finance development is dependent on the financial system of a state. Finance develops if the amount of saving increases.
The saving rate has a direct relationship with the tax rate. If a higher tax rate is imposed on the interest gained from a deposit, then people become reluctant to save. If the case is reversed, however, people tend to save more; and in that case finance develops.

3. Tax Base

Tax rate reduction, though having positive effect on investment, reduces revenues.
To offset such a trade-off, countries can and should pay for a significant rate reduction in the corporate tax by broadening the corporate tax base to eliminate tax breaks and preferences. Ethiopia, to raise revenue it come up with immense types of taxes. VAT, income tax, TOT, tariffs are notable in this regard.

As I mentioned in the introduction, tax law has a dual role of stimulating economic growth and finance development. A country cannot grow economically by sacrificing finance. In order to expand investment countries reduce their tax rate. However, it results in decrease of revenue. To strike the balance between the two, good tax law broadens the tax base. By doing so, the state also looks after the finance system.

4. Principles of Tax Law

Tax law not only sets incentives to stimulate economic growth, but also comes up with principles to regulate the market, i.e. to bring about a healthy market. Good tax law plays a paramount role in attracting investors to stimulate economic growth by assuring certainty, simplicity, and equity, as well as by reducing cost of compliance and administration, controlling tax avoidance and evasion, protecting against double taxation and controlling inflation.

Tax law stimulates economic growth and finance development if, and only if, it cares about the rules of efficiency and equity. Through efficiency, tax law allocates resources and distributes wealth throughout a nation. When we examine equity, we see how an equitably founded tax system plays a role in distributing income across individuals. An equal distribution of the power to levy tax has paramount role in stimulating economic growth and finance development. This means that a country is grown economically; and it has to have distributed resources. Tax law stimulates this because the government levies tax from the wealthiest section to build infrastructure in the less developed area. By doing this, investors would like to expand their investment in those areas. Enhancing tax equity has an enormous impact on economic growth.
The cost of operation of tax law also influences economic growth as well as finance development.

Though it is hard to find consensus how equitable a tax system is, the Ethiopian tax system tries to be fair coming up with the principles of horizontal and vertical equity. One example of this is the income tax proclamation. By following progressive taxation, Ethiopian income tax tries to levy more on the richest in order to redistribute resources.

Cost affects investment, which is the backbone of economic growth. Investors do not want to incur costs for compliance, understanding tax laws, accessing them and dealing with the institutions collecting the tax. Tax laws attract investors if they are legislated in such a way that they are easy to understand and available at low cost or easy access for free on websites. By doing so, tax law stimulates economic growth and finance development. For that matter, minimizing administrative costs as well as having transparent tax administration laws stimulates economic growth and finance development. A tax system brings high revenue for a government if it is productive in developing finance.

However, the Ethiopian tax system has certain pitfalls in minimizing cost of taxation. It is hard to access tax laws, which makes it difficult for an average taxpayer to make sense of their obligations under the various tax laws in force. Because tax laws are uncoordinated, most tax laws repeat certain provisions as if they were not already provided for in other tax laws.[9] In addition, administrative costs of taxation are high in Ethiopia, since there are different tax rates for many segments. Therefore, Ethiopia must come up with an efficient tax system no matter how it evolves over time.

Fair tax laws stimulate economic growth. The fairness of a tax law is dependent on the tax rate. Tax law discourages investment if it lets many small businesses pay higher tax rates than big businesses, and when companies face the highest tax rate. A complex tax system diverts productive resources into wasteful lobbying and tax avoidance schemes.[10] In order to stimulate economic growth and finance development, tax law has to stay away from economic decisions; rather, it has to be neutral. Growth-oriented tax systems seek not only to minimize the distortions of market signals by the tax system, but also to create as few obstacles as possible to investment, innovation, entrepreneurship and other drivers of economic growth.

5. Principles of Double Taxation, Tax Avoidance and Evasion, Curbing Inflation

The way tax laws regulate investors has a direct effect on economic growth. For instance, if a country's tax law avoids double taxes, it stimulates economic growth. This is because investments run away from states where double tax exists, and double tax forces companies to shift workers and research overseas just to try to compete on a level playing field against foreign competitors. Countries create tax laws that exempt certain investment from being taxed twice in order to stimulate economic growth. Countries follow a more territorial system of taxation to stimulate economic growth and finance development by letting companies invest everywhere and reinvest in their home land without being taxed twice. If tax law is not framed in such a way that it prevents tax avoidance and tax evasion, then it negatively affects the finance development of a state. A country that has a well-crafted tax law that closes loopholes, which invites tax payers to avoid their tax burden, stimulates finance development.

At times, Ethiopian income tax has envisioned foreign tax credit under article 7, rules of relationship and thin capitalization, transfer pricing principles, in order to encourage investment on the one hand and boost finance on the other, as a way of closing the door to tax avoidance. Besides, Ethiopia fills her gap for holding investors by entering into double taxation treaties with other countries. Last but not least, each tax proclamation of Ethiopia come up with has provisions for tax evasions.

Tax law is the main instrument for curbing inflation, stimulating economic growth and finance development. Market instability is one area of market failure in which the intervention of

[9] Tadesse Lencho, *The Ethiopian Tax System: Excesses and Gaps*, 20 Mich. St. Int'l Law Review 327, 355 (2012).
[10] Ogbonna & Ebimobowei, *supra* note 1, at 69.

government is highly sought. Perfect market and economic health means full employment, steady economic growth and a market free from inflation. The diseases of the market are price instability, inflation and a lack of economic growth that, in return, results in higher rates of unemployment.

6. Labor Force and Saving

Growth in the labor force and savings are important contributors to economic growth and finance development. Labor is an input that affects the output. The structure of tax laws affects labor. For instance, imposing a higher tax rate on income taxes discourages employees from working, meaning if a labor force does not get a return for its work, it tends to prefer leisure over labor. If a labor force supply is not encouraged, then development is hindered. So, the way tax laws are designed affects the supply of labor force. Employees look for lower tax rates, which rewards them higher income.

Saving is also the main machinery of economic growth and finance development. The finance system of a country determines the level of growth of a country. If that is so, countries design their tax laws in such a way that it enhances saving. For instance, the introduction of Value Added Tax (VAT) is mainly believed to bring about high rates of saving because it does not tax capital, but only consumption. This means that if a country's tax law favors investment over consumption, saving increases—and an increase in saving stimulates economic growth and finance development. In this regard, Ethiopia promulgated income tax law with relatively lower tax rates to relax employees and increased flat rate VAT to encourage saving.

III. CONCLUSION

Tax laws are legal instruments by which the concepts and principles of taxation are materialized. Tax laws set how governments levy tax on businesses, properties and incomes of people. This creates collection of revenue. A state collects revenue in order to prevent market failure. The market fails to provide public goods that have a non-rivalry nature when there is economic instability. The market is also non-equitable. Governments create tax laws in order to alleviate this. By imposing tax on citizens, governments raise their revenue so it can provide for the development of infrastructures that stimulate investors and equitably distribute wealth.

Tax law also curbs inflation, which in turn stimulates finance development. Tax laws are not only meant for the increment of state revenue; rather they are aimed at stimulation of economic growth as well as finance development. The main base of economic growth is investment. Tax law has a paramount effect on this, by providing incentives in certain areas and exempting certain areas of investment so that investors are attracted. Even the structure of tax laws—i.e., the tax rate, tax base as well as certain concepts like tax avoidance, tax evasion provisions and the very nature of the law itself–has a direct relationship with investment. For instance, companies run away from a country that sets high corporate tax rates. The neutrality of tax laws, such as its simplicity, low cost, and easy compliance, also has the power to affect investment—and that ultimately affects economic growth. Simply put, tax laws favor market operations when they are simple, easy to access and transparent. Incentives attract foreign investors and encourage domestic ones. Thus true investment, which is the base for economic growth, is mainly dependent on tax law.

Tax law acts as a catalyst of finance development and economic growth by creating avenues for revenue collection, by curbing artificial surpluses of money in a market, by encouraging the labor force through a low tax rate, and by giving incentives for investments. Generally, tax law has a stimulating effect on economic growth and finance development if it is composed of these basic principles. In this way, it provides incentives for investors and creates an environment conducive to the market to operate. Among other things, it enhances saving and investment by coming up with different types of taxes like VAT, broadening tax bases to raise revenues, and reducing tax rates. Ethiopia's tax system is pro-investment but the country has homework to do in fulfilling the simplicity and reducing the cost of compliance in order to fully attain its goal.

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2014 ESSAY QUESTION: HOW CAN TAX LAW STIMULATE ECONOMIC GROWTH AND FINANCE DEVELOPMENT?

by Lumela M. Lumela

Tax is the most important, sustainable and predictable source of public finance for all countries. It is for this reason that the impact of tax law on economic growth and the development of a nation has been excessively debated among economists and international development agencies. The essay therefore seeks to show ways in which tax law can stimulate economic growth and reduce poverty. It argues that poverty reduction can effectively be achieved if the country raises enough revenue to provide for the needs of its own citizens. In this regard, tax law is the key priority for economic growth and poverty reduction. A transparent and simple tax system enhances compliance on the part of taxpayers. This will result in more tax collection that can be invested in more potentially productive sectors. The essay concludes by demonstrating how investing in these productive sectors best address the plight of the poor.

Tax law refers to the legislation that regulates the process of government collecting money (i.e. tax) from its citizens and/or businesses. Tax law is the "body of rules under which the public authority has a claim on taxpayers requiring them to transfer to the public authority part of their income or their property."[1] For example, in Zambia, tax legislation includes The Value Added Tax Act Chapter 331, The Income Tax Act Chapter 323, and The Mine and Minerals Development Act Chapter 213, just to mention a few.

Tax law, therefore, is the law that outlines who must pay taxes and the rate at which they can be taxed. Tax law also addresses situations that may arise in the course of collecting and paying these dues, such as qualifying for exemptions or seeking remedy for non-payment. One of the main things that tax law usually does is establish a government's authority to collect these funds through a particular agency, such as the Zambia Revenue Authority. Once this has been done, it puts in place a process that determines how tax will be collected. Tax law is therefore needed to ensure that tax is taken in a just and fair manner.

Tax laws are an important tool used to stimulate economic growth. Economists agree that economic growth is the increased production of an economy. It is defined as an increase in the value of goods and services produced by every sector of the economy. The aim of economic growth is to "raise the standard of living of people as measures the total output of goods and services which an average person in the community will have for consumption and investment."[2] The most widely used measure of economic growth is the real rate of growth in a country's total output of goods and services, commonly known as the gross domestic product (GDP) of the country.

In terms of development, tax revenue entails money needed to improve the quality of human life. It also implies reducing poverty and enhancing individual economic opportunities. And to a greater extent, this would include better education, improved health and nutrition, conservation of natural resources, a cleaner environment, and a richer cultural life.

Poverty is defined as "pronounced deprivation in wellbeing,"[3] and wellbeing as "a capability to function in society."[4] Poverty arises when people lack key capabilities, and so have

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[1] 28 THE NEW BRITANNICA ENCYCLOPAEDIA, MICROPAEDIA KNOWLEDGE IN DEPTH 402 (15th ed. 2005).

[2] Felix Masiye & Peter Mulenga, *DS 40: Economic Policy, Growth and Development*, 7.

[3] WORLD DEVELOPMENT REPORT 2000/2001: ATTACKING POVERTY 15 (Oxford Univ. Press 2000).

inadequate income or education, or poor health, and many others. Poverty is therefore said to have various dimensions which include income poverty, education poverty, security poverty and many others.

Before considering the issue further, it should be emphasised that taxes differ from other sources of revenue in that they are compulsory levies and are unrequited. That is to say, taxes are not paid in exchange for some specific thing, such as the issue of public debt. Notwithstanding the fact that tax is a compulsory levy, economies across the world depend on resources collected from taxes to finance government activities. No government can be sustained without mechanisms for generating domestic revenue. Taxes are therefore a major way for countries to raise revenue to meet social and developmental needs of the people.

The authority to collect taxes is derived from tax law. Taxes play a critical role in encouraging economic growth and reducing poverty in a number of ways. First, the starting point is that the tax law of a given country must be comprehensible to the taxpayer. The tax system that commands the trust of taxpayers must not only be as simple as possible, but also certain both to the taxpayer and to the administrator in order to be generally understood by the public.[5]

This will enhance transparency in tax administration and reduce conflict between taxpayers who disagree with interpretations and applications made by revenue authorities. Tax law of that nature minimises the risk of tax avoidance, creates a level playing field in which all in the sector can compete fairly, and ensures that the right person is taxed at the right time.[6] This will result in high tax payment compliance, and hence more tax revenue for the government. Second, tax law can stimulate economic growth and reduce poverty by being clear on the criteria used to grant tax incentives necessary to attract business that otherwise would have located elsewhere. This safeguard prevents governments from offering excessive incentive packages to investors. Commentators in this field have concluded that excessive tax incentives are essentially unnecessary expenditures that deplete government revenue sources.[7] They erode the level of government services, such as infrastructure improvement and education. Therefore, tax law stimulates growth if tax legislation enables the government to capture a greater share of revenues.

However, the law should only allow the granting of tax incentives necessary to attract both local and foreign investment. Investments in businesses or the mining industry that generate employment for the locals are important for poverty reduction in the long-term. The employable workforce, once employed, would not only expand the revenue source of the government but also gain income that will improve their living standard. For example, the income may enable them to educate their children, access basic health services and many other services.

Another way in which tax law can stimulate economic growth and reduce poverty is by promoting accountability of governments for the revenue they raise and promoting public transparency in the taxes paid by enterprises. This is very important because the effect of tax on

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[4] Jonathan Haughton & Shahidur Khandker, Handbook on Poverty and Inequality 2 (World Bank 2009).
[5] Philip Pettit, REPUBLICANISM: A THEORY OF FREEDOM AND GOVERNMENT 176 (Clarendon Press 1997).
[6] M.B. Kamuwanga, NEGOTIATING INVESTMENT CONTRACTS: INVESTMENT LAW IN THE CONTEXT OF DEVELOPMENT 13 (ZPC Publications 1995).
[7] Andrew Kolesar, *Can State and Local Tax Incentives and Other Contributions Stimulate Economic Development?*, 44 THE TAX LAWYER 285, 285 (American Bar Ass'n. 1990), *available at* http://www.jstor.org/stable/20771334.

the welfare depends on what the government does with the revenue. This will ensure that taxes are spent on socially valuable programs which are important for poverty reduction.

Tax law may provide safeguards that ensure taxes be spent on sectors that both maximize growth stimulation and best address the plight of the poor, such as infrastructure development, education, tourism, agriculture and health. This approach links growth and poverty reduction because it allows everyone to share the benefits of growth. For instance, the government can use taxes to empower the people in poorest areas by providing functioning feeder roads, power, and simple irrigation facilities. A functioning infrastructure like railways, roads, energy, and telecommunication is also important for reducing poverty. "This is true from both the perspective of enhancing economic growth through improved international competitiveness.... and from the perspective of linking poor rural areas to urban markets and social amenities."[8]

In the modern world, education is widely recognised as a very powerful tool for poverty reduction. Building more school infrastructure, and training and employing qualified teachers is the primary requirement for quality education. Quality education equips the people with necessary skills. Education develops the people's consciousness and creativity. For example, it is a well-established fact that at a basic level, mothers with basic education are better equipped to avoid aspects of poverty through practices such as improved hygiene and child nutrition. At higher levels, access to education in a growing economy with rising job opportunities can uplift many from poverty.[9] In developing countries like Zambia, it is educated people who acquire high paid jobs, and live in comfortable residences.

Progress in governance and technology, and contribution to a knowledge economy, are among the benefits of education.[10] Further, gains in productivity, specialisation and better job attainment can also contribute to economic growth as private benefits of education. In addition, public benefits come from research and development, the ability to attract FDI and better governance through a well- educated electorate and leadership body.

Similarly, taxes can also be used to expand tourism investment in order to reduce poverty. For example, it can be used to develop areas with highest poverty incidence but with tourist potential in order encourage investment inflows in those areas. Improved infrastructure will lead to higher investment and increased visitors in the country. This creates jobs and enhances the livelihood of the local people in addition to more generating tax revenue for the country.[11]

Furthermore, taxes can be used to provide basic health care, which involves basic drugs and disease prevention against common ailments like malaria, diarrhoea, and others which tend to afflict the poor more. This will reduce the number of deaths of many breadwinners and parents. Consequently, there will be a reduced number of orphans and street children.[12] Besides, research has shown that healthy people perform well at schools, and work productively, thus increasing the real growth of the economy. Moreover, countries that have low risk of infections attract tourism.

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[8] IMF, ZAMBIA POVERTY REDUCTION STRATEGY PAPER 127 (2002) [hereinafter ZPRSP], *available at* https://www.imf.org/external/np/prsp/2002/zmb/01/033102.pdf.
[9] *Ibid.*
[10] *See generally* David E. Bloom, David Canning, Kevin Chan, & Dara Lee Luca, *Higher Education and Economic Development in Africa*, 1 Int'l J. of African Higher Educ. 24 (2014), *available at* http://ejournals.bc.edu/ojs/index.php/ijahe/article/view/5643/4974.
[11] ZPRSP, *supra* note 8, at 127.
[12] *Id.* at 128.

Another way in which tax law can promote economic growth is by strengthening the social security of the country. Social protection and economic development are mutually reinforcing.[13] If a tax system is fair and certain, it enables employers to pay their social security contribution to the social security scheme on time and without difficulties. A classic example of the social scheme in Zambia is the National Pension Scheme Authority (NAPSA). When employees' social security is guaranteed, they are more likely to become productive. Employees will be able to give their best at work because they know that should they get sick, injured or die their social security is protected. High productivity leads to more profit for the company, good labour income for the employees, and high tax contribution to the government. Another economic benefit of high productivity is the consequential economic expansion of the company. This entails more job creation.

Furthermore, tax law can stimulate economic growth and poverty reduction by reducing marginal tax rates. New economic analysis and evidence from optimal tax theorists indicates that national governments fared better by taxing a medium share of a rapidly growing economy as opposed to trying to extract a large share of a stagnant economy.[14] Ireland, India, Russia and East Asia are a few of the economies that began expanding impressively after their governments sharply reduced marginal tax rates.[15] Higher taxes can discourage the investment rate, or the net growth in the capital stock via high statutory tax rates on corporate and individual income, high effective capital gains tax rates, and low depreciation allowances.[16]

America has experienced three periods of very strong economic growth in this century: the 1920s, the 1960s, and the 1980s.[17] Each of these growth spurts coincided with a period of reductions in marginal tax rates.[18] For example, following the Kennedy tax cuts in the early 1960s, the economy grew by nearly five per cent per year.[19] In the seven years following the 1981 Reagan tax cuts, the economy grew by nearly four per cent per year, while real federal revenues rose by 26 per cent.[20]

In Zambia, high internal taxes and charges are among major constraints in the production and export of various commodities.[21] A stagnating agricultural sector is responsible for reduced inflow of investment resources, and reduced competitiveness due to policy constraints.[22] Thus, reducing the marginal tax rate in the agricultural sector will make agriculture one of the key components driving economic growth and poverty reduction in Zambia. This requires increasing the efficiency, competitiveness, and sustainability of production while ensuring food security and increased income.

Lastly, at the international level, tax law can also play an important role in stimulating economic growth and poverty reduction. For example, the formation of Custom Unions and Free Trade Areas such as COMESA allows Contracting States to impose a duty tax fee on

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13 M.P. OLIVER, N. SMIT, E.R. KALULA, G. MHONE, INTRODUCTION TO SOCIAL SECURITY 1 (LexisNexis Butterworth 2004).

14 M. Paul Romer, *The Concise Encyclopaedia of Economics*, Library Economics Liberty, *available at* http://www.econlib.org/library/Enc/EconomicGrowth.html.

15 *Ibid.*

16 *Ibid.*

17 Eric Engen & Jonathan Skinner, *Taxation and Economic Growth*, 49 Nat'l Tax J. 617, 622 (1996).

18 *Ibid.*

19 *Ibid.*

20 *Ibid.*

21 ZPRSP, *supra* note 8, at 56.

22 *Ibid.*

agreed-upon good and services. This facilitates more circulation of goods and services. It also acts as an incentive to investors and encourages local people to engage in business this will lead to job creation, and more people to pay taxes such as Pay As You Earn (PAYE) and Value Added Tax (VAT). When more tax is paid, it increases the revenue of the state. More revenue can be used in road and bridge construction, hospitals, schools, and colleges. Building apartments can alleviate the shortage of shelters in the country. More road construction will enhance economic trade. For example, business traders will be able to transport their products without delay, leading to easy accessibility of goods and services by the consumer.

In all the circumstances, tax law can stimulate economic growth and reduce poverty by being comprehensible. Enhancing transparency in tax administration encourages compliance by ensuring accountability of governments for the revenue they raise. Promoting public transparency in the taxes paid provides safeguards that ensure taxes are spent on sectors that both maximize growth stimulation and best address the plight of the poor; strengthen the social security of the country; reduce marginal tax rates; and can be used to facilitate more circulation of goods and services in international markets, which acts as an incentive to investors and local people to engage in business. This will lead to job creations and to more people paying tax that can be used in other productive activities.

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2014 ESSAY QUESTION: HOW CAN TAX LAW STIMULATE ECONOMIC GROWTH AND FINANCE DEVELOPMENT?

by Walter Mandela

A tax is a monetary charge imposed by the government on persons, entities, transactions or property to yield public revenue. The term embraces all government impositions on the person, property, privileges, occupations and enjoyment of the people and includes duties, imposts and excises.[1] Taxes are levied by the state by virtue of its sovereignty for the support of government and all public needs.[2]

Tax Law is a body of law concerned with taxation.[3] Economic growth is the quantitative change or expansion in a country's economy. Economic growth is conventionally measured as the percentage increase in Gross Domestic Product (GDP) or Gross National Product (GNP) during one year.[4] Development is the process by which someone or something grows or changes and becomes more advanced.[5]

A government collects taxes in order to provide efficient and steadily expanding non-revenue yielding services such as infrastructure, education, health, communications systems, et cetera. Tax is the nexus between the state and its citizens. Tax revenues are the lifeblood of the social contract.[6] Tax is the most sustainable source of finance for development. Tax revenue in Africa is worth ten times the value of foreign aid. The long-term goal of poor countries must be to replace foreign aid dependency with tax self-reliance.[7] Governments that have influenced their economic development through revenue from tax include, among others, those of Canada, United States, the Netherlands and the United Kingdom.[8]

Tax Law can stimulate economic growth and financial development by creating tax incentives. A tax incentive is a reduction made by the government in the amount of tax that a particular group of people or type of organisation has to pay or a change in the tax system that benefits those people.[9] The most efficient forms of tax incentives are special economic zones (SEZ) and tax holidays. A SEZ is a geographical region that has economic and other laws that are more free-market-oriented than a country's typical laws. "Nationwide" laws may be suspended inside a special economic zone. In China, SEZs were founded under Deng Xiaoping in the early 1980s. The most successful SEZ in China, Shenzhen, developed from a small village into a city with a population over 10 million within 20 years. Following the Chinese example, SEZs have been established in several countries, like Brazil, India, Pakistan, the Philippines, Poland, South Korea, Cambodia and North Korea.[10] A tax holiday is a period when people or

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1 *Black's Law Dictionary* (8th ed. 2004).
2 THOMAS M. COOLEY, THE LAW OF TAXATION 61-63 (4th ed. 1924).
3 *Tax Law,* BUSINESS DICTIONARY, http://www.businessdictionary.com/definition/tax-law.html.
4 *Glossary*, WORLD BANK, http://www.worldbank.org/depweb/english/beyond/global/glossary.html.
5 *Development*, CAMBRIDGE DICTIONARY, http://dictionary.cambridge.org/dictionary/british/development.
6 Christian Worlu & Emeka Nkowu, *Tax Revenue and Economic Development in Nigeria: A Macroeconometric Approach*, 1 Acad. J. Interdisciplinary Studies 212 (2012).
7 *Id.* at 213.
8 *Ibid.*
9 *Tax Incentive*, COLLINS DICTIONARY, http://www.collinsdictionary.com/dictionary/english/tax-incentive.
10 *Special Economic Zone*, https://www.princeton.edu/~achaney/tmve/wiki100k/docs/Special_Economic_Zone.html.

companies do not have to pay any tax or not as much tax as usual on goods, services, or profits.[11]

Tax incentives attract investments. With the global market having cutthroat competition, foreign investors and multi-national corporations are drawn to countries where they can have a competitive edge over their competitors. Tax incentives are bait for the commercial entities. "You catch more flies with honey than vinegar." However, governments must offer tax incentives in critical sectors of the economy that have a positive ripple effect on the rest of the economy. There must be transparency when awarding tax incentives. They must be based on economic considerations as opposed to political ones. For example, Uganda's Finance Minister Maria Kiwanuka has said, "We are no longer giving tax incentives to individuals. We shall only be giving tax incentives to specific sectors where we believe it is applicable, for instance, in medical equipment."[12] Despite Uganda's narrow tax base, the government has been generously administering tax exemptions to individuals and companies and this has had a negative impact on domestic revenue collections since many people or taxable items have been exempted from paying tax.[13]

Tax law can encourage industrialisation. This is through a policy termed as protectionism. The government can impose low export taxes on the local industries manufacturing for the international market so that the exports compete favourably on the international market. The government can impose high import taxes that will make the locally manufactured goods more competitive locally than the imported ones. Imposition of high import tariffs curtails dumping. This is the practice of selling goods in another country so cheaply that companies in that country cannot compete fairly.[14] Protectionism is today despised world over with numerous international trade agreements against it. However, it is through this policy that the developed countries climbed the economic ladder to its apex. The developing world in my opinion should therefore consider it as well.

Though Britain entered the "game" of industrialisation first, it still relied on protectionist policies until major industrial sectors were established. During the sixteenth century, Henry the VII aimed to support the domestic processing of wool, which accounted for roughly half of English industry in that time, through taxing exports of raw wool. The United States of America, which is regarded as the model type of political as well as economic liberalism, was in fact "the mother country and bastion of modern protectionism." After independence, the U.S. issued high tariffs and taxes under the guidance of George Washington. The United States performed most successfully during years of high protectionism. In the 1920s, it had the highest tariffs on manufactured imports with 37% after Spain.[15]

Tax law can stabilize the monetary currency in countries. It can be used to control inflation and deflation. Inflation is a continual increase in the price of goods and services.[16] Deflation is a decrease in the amount of available money or credit in an economy that causes

[11] *Tax Holiday*, CAMBRIDGE DICTIONARY, http://dictionary.cambridge.org/dictionary/business-english/tax-holiday.
[12] Martin Luther Oketch, *Government Scraps Tax Breaks to Spur Development*, THE DAILY MONITOR NEWSPAPER, http://www.monitor.co.ug/Business/Govt-scraps-tax-breaks-to-spur-take-off-of-economy/-/688322/1912060/-/qilbcxz/-/index.html accessed on 31/12/2014 at 8.10 p.m.
[13] *Ibid.*
[14] *Dumping*, CAMBRIDGE DICTIONARY, http://dictionary.cambridge.org/us/dictionary/business-english/dumping.
[15] Annemarie Detlef, The Role of the State in Development : Reexamining Neo-Liberal Recommendations, E-INT'L RELATIONS STUDENTS (Apr. 26, 2012), http://www.e-ir.info/2012/04/26/the-role-of-the-state-in-development-re-examining-neo-liberal-recommendations.
[16] *Inflation,* Merriam Webster Dictionary, http://www.merriam-webster.com/dictionary/inflation.

prices to go down.[17] Governments increase the rate of direct taxes in order to curb inflation. This reduces the purchasing power of the people, hence stabilising the currency. In the incidence of deflation, the converse can be done by the government. Direct taxes are decreased so that the purchasing power of the population is increased. This uplifts the country from deflation. A stable currency maintains the purchasing power of the population, ensures that the fiscal and monetary plans of the government are achieved and instils investor confidence in the country hence stimulating economic growth and financing development.

Tax law can widen and deepen the tax base. The tax base is the set of economic activities and assets that is taxed. Any attempt to broaden the tax net needs to take into account whether the extra revenues outweigh the collection costs. The priority targets should be those benefiting from tax preferences, those misusing transfer pricing to shift profits, and the extractive industry. Many countries have successfully enlarged their tax bases. Tunisia has increased its own at a yearly average of 3.5 per cent; South Africa has more than doubled it, as has Egypt in the last five years.[18] Tax law enables governments to be creative and capture taxes from nascent areas of the economy. In Uganda, the government has decided to tax international remittances from Ugandans living abroad and also tax cash transfers by mobile phones and other money transfer operators.[19] Uganda's informal sector, like that of most sub-Saharan African countries, is largely composed of numerous unregistered and unregulated small and medium sized enterprises. A recent report by The Monitor quotes data from the nation's Statistics Bureau, which notes that the sector currently makes up about 43% of Uganda's total economy. Uganda's Revenue Authority has revealed that it continues to face difficulties in taxing businesses operating in the informal sector.[20] I believe tax law can save the day. The government can enact tax laws that will compel the informal sector to pay taxes, e.g. the government can make a law that sets an ultimatum for the registration of all the informal businesses for tax payment purposes or it could enact heavy penalties for tax defaulters engaged in the informal sector.

Tax law can be harmonised among countries to promote collective simultaneous development especially where the countries are in a federation or regional bloc. This is through an agreement on a unified tax framework by the countries and establishing a minimum and maximum limit for taxes. A unified tax regime will reduce the temptation for firms operating across different countries to evade taxes. The most fundamental impact of the harmonisation is that it eases cross border trade in the private sector. This will result into increased movement of goods and services within the countries, increased investment, enhanced employment opportunities, et cetera.

The East African Community (EAC) partner states will have a harmonised tax system by April 2015. Kenyan Cabinet Secretary in the Ministry of East African Affairs, Commerce and Tourism Phyllis Kandie told a media briefing in Nairobi that negotiations are currently ongoing at the ministerial level:

> We shall begin by harmonising the Value Added Tax (VAT) and the Excise Taxes. Tanzania, Uganda and Rwanda have a VAT rate of 18 per cent while Kenya's is 16 per cent. The economic bloc has different levels of taxation across the same industries. What is

[17] *Deflation,* Merriam Webster Dictionary, http://www.merriam-webster.com/dictionary/deflation.
[18] *Deepening the Tax Base*, AFRICAN ECON. OUTLOOK, http://www.africaneconomicoutlook.org/theme/public-resource-mobilisation-and-aid/policy-options/deepening-the-tax-base.
[19] *Uganda to Tax Mobile Money Transfers*, BBC NEWS, http://www.bbc.com/news/world-africa-22904176.
[20] K.O Peppeh, *Informal sector is the fastest growing sector in Uganda*, UGANDA STATISTICS BUREAU, http://www.zegabi.com/articles/7400.

> important is that we have agreed as a region on the need for uniform tax systems across the five partner states. Tax harmonisation will make cross border trade easier for the private sector. Our aim is to ensure that intra-EAC trade reaches the level of other trading blocs such as the European Union.[21]

Countries lose colossal amounts of money which could have been directed to enhancing economic growth and financing development through tax evasion. Tax evasion is using illegal means to avoid paying taxes.[22] Tax law can be enacted to recover money that the government loses through evasion. Tax law can deter tax evasion by imposing a heavy penalty as a sanction. In India and other south asian countries, tax evasion is endemic, starving the government of revenue and retarding the pace of economic growth and social development. This has spawned a shadow economy, with a large number of tax payers hiding wealth. India's Finance Ministry estimates that the off-the-books economy totals about 40 per cent of the country's GDP. In a bid to recover money hidden abroad, the government has renewed efforts to revise its tax treaties with at least twenty-five countries, and renegotiate agreements with 51 others.[23] In China, tax evasion attracts the Death Penalty.[24] Countries in need of tax revenue for economic growth and development can borrow a leaf from the above countries and enact similar tax laws.

In conclusion, taxes are a significant instrument which every government utilises in order to fulfil its obligations to its people. The mandate to impose and collect taxes, and also administer sanctions pertaining to taxes is conferred by tax law. The relevance of tax law cannot therefore be overemphasized. In matters pertaining to tax and tax law, governments must always address their minds to the wise counsel of Jean-Baptiste Colbert, Minister of Finance under King Louis XIV of France, who stated that "The art of taxation consists in so plucking the goose as to obtain the largest possible amount of feathers with the smallest possible amount of hissing."

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[21] Xinhua, *EAC Partner States to Harmonise Tax Regimes*, STANDARD MEDIA, http://www.standardmedia.co.ke/mobile/?articleID=2000138363&story-title=EAC partner States to harmonise tax regimes/business.

[22] *Tax Evasion: An Overview*, http://www.law.cornell.edu/wex/tax evasion.

[23] Anuj Chopra, *India's Push to Tame Tax Evasion*, THE NATIONAL, http://www.thenational.ae/business/industry-insights/economics/indias-push-to-tame-tax-evasion.

[24] Geoffrey Wansell, *China, Where You can be Shot for Tax Evasion*, DAILY MAIL, http://www.dailymail.co.uk/debate/article- 1239060/China-shot-tax-evasion.html.

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2014 ESSAY QUESTION: HOW CAN TAX LAW STIMULATE ECONOMIC GROWTH AND FINANCE DEVELOPMENT?

by Mary Musoni

Taxation is essential for sustainable development because it supports the basic function of a sustainable state and sets the context for economic growth. Taxation charges on estates, transactions, property, income, licenses are all intended to boost the economy of the country, consequently leading to good tax regulatory mechanisms, and promoting good governance and accountability by the government for the prosperity of the nation. Taxation therefore lies at the administrative heart of any government, and acts as a catalyst for public demands with regard to a government's responsiveness and accountability.

Taxes usually provide the guidelines on how the budget of any country will look. Before the budget is read, changes usually involve taxes. The economy of any country thrives on how much it gets on the taxes it imposes on its citizens. So usually when the budget is read, it highlights areas in the economy that will need improvement, and the only way this can be achieved is if the collection of taxes is done in a good and fair way. With such a system in place, the economy of the country stands a chance of development, because all areas likely to lead to development of the country will be taxed equally.

Tax law can also lead to economic development through good tax policies. Tax law in itself cannot achieve development but the policies implemented by any state through which taxes can be collected will be the basis for development. For instance, charging fair taxes could be one way of encouraging citizens to even pay the taxes, investing in economic activities other than agriculture because most times the difficulty of raising good taxes comes from the fact that the tax base itself is not enough. Agricultural activities do not act as good tax resources, therefore you find that instead of growing and expanding the tax base, the country will instead be deteriorate. Therefore, one way of ensuring the economic growth of a country is if economic activities other than agriculture are considered in this way. They will be taxed proportionately leading to development.

Taxes are necessary to fund the legitimate operations of government. The core functions of government, such as providing for the common defense and upholding the rule of law, cost money, and taxes exist to raise revenues to fund these legitimate activities. A good tax system, for instance, can help citizens themselves hold the state accountable for how the tax payer's money is spent.[1] Transparency in how taxes are collected and spent is a good system if we are to consider that a state is democratic and cares for it is citizens.[2]

Taxes for any development and the progress of a country play a role in proper resource allocation. For instance, tax revenues may be used to encourage development activities in the less developed areas of the country, because the imposition of tax will necessitate the proper allocation

[1] *See* INST. OF POLICY ANALYSIS & RESEARCH-RWANDA, EAST AFRICAN TAXATION PROJECT: RWANDA COUNTRY CASE STUDY 7 (2011), *available at* http://www.actionaid.org/sites/files/actionaid/rwanda_case_study_report.pdf.

[2] *Id.*

of resources. Taxes thereby ensure that areas that were not or are not given enough attention in as far as development is concerned are considered, and increase the overall growth of the country.[3] Another way taxes can increase economic development is by creating a system where rigging of tax or tax avoidance is prevented, because paying taxes in essence is not a bad thing. However, once people start avoiding them or show an unwillingness to pay taxes, then most likely this will affect the activities of the country and the plans of the government for its citizens. So if tax avoidance or tax evasion are to be dealt with and avoided whichever way possible then maybe a sustainable economic growth and development can be realized.

Taxing income more than once is unfair and detrimental to some countries' economies. Double taxation like capital gains taxes, dividends taxes, all of which apply to income that has already been taxed, is unfair. Several countries have gone on to sign double taxation agreements to tackle this problem, such as countries in the east African community including Rwanda, Burundi, Uganda, Tanzania and Kenya.[4] It is only Burundi that does not have any tax treaty with any country, and Rwanda has already signed the double taxation treaty and even ratified it.[5] The remaining east African countries are hesitant because they are scared of the implications of the treaty. Still, the fact that they have the double taxation treaty arrangements with other countries is proof enough that in case this treaty is implemented, the economies of these countries might boost.

For a country like Rwanda, given its history of the 1994 genocide, taxes have played a tremendous role in the development of the country. In fact, Rwanda's goals are embedded in its vision 2020, which seeks to transform Rwanda from a low income agriculture-based economy to a knowledge-based, service-oriented economy by levying appropriate taxes. Rwanda is set to achieve the goals it initially set out, because the only way these goals will be achieved is if the citizens themselves pay taxes.

When the taxes are high in a given country, this not only discourages investment but incentives are very minimal. Consequently, you find that instead of a country moving forward, it is restrained, because what would be the point of investing in a country that makes the working conditions unbearable, instead of making profits? The investor is just making losses. This is where good tax policies play a role, because they can be used to handle critical and economy-threatening situations like depression or inflation.

A key reason why people do not pay taxes is that they do not see any corresponding improvements in public services that directly affect their lives. The urban population does not relate to better roads in rural areas. The rich do not even use public infrastructure such as public schools and public transportation as much as the poor do. This in turn discourages people to pay taxes, because they do not see their money's worth. So the need for accountability for taxpayer's money can play a tremendous role in the development and economic growth of a country.

Taxes are good for the economic development of a country, because not only do they increase investments, but they are also used as a control mechanism to check inflation and the

[3] *See* Jakir13, *Role of Tax in the Economic Development of a Country*, http://jakir13.hubpages.com/hub/Role-of-Tax-in-the-Economic-Development-of-a-Country.

[4] Adam Ihucha, EA Business Council again Urges on Double Taxation (June 8, 2013), http://www.theeastafrican.co.ke/news/EA-Business-Council-again-urges-on-double-taxation-/-/2558/1876186/-/rnh8tfz/-/index.html.

[5] *Id.*

consumption of certain harmful products that may not be favorable to the development of the country. The entry of certain products in a given state may not be prohibited, but their consumption may be checked through taxing of such products. In this way, inflation, uneven competitions that imports pose to the local industries, are all curbed and the economy can ensure sustainable development.

Another way to boost the finance will involve tax incentives and exemptions in promoting local investment and stimulating economic growth through native entrepreneurship and investment expansion of trade and investment opportunities within a regional agreement, through creating large investment areas and enlarged markets which are vital for regional integration. These are very crucial in the avoidance of differences in tax systems. Consequently, creating regional integration will enable states members to comply with the legal remits and regional agreed policies in their own capacity and competence.[6]

Another way taxes can increase development is if qualified and well-trained stuff were employed, because the accountability, the recording, and collecting processes all require people with the skills to do so. When tax officials are not paid well or if there are no well-established tax systems they can use like mail or telephones to make their work easier, then how shall the collection and ability to keep accounts be possible because of these bad working conditions, You find that people will be taxed more, and yet this should not have been the case if only proper channels through which taxes can be collected were established. So having well-monitored, properly working systems through which taxes are collected is one way economic development and the fostering of economic activities can be assured.

In conclusion, all of the above factors explain how tax law in itself is not the cause of economic growth and development. Rather, the policies presented in a tax system of any country are what can either lead to prosperity or detrainment in terms of development depending on the tax policies a country chooses. In order to address these factors, policymakers will have to think outside the box to ensure that the majority of the population that is currently not paying tax is brought into the tax net. If any country is to achieve equity, efficiency and growth in its tax system, it is important that the policies they will adopt to achieve these goals be done in a humane way without hurting the livelihood of the poor.

[6] C. MUTSOTSO, DRAFT TERMS OF REFERENCE FOR EABC SERVICES CONTRACT HARMONIZATION OF EAC TAX POLICIES AND LAWS PROPOSALS FOR TAXATION REGIME FOR FOSTERING SMALL BUSINESS DEVELOPMENT AND REGIONAL ECONOMIC GROWTH 4 (2010).