

# Tax Fraud and Phenomenon of “Contribuable Wangu” as a System

*Contribuable wangu*. This expression means my tax payer or the fact an agent appropriates a taxpayer

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**Abstract:** *This article aims at understanding tax fraud as a system by the fact that most agents of the Tax Administration appropriate certain taxpayers. Our research was conducted in the service of the Synthetic Tax Center of Kenya Township in Lubumbashi (Kenya STC) as a research field. In addition, we have made use of two reading grids on the one hand, the symbolic interactionism according to Le Breton (2004) and on the other hand, the social actor of Debuyst (1990). The descriptive method and the thematic analysis of Blanchet and Gotman (2001) allowed us to identify the prominent themes that characterize the phenomenon of appropriation of taxpayers. Without being considered only as an economic crime (tax fraud), this appropriation of taxpayers is also a dysfunction of tax services. But this dysfunction solves some problems related to the relationship between tax authorities and taxpayers. What makes it a system.*

**Keywords:** tax, taxpayer, tax fraud and system

## 1. Introduction

The purpose of the present research is to understand this appropriation of economic operators by the agents of the Tax Administration. This understanding involves grasping the meanings that its actors give to this practice, the social representations they develop towards each other and the motivations that underlie their interaction. In short, we would like to find out what is at the basis of the upkeep of tax fraud and its erection in a system that is perpetuated.

To do so, we have asked ourselves the following question: How to understand the phenomenon of taxpayer appropriation at Kenya STC in Lubumbashi?

Indeed, according to Kasongo Maloba Tshikala (2018), the field of clinical psychology has undergone a remarkable revolution by introducing the systemic thinking that has brought clinicians to “think differently”. From the point of view of clinical psychology and criminology, we do not see the phenomenon of appropriation of taxpayers as a crime, but rather, as a situation-problem. By situation-problem or problematic behavior, it will be necessary to seek to understand, for example, how an economic operator is considered as “a belonging” or “a private property” of a fisc agent in the Democratic Republic of Congo. Our problematic, that is to say, our theoretical approaches for the clarification of the phenomenon in study were built under the grids of symbolic interactionism and the social actor.

## 2. Theoretical Foundations

The theoretical foundations of the present research are based on the following points, namely the reading grids (theoretical approaches), the definition of the concepts, problem definition and the hypotheses of the research.

### 2.1. Reading Grids (Theoretical Approaches)

#### 2.1.1 Symbolic interactionism according to Le Breton (2004)

Through symbolic interactionism, Le Breton shows that the individual is an actor interacting with the social elements that build his universe of sense or meaning.... The dimension of sense or meaning of symbolism enhances the value of sense resources available to the actor, his ability to interpret that allows him to stand out against norms or rules. According to this author, the apprehension of the social through interactionism involves the concreteness of interindividual relationships.

#### 2.1.2 Social actor according to Debuyst (1990)

Under the term “social actor”, Debuyst holds two understandings of the subject (actor actor). First, the social actor is not a passive being whose behavior would be determined by innate factors (biological or inherited). Second, this same social actor, with the events he is experiencing. The author goes on arguing that this view depends on three elements : his/her history, his/her current social position and his/her plans for the future.

### 2.2 Definition of concepts

This perspective leads us to define some concepts that are used in this work. Those concepts are tax, taxpayer, tax fraud and system.

#### 2.2.1. Tax

Tax is a form of participation of the citizens (economic operators) in the resolution of the public burdens of the State in pecuniary form. The second meaning of the concept “tax” or “fisc” is that it implies the state administration responsible for organizing the collection of this monetary

benefit (tax revenue). Depending on the case, both meanings are tackled in this research.

### 2.2.2. Taxpayer

The taxpayer is the economic operator subject to the payment of tax as a result of the provision of a service, the sale of property or the possession of property. This is for example, a goods carrier, a seller (in general trade), or a building owner, etc.

### 2.2.3. Tax Fraud

Tax fraud must be understood to mean any operation or maneuver that subtracts all or part of the tax revenue intended for the public treasure. It can be both the accounting operations (in writing process), the reduction of the tax payments, the concealment of income liable to tax, etc.

### 2.2.4 System

When we talk about the concept "system", in a concrete way we refer to a network of individuals who work in a certain type of relations, of links, of interactions, especially interrelated to achieve defined objectives.

## 2.3 State of the question

Some authors have published works that relate to our research subject. These include:

- Trefon (2007) shows how state public administration agents in the Democratic Republic of Congo behave as real actors. They invent social practices that make the society their prey. This is what he calls social cannibalism. His study interests us by the creativity of the actors who develop practical tips on the back of the economic operators for their survival with regard to meager wages.
- Musatula (2007) explains how customs agents in Lubumbashi (DRC) resort to non-formal practices when clearing goods for import. These practices are reflected in the pecuniary perception of customs declarants, a widespread practice throughout the Province (formerly Katanga Province) that has almost been institutionalized.
- Mbale Kizekele (2010) shows on purpose that during the checks of the balance sheets of the companies, the economic operators and the agents of fisc, in Lubumbashi, serve themselves in priority and often leave only one third of the tax income of the taxpayer to the Treasury public.
- Mbale Kizekele (2013) discusses the relationship between tax officials and economic operators in the context of tax reforms initiated by the Congolese Government. In this work, it shows that the reforms create disparities, dysfunctions between the reformed services and services not yet reformed. But in one case or the other, the taxpayer remains "the milk cow" of fisc agents
- Nkelzok Komtsindi (2004) discusses the systemic approach to corruption, which allowed him to analyze how corruption works. Her study of the system of corruption has allowed her to try to grasp the dynamics of the systems at the core of social interactions and to develop more effective plans of struggle and change against it.

All of these studies are of interest to us in that they touch on our research subject and shed more light on our understanding of our work.

With the exception of Mbale's studies (2010 and 2013), no research has focused directly on interactions between fisc agents and economic operators in Lubumbashi. But our work stands out by the fact as it's about "an appropriation" of an economic operator by a tax agent. Although led in a country other than the city of Lubumbashi and addressing the theme of corruption, the study of Nkelzok Komtsindi converges with ours by the use of the systemic model.

## 2.4 Hypotheses

According to Lupitshi Wa Numbi (2009), there are two approaches to the problem. The first approach sees the issue as a set of questions raised by a research topic or rather a set of questions justifying the conducted research. The second posture reduces the problem to the theoretical angle adopted to approach an object of study. We write our work in the second approach, which is why we do not have an anticipated and provisional answer. Thus we have not explicitly given a hypothesis and we have guided it by field data. We have used a central research question. This is supported by sub-questions that serve as a research guide during the oral interviews we had with the actors (Quivy and Campenhoudt, 2006).

## 3. Method

### 3.1. Procedure

This part of the work is devoted to a short presentation of Kenya STC. It should be pointed out that in the Congolese tax system, STC in general manages taxpayers whose annual turnover is less than 80,000,000 Congolese Francs.

Kenya STC is located at 81 Manono Avenue, Luapula Quater. Its mission is to collect all forms of tax (tax revenues) from economic operators, located in Kenya Township, with the exception of the Value Added Tax (VAT). Kenya STC is led by a Head of Center who has the rank of Head of Division who coordinates all the actions of the Center. His office consists of a secretariat and a computer department.

### 3.2. Participants

This research is made up of all participants involved in the phenomenon of taxpayer appropriation at Kenya STC. These are mainly fisc agents and taxpayers. They are often assisted or represented by their counsel or trustees.

### 3.3. Measures

Since our job is to understand the meanings and interpretations that are participating grants to practices of appropriation of taxpayers, we saw fit to use the qualitative research because it matches better in capture of empirical data of a research. Mucchielli (2004) and Ghasarian (2004) show that in qualitative

research, meanings and interpretations by the participants themselves engage in the social situation they live then remain at center of the concern of the researcher. For this reason it is the relevance of the actors and not the arithmetic representativity (equality) which yields more information on the subject under study. As for our (technical) system of data collection according to (Albarelo, 2007, Blanchet and Gotman, 2001), it includes direct observation, semi structured oral and conversational interviews. These latter, as reported by Tshinyama Kadima (2009) have been used to deal with interviewees who were not prepared for formal interview guide with successive questions.

Moreover, as it is a matter of grasping the meanings that actors give to their practice, it is through thematic analysis according to Blanchet and Gotman (2001) that the empirical data have been treated. It is characterized by the identification of all the relevant themes of a corpus in relation to the objectives of the research and the ability to document the importance of certain themes within the thematic set.

#### 4. Presentations, Analyzes and Discussions of the Results

The results relate to the actors, the meaning given by the interviewees to the phenomenon of the appropriation of taxpayers, the social representations made by the actors and the motivations at the base of its production. The interviewees asked us for anonymity. Therefore we have resorted to the use of pseudonyms.

##### 4.1. Actors involved in the phenomenon the appropriation of taxpayers

The actors involved in the phenomenon of taxpayer appropriation at Kenya STC are as follows: fisc agents and taxpayers.

###### 4.1.1. Fisc agents

While questioning the agents about the appropriation of taxpayers in Kenya STC, we have met two categories of participants (taxpayers and fisc agents). By the way of illustration, one of the secretaries of the service told us that:

*" All fisc agents are not allowed to go on field. Only auditors and search agents are in circulation. We are working in the office. "*

According to this agent, only a category of his colleagues go on the field and are in contact with the taxpayers; They have the opportunity to interact with them in relation to the category that remains at the service desk.

###### 4.1.2. Tax payers

About this practice, Kahenga, a trader enlightened us in the following way :

*" ... you said you're a researcher, right? So we are, our job is to seek profit, so we have to let fisc agents render this service to us ... "*

As Kahenga, other interviewees (fisc agents and taxpayers), the actors involved in the production of this phenomenon

remain taxpayers and fisc agents. But these two categories of participants do not give the same meaning to the phenomenon under study.

##### 4.2. Sense of appropriation of taxpayers

Depending on whether one is a tax agent or taxpayer, the phenomenon of appropriation of taxpayers contains various meanings including the following:

###### 4.2.1. Appropriation of taxpayers seen as "an informal management of taxpayers"

While answering the following question: how many taxpayers do you have in your directories? An Office Manager of this Center explained the ambivalent management of taxpayers in these terms:

*" We have two directories : an internal directory and an external directory . The internal directory is the one we manage without the knowledge of our Provincial Office "*

We understand that taxpayers managed by Kenya STC are registered in two directories: an internal directory and an external one. The first is formal or official and available while the second is informal. It is in the latter that " privatized " taxpayers are found.

###### 4.2.2. Appropriation of taxpayers seen as "a self-pay of the tax agent"

Here are the statements made by a tax agent, a new employer (agent not yet registered by the state) of Kenya STC that answers the following question: What do you think of the relationship between fisc agents and traders ?

*"In any case, as I am not supported by the services so I see taxpayers as a place of finding money for self-care and also for fulfilling the needs of my family".*

The relations between unpaid agents by the Congolese state and taxpayers are also reflected in the search of profit, of gain from the latter in order to cover social security. From this speech it is necessary to retain that the Congolese state does not allocate salaries to a category of its agents and, in return, they pay themselves from the source (from the taxpayers) by revenge or by punishment.

###### 4.2.3. Appropriation of taxpayers, source of conflicts between fisc agents

The phenomenon under study is a source of conflicts between some fisc agents. This is apparent from what Katakakanga said in the following sequence :

*"Gracia, my co-worker, tried to withdraw unbeknownst to me, from my taxpayer. The latter did not give in and called me on the phone to warn me. Since then, we do not talk anymore with this friend, a traitor and an unfaithful".*

This sequence shows that the management of taxpayers, seeking their appropriation, is also a source of conflicts between fisc agents. As Le Breton's interactionist approach shows, social relations are also to be considered in conflicting forms.

#### 4.2.4. Appropriation of taxpayers seen as mutual protection

Mutual protection emerged during the interview we had with the accountant of a luxury clothing sales company, Mr. Mande.

*"On the one hand, we give the tax agent the amount of money determined by him, he operates the bank payment of his own volition but on the other hand and in return, he is our advocate during tax audits."*

The actors involved in the production of the phenomenon of appropriation of taxpayers do not only give meaning but also, they make images or social representations.

#### 4.3. Social representations of actors

Men do not always have the same perceptions of lived events. This is what emerges from the images made by the actors involved in this research.

##### 4.3.1. Tax agent seen as a mediator

Asked about the social image she gives the agents of the state, Elycia, economic operator located on Avenue Basilique in Kenya Township told us:

*"I do not like to go at the Kenya STC office. When they see me, they make me pay a lot of money. That's why I decided to have a friend of taxes to be as the mediator. Even when his colleagues want to control me, they see him first".*

By the fact that it allows both parties, the tax authorities and the taxpayer to find common ground, the tax agent appears as a mediator, a facilitator and even as a protector .

##### 4.3.2. Economic operator considered as *Mashamba* (or fields)

Kenya STC fisc agents perceive the taxpayer somehow as "Mashamba." In one observation, we surprised a prosecution agent, Mr. Mujarelle, addressing two of his colleagues as follows :

*"Who has already seen me in the field of others, let no one dares to go after my taxpayers. This is where I earn my bread".*

In this context, the term "*Mashamba*<sup>1</sup>" does not mean a space of soil on which one can exert a culture as the word indicates literally, but a source of financial income. So the taxpayer is perceived as "*Mashamba*" which means his production unit.

##### 4.3.3. Economic operator considered as *nyumba yangu* (or Private House)

The Commercial Establishments of Kenya Township are "houses" for the fisc agents, actors of the phenomenon under study :

*"I only had three houses that do not even pay much. One of these houses has just been discovered by a colleague while he knew very well that it belonged to me".*

<sup>1</sup> *Mashamba* : this term means literally field

The house in this context does not have the sense of a home but, a commercial establishment considered as a private property. In local language, private property can be managed as one wishes, without any laws or management rules. This gentleman goes there to withdraw money according to his own needs.

Behind these social representations are hidden motives that each category of participants justifies in its own way.

#### 4.4. Motivations in production of the phenomenon of the appropriation of taxpayers

Various motivations or motives were put forward by the participants in the production of the phenomenon of the appropriation of taxpayers. We will list some of them in the following points.

##### 4.4.1. Appropriation of taxpayers explained by the search for "*how to survive*"

The registered agents and the so-called New Units agents (not yet supported by the State), all seek to appropriate the taxpayers in order to fulfill their primary needs. It is for this reason, for example, that Judith (New Unit) best explains this motivation as follows:

*"..We own taxpayers to survive because we also have to live. And even the registered agents do the same practice because their remuneration is insignificant."*

One of the motivations in the production of the taxpayer appropriation phenomenon is therefore of a physiological nature, but it is not unique.

##### 4.4.2. Appropriation of taxpayers motivated by the search for "*how to equip oneself*"

The money that some fisc agents collect from taxpayers for their own end is not enough to fulfill all their needs, for example material needs. Then they return to the same taxpayers on for the other needs. Andi declares it this way:

*"To buy the furniture of our homes, as beginners the invisible<sup>2</sup> ones are not enough. Taxpayers deliver them to us and in return we continue to serve them; otherwise how to equip oneself?"*

As Debuyst reading grid emphasizes, the actor is not determined by the attributions of the services while remaining passive in front of the situations which are presented to him but, he is active. He creates; he innovates in the interactions that he develops with the partners.

<sup>2</sup> The « invisible » phenomenon has already appeared in a criminological study by Mbale, A (2010). The invisible phenomenon is the sum of money that is subtracted from the incomes and shared between fisc agents, economic operator and their representative rather than depositing in the public treasury.

**4.4.3. Appropriation of taxpayers motivated by the search for understanding the functioning of the fiscal administrative apparatus**

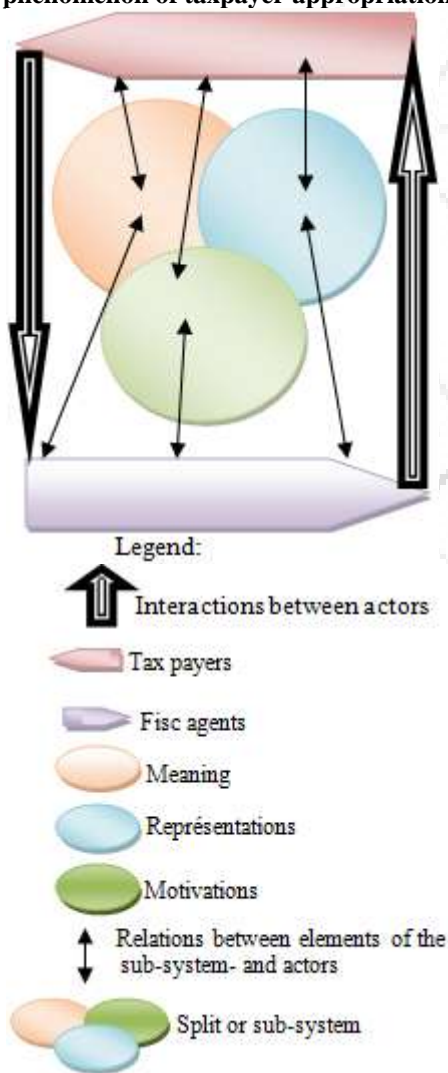
The following sequence shows that Kenya economic operators, for the most part, are unaware of the taxation and tax administration requirements. It is for this reason that Ms. Mussa told us:

*"My job is to look for the profits to pay rents, workers and renew my goods. These stories of the state I leave them to my tax advisor who is agent of Kenya STC".*

In the same way, some economic operators put the norms aside and mobilize fisc agents in the task which is not theirs, that of assuming and ensuring the tax obligations for their place.

However, the Decree-Law on the Code of Conduct of the State Public Official (2002:46), in its articles 16, 17 and 18 relating to the duties of the public officials of the State (norms) prohibits and punishes these reconciliations with the taxpayers.

**4.5. Schematic representation of fraud and the phenomenon of taxpayer appropriation as a system**



The results are revealing of the actors, the senses or the meanings, the social representations (images) and

motivations that are at the center of the phenomenon of appropriation of taxpayers by fisc agents. As Mbale Kizekele (2013) shows, participants do not live in social block. They develop interactions of all kinds according to the requirements they face. These requirements are focused on the meanings that different participants give to the relationships that unite them. In the official title of fisc agent, the latter develops other (informal) titles such as those related to facilitation, mediation for protection, etc. Similarly, the taxpayer replaces the Congolese State is in the social security care of these agents.

The phenomenon of the appropriation of taxpayers seems to be polysemic because, each category or interview with a respondent, this phenomenon has a much more specific meaning as highlighted by the grid of the social actor Debuyst (1990). *The subject is not passive.* Thus, faced with the tax rules and the social context in which they evolve, the participants give various meanings to the practices they put in place. Berton (2004) emphasizes that the symbolic conditions our action. Considering that a tax official, for example, is a protector, makes the taxpayer take it with esteem and therefore, a pillar on which he can base his hope in the treatment of tax affairs. Similarly consider the taxpayer as his "his private property" Pushes the tax official to protect him by the fact that he is his source of survival. Finally, we conclude with this idea of Le Breton (2008 : 9) which emphasizes that "Symbolic interactionism has allowed us to understand that the human condition is woven into a complex universe of meaning and values and representations. Thus, the actors involved in the phenomenon of the appropriation of taxpayers are mutual representations according to the behaviors, expectations and services that some expect of others.

These few motivations expressed by the participants (fisc agents and taxpayers) show that interactions are of three kinds :

- Existential : expressed by "to survive" ;
- Equipment : expressed by "equip oneself" and
- Functional : in "ignorance and little interest in the tax bureaucracy."

As the theoretical approach of Debuyst (2004) shows, the participants act to find a solution in relation to their present and their future project and this is what drives their motivation.

The practices related to the appropriation of taxpayers certainly constitute deviant behavior in relation to the norms governing the careers of the public services of the Congolese State. But these norms do not make sense for these actors as they are subject to strong social pressures. Fisc agents and taxpayers aspire to projects that can be qualified as parallel convergences. If the former are concerned about their survival, the latter give priority to profit maximization by considering also the tax bureaucracy as hassle, etc. This selflessness or this desertion of Taxpayers, far from being neutral is offset by the assistance of fisc agents. Thus, although contrary to the tax rules, the roles played by fisc agents, in such case can be regarded as a benevolent malfunction.

Without being exhaustive, this conclusion looks back on some illustrations on which lie the multidisciplinary contributions namely, clinical psychology and criminology of this research. Research that remains open to other people interested in understanding how the tax bureaucracy works. These researchers can guide other looks on matters that have attracted our attention during this research such as the insignificant salaries and bonuses that tax agents are paid (contrary) to how do tax agents (sitting) manage to provide for the needs within a month? Or how the tax authorities collaborate with the agents behind this practice of taxpayer appropriation in the context of tax reforms in the DR Congo?

Finally, without claiming to have approached, *in fine* and in depth, this study, we conducted it under the gaze of the clinical psychologist and criminologists. His merits focus on a multidisciplinary study that analyzes tax fraud differently. It also reminds us that we do not transgress or are not interested in tax rules, for pleasure, but rather motivations that control the actors well.

## References

- [1] Albarello, L. (2004), *Apprendre à chercher. L'acteur social et la recherche scientifique*, Paris, Dunod.
- [2] Blanchet, A. et Gotman, A. (2001), *L'enquête et ses méthodes : l'entretien*, 2<sup>ème</sup> édition, Paris, Nathan.
- [3] Debuyst, C. et al(2008), *Histoire des savoirs sur les crimes et les peines*, Tome 3, Bruxelles, Larcier.
- [4] Debuyst, C., (1990), « Présentation et justification du thème », Digneffe (dir), *Acteur social et délinquance. Une grille de lecture du système de justice pénale. En Hommage au professeur Christian Debuyst*, Bruxelles, Pierre Mardaga, pp. 21-33.
- [5] Décret-Loi n° 017/2002 du 3 octobre 2002 portant Code de conduite de l'agent public de l'Etat, Kinshasa, Journal Officiel de la République Démocratique du Congo, 15 août 2004.
- [6] Ghasarian, C. (2004), *De l'ethnographie à l'anthropologie réflexive*, Paris, Armand Colin.
- [7] Kasongo Maloba Tshikala Ph., (2018), *psychopathologie systémique*, Université de Lubumbashi, Faculté de Psychologie et des Sciences de l'Education, Cours de L<sub>1</sub> psychologie clinique inédit.
- [8] Kola Gonze (1994), *Science de l'Impôt et technique fiscale*, Ecole Nationale des Finances, Kinshasa, Cours de G<sub>2</sub> Impôts directs et indirects inédites.
- [9] Le Breton, D., (2004), *L'interactionnisme symbolique*, Paris, Presses Universitaires de France.
- [10] Le Breton, D., (2008), *L'interactionnisme symbolique*, 2ème éd, Paris, Presses Universitaires de France.
- [11] Lupitshi wa Numbi, N., (2009), *Les trajectoire de sortie de la rue des jeunes à Lubumbashi (RDC)*, Thèse de doctorat, Ecole de criminologie, Université de Lubumbashi, Lubumbashi.
- [12] Mbale Kizekele, (2010), *Analyse criminologique du phénomène « invisible » à la Direction Provinciale des Impôts à Lubumbashi*, mémoire de licence, Ecole de criminologie, Université de Lubumbashi, Lubumbashi.
- [13] Mbale Kizekele, (2013), *Le vécu des réformes fiscales en République Démocratique du Congo par les*

- fonctionnaires du Fisc de Lubumbashi, analyse des discours officiels et ceux des agents*, Mémoire Diplôme d'Etudes Approfondies, Ecole de criminologie, Université de Lubumbashi, Lubumbashi.
- [14] Musatula Mukambu F., (2007), *Le contrôle douanier dans la ville de Lubumbashi. Entre la quête de sécurité et privatisation de la douane*, mémoire de licence, Ecole de criminologie, Université de Lubumbashi, Lubumbashi.
- [15] Mucchielli, A. (2004), *Dictionnaire des méthodes qualitatives en sciences humaines*, Paris, Armand Colin.
- [16] Nkelzok Komtsindi, V., (2004) *la corruption « une lecture systémique »*, Dianoïa, Chennevières-sur-Marne.
- [17] Quivy, R. et VanCampenhoudt, L. (2006), *Manuel de recherche en sciences sociales*, Paris, Dunod.
- [18] Trefon, T. (Sous la direct.) (2009), *Réformes au Congo (RDC), Attentes et désillusions*, Paris, L'Harmattan.
- [19] Tshinyama Kadima, Ild. (2009), *L'observation ethnographique d'un commissariat à Lubumbashi. Une compréhension des pratiques policières en contexte congolais*, Thèse de doctorat, Ecole de criminologie, Université de Lubumbashi, Lubumbashi.