AN APPRAISAL OF THE IMPACTS OF ENVIRONMENTAL TAXES AND LAWS IN ATTAINING ENVIRONMENTAL SUSTAINABILITY IN NIGERIA.

By

ATER, Solomon Vendaga[1]

Abstract

Environmental challenges have become one of the increasingly complicated global realities affecting us today that require deliberately innovative and radical approaches for their solution. Globally, there is a commitment to reducing the emissions of gasses to net zero by 2050. However laudable this pledge is, it may amount to nothing unless conscious efforts are channeled toward solving the issue. In these wise, environmental taxes becomes very handy in achieving the global goal of cutting down gas emissions to net zero. Such taxes discourage corporate and natural persons from causing pollution by imposing charges or economic costs on such actions. Employing a doctrinal research methodology, this research found that environmental taxes are practical tools to encourage energy conservation and the adoption of renewable energy sources while simultaneously creating revenue for governments, allowing for the reduction of other taxes or the implementation of environmental initiatives. The study also observed that there is a plethora of environmental protection laws that are not fully implemented in Nigeria. The study, therefore, strongly recommended that understanding the effectiveness of environmental taxes and levies in instilling healthy environmental behaviour is essential for ensuring that environmental pricing policies are designed with environmental aims and at the same time, it recommends that comprehensive approach to environmental taxation should be embarked on by all tiers of government whilst harmonizing the provisions in the available laws to avoid issues of double taxation. Consequently, the research offers a practical and promising perspective on the function of environmental taxes since it is a productive economic instrument to generate incentives to

[1] ATER, Solomon Vendaga, is a recent Law Graduate at the University of Abuja, Nigeria who has keen interest in Taxation Law, IP Law, Tech Law, and Public Policy. He can be reached via; +234(0)08025263078, soloater12@gmail.com

stimulate more environmentally friendly consumption and production choices and trends, which align with global practices for a green economy.

KEY WORDS: Taxation; Environmental taxes; Green taxes; Environmental sustainability; SDGs; Nigerian Environment; Climate Change

1.0. Introduction

In recent years, Nigeria and indeed the global community have been faced with numerous environmental challenges, which have included but are not limited to drought, deforestation, desertification, erosions, oil pollution, flooding, and water pollution, loss of biodiversity, urban decay and industrial pollution[2]. These have continually claimed many lives and properties yearly. Due to these devastating challenges, governments of the world are under pressure to come up with ways to minimize environmental damage while reducing the negative impact of the exploitation of natural resources and energy usage[3]. Mpofu noted that governments have an array of economic tools to employ, and these include innovation policies, regulations, environmental subsidies, information sharing and awareness programs, and environmental taxes[4]. Hence, environmental taxation is one of the approaches adopted by these governments in other climes that have proven to be exceptional and viable. The enormous importance of environmental sustainability is reflected in the 2030 Sustainable Development Goals (SDGs)[5]. Environmental taxes also known as green taxes have become pivotal to protecting the environment, revenue generation, and achievement of

[2] A. S. Kasum, Environmental Degradation Problems caused by Human Activities in Nigeria: Enforced (Taxation) Versus Voluntary (Social Responsibility) Solution. *International Journal of Banking, Accounting, and Finance*, (2010) 2(3), 236-250.

[3] K. Kluza and M. Ziolo, Postula, M. Climate Policy Development and Implementation from United Nations Sustainable Development Goals Perspective. (2022). Available online: at https://assets.researchsquare.com/files/rs1352892/v1/7b10d329-e983-432a-b98f-8f1 4a1929a61.pdf?c=1653323758 accessed on 7th February 2023.

[4] F.Y. Mpofu, Green Taxes in Africa: Opportunities and Challenges for Environmental Protection, Sustainability, and the Attainment of Sustainable Development Goals Sustainability (**2022**). Available at https://doi.org/10.3390/su141610239 . Accessed from 7th February 2023

[5] SDGs Goal 7

the SDGs [6]. Braathren and Greene referred to this invaluable role of taxes in addressing environmental problems as "a key part of this toolkit[7]"

Schofield also agreed that taxation is a valuable tool used by the government in collecting revenue and also in preventing and encouraging specific behavior[8]. As taxation is monetary, it is equally a good way of encouraging or discouraging country citizens from behaving in a certain way as deemed appropriate by the government. Globally, taxation is used as a means of encouraging good environmental practices and dissuading the citizens of the country from practices that could further damage the environment[9]. The need to regulate the energy sector in Nigeria was first noticed in the early 1970s but mainly in the 1990s. The urgency for the approach recently is due to pressures of environmental degradation, especially the ozone layer, oil spillage in the Niger Delta region, pollution by the cement industries and Textile manufacturing industries[10] as well as the yearly devastating impacts of flooding on many communities in the river line states of the country.

Studies have predicted that if many of these environmental problems remain unchecked, the country is at a greater risk of suffering significant ecological & economic losses. Besides, the environmental problems in Nigeria are diverse and of essential dimensions. Worst still is the complexity of economic, political, social, and environmental stress resulting from the pollution of the land and water. Developing countries' greenhouse gas (GHGs) emissions will likely increase faster than developed countries. According to the Stern Review, even if developed countries take on the responsibility of reducing their emissions by 60-80% and have achieved this by 2050, developing countries must also take desperate attempts and significant actions in order to avoid

[6] Mpofu (n.3)

[7] N.A. Braathen, and J. Greene, Environmental Taxation. A guide for Policy Makers. From Taxation, Innovation, and the Environment. (2011). Available online: www.oecd.org/env/taxes/innovation accessed on 7th February 2023.

[8] G. Schofield, Environmental Taxation and Its Possible Application in Australia, (University of Melbourne, Melbourne, Australia for the Treasury, Commonwealth of Australia, 2009)

[9] OECD, Environmentally Related Taxes in OECD Countries, Issues and Strategies, (2001), available from http://www.oecd.org. accessed 7th February 2023

[10] G. Iliya, & G. Kennedy, Barriers and Challenges of Introducing Environmental Taxation in Nigeria, For Future sustainability, Proceedings of *12th International Conference on Business Management*. 7th and 8th December 2015 | Colombo, Sri Lanka. (2015) available from http://ssrn.com/link/12th-ICBM-2015.html accessed 7th February 2023

temperature increases above 2.0 °C[11]. One of the policy instruments this review highlighted and majorly canvassed for to reduce GHGs, is the environmental tax.[12].

This research article, therefore, raises concerns in several environmental areas that the introduction and implementation of environmental taxes could solve. Using examples of such an impact the tax policy has had in other countries, the study makes a case for Nigeria. The purpose of this research is thus to examine the possibility of implementing an environmental tax in Nigeria and how effective it can be in achieving environmental sustainability. Therefore, the study specifically examined the likely impact of an environmental tax on water pollution control, air pollution, and effective waste disposal as a catalyst for enhancing environmental safety in Nigeria.

2.0. Literature Review

2.1. Tax and Taxation

No Nigerian Tax legislation has offered a befitting definition of the term tax, let alone taxation. The legislators are shying away from this responsibility and even the courts. What can be deducted from this attitude is that when you define, you limit, and as such, the government would not want to limit the scope of what is to be taxed should there arise the need for other things to be added to the list. Nevertheless, it is known that from time immemorial, Nations have had to impose one compulsory levy or the other for survival and sometimes for the enrichment of the State, known as tax. In many ancient kingdoms like the Greeks and Assyrians, people had to donate enslaved people to work for the building of roads and the kings' Palaces.

Even on the Trans-Saharan trade route, merchants were asked to donate some goods to the kings before passing them to their markets. Moreover, the kings converted these goods as tax into money, with which they maintained large Armies that secured the kingdoms and provided safe passage for the traders and their animals of transportation.

[11] T. Sterner, Fuel Taxes: An Important Instrument for Climate Policy. *Energy Policy*, (2007) 35(6), 3194-3202.
[12] *Ibid*

Today, taxes account for one of the sustainable sources of revenue in almost all the countries of the world[13] including Nigeria, yet no law has defined it, let alone the court.

Since neither tax nor taxation has any single definition that can command general acceptability, this work will adopt and use the most efficient definitions that can drive home the course for which it has been set in motion.

One of the most straightforward definitions of tax is the one offered by the Merriam-Webster Dictionary of the English Language. It describes 'tax' simply as "a charge imposed by the governmental authority upon property, individuals or transactions to raise money for public purposes."[14] The Black's Law Dictionary defines it as a "Monetary charge imposed by the government on a person's entities or property, levied to yield public revenue."[15] Soyode and Kajola[16] in their text on taxation define tax as a 'compulsory exaction of money by a public authority for public purposes and taxation as a system of raising money for the purposes of government by means of contributions from an individual person or corporate body'. Ola also similarly defined taxation as the demand made by the government of a country for compulsory payment of money by the citizens of the country.[17]

Lathan has defined the term tax in *Mathews v Chicory Marketing Board*[18] as *"a compulsory exaction of money by public authority for public purposes."* Summing up definitions of tax as offered by various other sources, Ayua[19] concludes that:

> The most important thing is a pecuniary burden laid upon individuals or persons or property to support the government and is a payment exacted by legislative authority.

[13] OECD Report on Taxation. (2020) Available from https://news.bloombergtax.com/daily-tax-reportinternational/insight-tax-revenue-mobilization-in-nigeria . Accessed 29th December 2022

[14] The New Webster's Dictionary of the English Language, International Edition, (Delair Publishing Co USA,1993) p.1064

[15] B.A. Garner, Black's *Law Dictionary,* 8th ed., (West Publishing Co., USA, 2004) 1500

[16] L. Soyode, and S. Kajola, *Taxation: Principles and Practice in Nigeria.* (Ibadan: Silicon Publishing Co., 2006) 3

[17] C. S. Ola, *Income Tax Law, and Practice in Nigeria*. (Ibadan: Heinemann Educational Publishing Company, 2004) 237.

[18] (1938) 60 CLR 263

[19] I.A. Ayua, *Nigerian Tax Law* (Ibadan: Spectrum Law Publishing, 1996) 4

Taxation, on the other hand, is a process of assessing and collecting revenue to fund the cost of governance[20]. It is the process or machinery by which communities or groups of persons are made to contribute in some quantum and method for the purpose of the administration and development of the society[21]. Throughout the world, taxation is used as a means of encouraging good environmental practices and dissuading the citizens of the country from practices that could further damage the environment[22].

2.2. Environmental Taxes

Environmental taxes provide several significant benefits, including environmental efficacy, economic productivity, the potential to generate public funds, and openness. Environmental taxes are levied on activities that are destructive to the environment's health. Environmental taxes include; energy taxes, transport taxes, pollution taxes, and resources taxes.

According to the United Nations, these taxes are a policy option aimed at curbing carbon-based emissions responsible for climate change, in line with the commitments assumed by countries under the Paris Agreement. Besides, they put a price on the emission of greenhouse gases, thereby motivating companies to invest in cleaner technology or switch to more efficient practices. Likewise, consumers may be incentivized to invest in energy efficiency, change their lifestyle habits, or, where options are available, switch to cleaner forms of energy.[23]. Environmental tax measures either impose a tax cost on some product or activity that is environmentally damaging, or they give a tax benefit to some product or activity that is environmentally beneficial[24]. The idea of environmental control approaches came into the limelight to a certain degree in the earlier 1970s but mostly in the 1990s to date due to pressures of environmental degradation, especially the ozone

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[20] Oxford Advance Learners Dictionary 6th Edition

[21] NOUN material on the Law of Taxation

[22] G. Okafor & M. Ikponmwosa, Taxation: A Tool For Environmental Conservation (2017) *International Journal of Economics, Commerce and Management* (5) (11), available at http://ijecm.co.uk/ accessed 12th February 2023

[23] UN Department of Economics and Social Affairs, https://www.un.org/development/desa/financing/what-wedo/ECOSOC/tax-committee/thematic-areas/environmental-taxation. Accessed 12th February 2023

[24] VLGS, What are Environmental Taxes? Available from https://www.vermontlaw.edu/academics/centers-andprograms/environmental-tax-policy-institute/what-is-environmental-taxation. Accessed 12th February 2023 [25] Iliya (n.9)

layer, oil spillage in the Niger Delta region, pollution by the cement industries and Textile manufacturing industries[25] .

2.3. Sustainable Development

It is essential to know that environmental sustainability is inextricably linked to sustainable development. The former can only be discussed thoroughly by referring to the latter. So, the two will be considered.

Sustainable development was defined in the Brutland report as "development that meets the needs of the present without jeopardizing future generations' ability to meet their own needs." The traditional conception of the concept of sustainable development was built on an environmentalism framework that prioritizes ecological degradation issues[25].

Sustainable development underlines the interplay of social, economic and environmental sustainability[26]. Whether sustainable development is viewed along the three-dimensional level with other developmental approaches or not, environmental sustainability has become a necessary requirement for other sustainability indices.

It is instructive to know that a fourth dimension to sustainable development was introduced at the 2002 World Urban Forum in Nairobi. The Forum asserted that the four pillars, i.e., economic, social, environmental, and governance, are critical to sustainability, and failure to address issues surrounding the four pillars would prevent sustainable development from being achieved.[27]. Since then, the indispensability of governance in sustainability goals has been increasingly

[25] K. Nurse, *Culture as the Fourth Pillar of Sustainable Development*. Article prepared for the Commonwealth Secretariat, Malborough House, London (2006)
[26] OECD., *Sustainable Development. Critical issues*. Paris: Organization for Economic Cooperation and Development (2001).
[27] UNEP., *Environmental Governance*. UNFCCC Conference in Copenhagen UN-HABITAT (2002) State of the World's Cities: 2008/2009 UN-Habitat, Nairobi.

recognized.[28]/[29] Moreover, as it is today, we have the governance flavor in sustainable development projects.

Morelli defines environmental sustainability "as a state of balance, resilience, and interconnectedness that enables human society to meet its needs while not exceeding the capacity of its supporting ecosystems to regenerate the services required to meet those needs, nor by our actions reducing biological diversity."[30] Interestingly, the ultimate goal of global and national environmental governance is to keep improving environmental conditions, ultimately leading to the broader objective of sustainable development.[31]

3.0. Effects of Environmental Challenges

Nigeria is one of the top seven gas-flaring countries. It is estimated that around 2 million people in the country live less than 4 km away from a flare site[32]. It is projected that between 2030 and 2050, climate change is expected to cause approximately 250 000 additional deaths per year from malnutrition, malaria, diarrhea, and heat stress[33]. The risks are that about 2-4 billion dollars will be the cost to manage health challenges from the climate crisis and that the most impacted societies will be those in developing countries. Intergovernmental Panel on Climate Change (IPCC) has concluded that to avert catastrophic health impacts and prevent millions of climate change-related deaths, the world must limit temperature rise to 1.5°C[35]. The report seriously warned that any additional increase would make the earth unbearable for all of us. According to research conducted

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[28] D. V. Ogunkan, Religious Values: An Instrument for Sustainable Environmental Management in Nigeria. *Global Journal of Human Social Science,* (2010)10(3), 25–30.

[29] A. A. Adedibu, *Management of Sustainable Cities in the 21st Century: Urban Governance*. An induction lecture was presented at the TOPREC induction ceremony held at Shehu Musa Yar'adua center. 30th July 2015.

[30] J. Morelli, Environmental Sustainability: A Definition for Environmental Professionals. *Journal of Environmental Sustainability* (2011).

[31] A. Najam, M. Papa, & N. Taiyab, *Global Environmental Governance: a Reform Agenda*. International institute for sustainable development. Winnipeg, IIS (2006).

[32] Omoniyi & Johnson, *Impact of gas flaring on child health in Nigeria*, available from https://blogs.worldbank.org/developmenttalk/impact-gas-flaring-child-health-nigeria#:~:text=Nigeria%20is%20one%20of%20the,lasting%2C%20has%20largely%20been%20ignored. Accessed 12th February 2023

[33] WHO, Climate change and Health https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health accessed 12th February 2023

by scientists, about 10% of global deaths are caused by climate change. This makes it correct to say that about 5 million people die of climate-related issues annually[34].

Environmental challenges affect not only the social and healthy lives of the people but also have negative economic impacts. For instance, Dataphyte noted that in the last decade, approximately $9.05 billion had been lost to gas flaring. This money would have offset 23.62% of the country's total foreign debt of $38.32 billion.[35].

4.0. Environmental Taxes from Empirical Lenses

Bruvoll & Larsen, in their works, examine the implications of carbon taxes on emissions change in Norway.[36]. Using an applied general equilibrium simulation, they found that environmental taxes had a significant influence on the reduction of CO2, contributing to an overall two percent decrease. The study found that the reduction in carbon emissions per unit of GDP is significant, and the immediate effect was a decrease in energy intensity and process emissions.[37]

Liang, Fan, & Wei, in their study, also arrived at the same conclusion as the study above after using a CGE model to investigate the impact of different carbon tax developments in China.[38]

The study recommended an appropriate use of tax systems for different settings. [39] Iliya investigated the level of sustainable development environmental taxes are capable of achieving. The study employed the use of both qualitative & quantitative methods in analyzing its data. After its findings, the paper proposed a need for Nigeria's federal government to formulate a taxing

[34] https://www.bloomberg.com/news/articles/2021-07-07/climate-change-linked-to-5-million-deaths-a-year-newstudy-shows

[35] Udu, 'What are 6.63 Billion Cubic Metres of Gas Flared in Nigeria Worth?' *Dataphyte* (2022) https://www.dataphyte.com/latest-reports/what-is-6-63-billion-cubic-metres-of-gas-flared-in-nigeria-worth/ accessed 12th February 2023

[36] A. Bruvoll, & B. M. Larsen, Greenhouse Gas Emissions in Norway: Do Carbon Taxes Work? *Energy Policy*, (2004) 32(4), 493-505.

[37] O. Rotimi, Environmental Tax and Pollution Control in Nigeria. *KIU Interdisciplinary Journal of Humanities and Social Sciences,* (2021)*2*(1), 280-301

[38] Q. M. Liang, Y. Fan, & Y. M. Wei, Carbon Taxation Policy in China: How to Protect Energy and Trade-Intensive Sectors? *Journal of Policy Modeling*, (2007) 29(2), 311-333.

[39] Iliya (n.9) 7.

process that encompasses environmental tax policies such that a tax levy is placed on individuals and corporations responsible for environmental problems.

Nakata & Lamont explored in a forecast study the effect of carbon and energy taxes on the energy system of Japan.[40] The study's conclusion supports the idea that such a tax effectively reduces carbon emissions. Olatunji & Olaoye examined the developmental implications of environmental taxation in Nigeria.[41] The study specifically analyzed the relationship between environmental taxation & environmental quality and whether the former can influence cost-effectiveness. The study found that environmental tax, though it is significantly related to environmental quality, does not affect firms' cost-effectiveness. Therefore, the study recommended that the government tighten its environmental tax system and rid it of any loopholes.

Sterner examined their study of Europe's fuel taxes and demonstrated the long-term effect of fossil fuel taxes in Europe in reducing carbon emissions & fuel demand.[42] The author explains that with the introduction of high fuel taxes, carbon emissions are reduced by more than half. Also, the atmosphere's carbon content is reduced by more than one ppm.

Yan & Crookes explain in their study the significance of a scenario with fossil fuel taxes in dealing with the rapid growth of automobiles and energy demand in China.[43] This particular scenario significantly leads to a potential decrease in energy demand by 16.3%, petroleum demand by 18.5%, and GHG emissions by 16.2% in 2030 compared to the current scenario. Concrete

[40] T. Nakata, & A. Lamont, Analysis of the Impacts of Carbon Taxes on Energy Systems in Japan. *Energy Policy*, (2001)29(2), 159-166.
[41] T. E. Olatunji, & C. O. Olaoye, Development Implications of Environmental Taxation in Nigeria. *International Journal in Management and Social Sciences*, (2015) 3(6), 1-13.
[42] Sterner (n.10).
[43] X. Y. Yan, & R. J. Crookes, Reduction Potentials of Energy Demand and GHG Emissions in China's Road Transport Sector. *Energy Policy*, (2009) 39(2), 658-668.

empirical evidence, therefore, showed the effectiveness of such environmentally/carbon-related taxes.

Wissema & Dellink, in their study, explored the Irish case and discovered that a reduction of twenty-five percent relative to the 1998 scenario, where the level of CO2 was reduced, can also be realized with a carbon tax of 10 to 15 euros per ton of CO2.[44] Di-Cosmo & Hyland also using the Irish case as a part of their case study, investigated different tax scenarios to examine the influence on carbon emissions & energy demand.[4546]. In the study, using a situation where the carbon tax is to be increased from twenty-one euros in 2012 to forty-one euros in 2025, the authors discover that carbon emissions are likely to be reduced by 861,000 tons relative to a zero-carbon tax scenario.

Oyedokun, Fowokan, Hassan, & Akintoye investigated the challenges environmental accounting and taxation are facing in Nigeria.[47]. The study recommended that the country's government holds the most significant responsibility of ensuring the full implementation of this tax system. Vehmas, in his study, considers the experiences of Finland with environmentally-based energy taxation and concludes that fiscally-driven deviances from the model environmental tax have weakened the real purpose for which this tax system was formulated.[48]

5.0. Importance of Environmental Taxes

i. A perfect tool for the attainment of SDGs.

Environmental taxes are very beneficial to resolving issues of climate change. For example, reducing fossil fuel consumption induced by excise taxes on fuels or carbon reduces local air pollution, contributing to SDG3 (Good Health and Well-Being and SDG15 on Life and Land). It can also address gasoline emissions from motor transports, thus achieving SDG 11 (Sustainable

[44] W. Wissema & R. Dellink, *Analysis of the Impact of a Carbon Energy Tax on the Irish Economy. Ecological Economics*, (2007) 61(4), 671-683.
[45] V. Di-Cosmo, & M. Hyland, *Carbon Tax Scenarios and their Effects on the Irish Energy Sector*. (Working Paper
[46] . Dublin, Ireland: Economic and Social Research Institute, 2011)
[47] G. E. Oyedokun, T. E. Fowokan, T. A. Hassan, & I. R.. Akintoye, Environmental Taxation And Accounting: Challenges & Prospects. *IJMSR*, (2018) 4(1), 17-34.
[48] J. Vehmas, Energy Related Taxation as an Environmental Policy Tool: The Finnish Experience 1990-2003. *Energy Policy,* (2005). 33(17), 2175-2182.

Cities and Communities). Using taxes on carbon and fuel instead of payroll taxes can reduce the shadow economy and support formal employment, influencing SDG8 (Decent work and Economic Growth).[49]

ii. A veritable tool to improve the efficiency of domestic resource mobilization

Generally, countries pioneering these reforms have found that environmental taxes can generate substantial revenues, even in the medium term. They can do so while increasing economic efficiency: they incorporate social costs into product prices, using the private market's power to reduce these problems. There is also rising evidence that environmental taxes contract output and employment less than conventional ones – especially in developing countries.[50]

iii. Environmental taxes will help countries attain low-carbon transformation for an equitable society.

Environmental taxes can help developing countries cost-effectively achieve low-carbon transformation while supporting an inclusive and equitable growth pathway. This will achieve SDG1 & SDG 10).

6.0. A Review of Laws on Environmental Taxation and Sustainability

1. The 1999 Constitution of the Federal Republic of Nigeria

The only positive provision in the Nigerian Constitution dealing with environmental protection and management is found in Section 20 of the 1999 Constitution, which states that "the state shall protect and improve the environment and safeguard the water, air, land, forest, and wildlife of Nigeria." Unfortunately, this provision of the Constitution is non-justiciable, and as a result, the Nigerian government cannot be compelled to implement the provision as mentioned earlier to protect the Nigerian environment[52].

[49] World Bank, Global Tax Program, available from https://www.worldbank.org/en/programs/the-global-taxprogram/environmental-taxes accessed 12th February 2023

[50] S. Christian, Regime-Dependent Environmental Tax Multipliers: Evidence from 75 Countries, *Journal of Environmental Economics and Policy,* (2022) DOI: 10.1080/21606544.2022.2089238 [52] S. 6(6)c of the 1999 CFRN

Other laws

Under Nigerian laws, licenses, laws and regulations, emission control laws, environmental impact assessment, environmental audit, and environmental review fees, fees charged by the Department for Petroleum Resources fund, energy, and automobile taxes are environmentally conscious taxes. These include;

i. Petroleum Industry Act, 2021

The Overview of the Act

The passage of the Petroleum Industry Bill (PIB) into the Petroleum Industry Act (PIA) was a complex and protracted process that spanned over a decade. Opposition from stakeholders such as the Nigerian National Petroleum Corporation (NNPC) and major multinational oil companies (MNOCs) contributed to the delay.[51] Resolving numerous intricate issues and conflicting interests proved challenging, but the bill finally gained approval from the Senate on July 15, 2021, the House of Representatives on July 16, 2021, and received presidential assent on August 9, 2021. The PIA carries historical significance as it introduces a comprehensive legislation for Nigeria's oil and gas (O&G) sector, addressing concerns about institutional coherence and conflicting goals and interests. By consolidating various legal, governance, administrative, regulatory, and fiscal provisions, the PIA establishes a unified legal framework. Its title reflects its aim to provide comprehensive frameworks for the petroleum industry, host communities, and related matters. The Act holds a prominent position within Nigeria's legal and institutional framework for the O&G industry, superseding any inconsistent provisions in other laws.

Several laws related to the O&G sector, such as the Associated Gas Re-Injection Act, Hydrocarbon Oil Refineries Act, and Nigerian National Petroleum (NNPC) Act, among others, are repealed by the PIA. However, some of these repealed laws continue to apply to affected oil prospecting licenses (OPLs) and oil mining licenses (OMLs) until their termination or expiration. It is

[51] OKORO & ARINZE-UMOBI, *The Petroleum Industry Act 2021 and Quest for Stricter Environmental Regulation in Nigeria's Energy Sector* LASJURE 3 (2), (2022) 59-67. Available at https://www.nigerianjournalsonline.com/index.php/LASJURE/article/download/2961/2876 accessed 11th July 2023

noteworthy that certain repealed laws pertain to environmental protection.[52] Existing laws, regulations, guidelines, directives, and orders made under the repealed or amended laws by the PIB remain valid as long as they do not contravene the provisions of the PIA.

PIA AND IMPACTS ON ENVIRONMENTAL SUSTAINABILITY

The PIA 2021 includes provisions that emphasize the importance of environmental sustainability and protection in the petroleum industry. Some of the key provisions related to environmental sustainability in Nigeria under the PIA include:

a. Responsibility of regulatory bodies to maintain the safety of the environment

The Petroleum Industry Act outlines the responsibilities of two regulatory bodies in Nigeria's petroleum industry. The Nigerian Upstream Petroleum Regulatory Commission[53] (NUPRC) is tasked with establishing and enforcing health, safety, and environmental standards for upstream operations,[54] including the reduction of natural gas flaring.[55] The commission also monitors oil and gas activities to ensure they align with national goals such as reducing flaring and meeting domestic gas supply obligations.

On the other hand, the Nigerian Midstream and Downstream Petroleum Regulatory Authority[56]

(NMDPRA) is a merger of three previous regulatory agencies: the Petroleum Products Pricing Regulatory Agency (PPPRA), Petroleum Equalization Fund [Management] Board (PEFMB), and the Midstream and Downstream Divisions of the Department of Petroleum Resources (DPR). The NMDPRA's main objective is to establish a progressive regulatory framework that encourages investment and optimization in the midstream and downstream sectors of the petroleum industry. The agency is responsible for regulating technical, operational, and commercial activities in these sectors, with a focus on promoting safety, efficiency, and the supply and distribution of natural gas

[52] *Ibid*
[53] S. 4(1) of PIA
[54] S. 6 (d) of PIA
[55] s7(e)(iv) of PIA
[56] S. 29 (1) of PIA

and petroleum products. Environmental protection is also an important aspect of the NMDPRA's regulatory responsibilities.

Summarily, the NUPRC is responsible for overseeing health, safety,[57] and environmental measures in upstream petroleum operations, while the NMDPRA regulates the midstream and downstream sectors, focusing on promoting efficient operations, the supply of natural gas and petroleum products, and ensuring environmental protection.

b. Environmental Impact Assessment (EIA)

The act requires operators in the petroleum industry to conduct environmental impact assessments before commencing any project or activity. This assessment helps identify potential environmental risks and ensures that appropriate mitigation measures are implemented. This is to be submitted within one year of coming into effect of the Act or within six months of obtaining such license or lease[58]. This provision is commendable as it ensures that every operator has a prepared plan and the capability to mitigate any environmental issues that may arise from their oil and gas activities. It promotes a proactive approach to environmental concerns. However, it is worth noting that there is no specific penalty prescribed for non-compliance with this particular requirement. The general penalty of license or lease revocation, as stated in section 96(1)(i) of the Act, is the applicable consequence. This may be seen as unrealistic since license or lease revocation can have severe repercussions, potentially disrupting industry operations and even impacting the national economy. This could be a reason why the government has been hesitant to apply this measure in the past. This work suggests that other penalties, such as substantial fines, would be more realistic in most cases, reserving license or lease revocation for repeated or severe infractions.

c. Environmental Restoration:

The PIA emphasizes the importance of environmental restoration and rehabilitation. It requires operators to develop and implement plans for the remediation of areas affected by petroleum operations, including the cleanup of oil spills and other forms of pollution. We think this inform

[57] S. 31(c) of PIA

[58] S. 102 (1) of PIA

the provisions on the host communities.[59] Another interesting provision of the Act is that fines collected from violation of its provisions on environmental sustainability 'shall be for the purpose of environmental remediation and relief of the host communities of the settlors on whom the penalties are levied.[60]

d. Gas Flaring:

The act addresses the issue of gas flaring, which is the burning of associated natural gas during oil production. It aims to reduce gas flaring and encourages operators to adopt strategies for the beneficial use of associated gas, such as gas re-injection, gas utilization projects, or gas sales. The Act provides that where a licensee or lessee 'fails to conduct petroleum operations in accordance with good international petroleum industry practices'[61] or where he 'has failed to comply with environmental obligations required by applicable law or by the provisions of the applicable license or lease,[62] his license will be revoked.

e. Environmental Standards and Regulations:

The PIA empowers regulatory bodies to establish and enforce environmental standards and regulations for the petroleum industry. This includes setting limits on emissions, waste management practices, and other environmental parameters to ensure compliance and minimize negative impacts.

f. Fund for Environmental Remediation:

The act established a fund called the Environmental Remediation Fund.[63] This fund is aimed at financing the assessment, remediation, and restoration of areas impacted by petroleum operations. It is expected to be funded through various sources, including a percentage of the operational expenses of petroleum companies.

[59] Chapter 3 of PIA
[60] S. 104 (4) of PIA
[61] s96(1)(a) of PIA
[62] s96(1)(I) of PIA
[63] S. 103 of PIA

g. The power of the commission to take charge of gas flare

The PIA grants the Commission the authority to acquire natural gas that would otherwise be flared, free of charge.[64] This provision aligns with the Flare Gas Commercialization Programme (FGCP) initiated by the Federal Government to eliminate gas flaring and achieve environmental and economic benefits. The FGCP aims to encourage third-party investors to develop sustainable gas utilization projects by participating in a competitive and transparent bidding process to purchase flare gas from the government. This provision in the PIA is seen as a positive development as it strengthens the government's ownership rights over flare gas by enshrining it in an Act of the National Assembly, rather than being solely governed by subsidiary legislation. This legal backing reinforces the implementation of the FGCP and provides a more solid foundation for its execution.

h. Provision for Hydrocarbon Tax

The Petroleum Industry Act (PIA) includes provisions within its Petroleum Industry Fiscal Framework to protect the environment through hydrocarbon taxation. Chapter IV of the PIA is dedicated to the fiscal framework and consists of eleven parts. Accordingly, Part I focuses on the objectives and administration aspects of the fiscal framework. Sections 260 to 266 specifically address Hydrocarbon Tax, while Part III covers the Ascertainment of Chargeable Tax and Part IV deals with the Ascertainment of Chargeable Profits and Consolidation for Tax Purposes. Part V outlines the criteria and obligations for Chargeable Persons, while sections 277 to 287 provide guidelines on the applicability of tax regulations, accounting practices, and reporting requirements. Appeals related to taxes are addressed in Part VII, and Part VIII covers the collections, recovery, and repayment of taxes. Part IX specifies offences and penalties for non-compliance with tax regulations, and Part X provides for the application of companies' income to petroleum operations. With the enactment of the Petroleum Industry Act 2021, holders of Petroleum Prospecting Licenses and Petroleum Mining Leases are now subject to both Corporate Income Tax (CIT) at a rate of 30% and Hydrocarbon Tax (HCT).[65] The HCT rates applicable are as follows:

[64] S. 105(2) of the PIA

[65] PwC, Tax Summaries, available at https://taxsummaries.pwc.com/nigeria/corporate/taxes-on-corporateincome#:~:text=Following%20the%20enactment%20of%20the,shallow%20offshore%20Petroleum%20Mining%20 Lease. Accessed 10th July 2023

1. 30% for converted/renewed onshore and shallow offshore Petroleum Mining Leases.
2. 15% for onshore and shallow onshore Prospecting Petroleum Licenses and Marginal Fields.
3. Deep offshore activities are exempt from HCT.

This implies that the highest headline tax rate for companies operating in the upstream oil and gas sector will be 60%. Consequently, existing holders of Oil Mining Licenses and Oil Prospecting Licenses will continue to be taxed according to the provisions of the Petroleum Profits Tax Act (PPTA), unless they execute a conversion contract in accordance with the provisions set out in the Petroleum Industry Act 2021.[66] These provisions within the fiscal framework of the PIA demonstrate the Act's intention to protect the environment through the implementation of effective taxation measures within the petroleum industry.

ii. Environmental Impact Assessment Act, 1992.

By section 1 of the EIA Act, no person, be it individual or not, shall undertake any activity unless the same is assessed and considered safe for the environment. Section 3 provides that the impact of such activity shall be studied first and identify all environmental issues before it can be embarked upon.

iii. Federal Environmental Protection Agency Act 1988;

Section 5 of the law saddled the Agency with the responsibility to protect and develop the environment and engage in environmental research and technology.

iv. National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

The Act under s.7 mandates engaging stakeholders to protect the environment, carry out an audit, and even provide environmental sustainability awareness and national consciousness.

[66] *Ibid*

v. LASEPA Law, Lagos

Section 17 provides for an annual environmental development levy from residents, including Environmental Consultants.

Section 1(1) IDTRA's prescription: "The industry is not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria... or it is expedient in the public interest to encourage the development... of [such] industry in Nigeria..." is although not express on the protection of the environment, can be amended to accommodate that such that company's granted pioneer status should be mandated to only engage in environmentally friendly activities.

vi. Case Law

The court in *Gbenre v. Shell Petroleum Development Company*[67] held categorical that gas flaring during oil extraction violates the right to life and a healthy environment.

7.0. Conclusion

Environmental challenges are enormous today. They have not only health and social impacts but also economic impacts as well. This work has first identified environmental challenges as a global issue and presented taxation as provided under the law as a tool for attaining environmental sustainability. A Plethora of examples have been provided on adopting the trend in other jurisdictions. This has motivated and inspired this work in no small way. Interestingly, the research provides insight into how these tax laws can address Nigeria's environmental crisis.

8.0. Recommendations

This study recommends the following;

A comprehensive approach is needed to utilize taxation as a veritable tool for environmental sustainability. Here, all tiers of the government should be structured to collect environmental taxes.

[67] (2005) AHRLR 151

Proactive steps aimed at specific environmental taxes are needed to address environmental problems both environmentally effectively and economically efficiently. In this wise, relevant environmental protection bodies like the National Environmental Standards, Response and Enforcement Agency, and the National Oil Spill Detection and Response Agency are to be adequately equipped to collect environmental taxes.

In addition to the above, activities like mining, the sinking of boreholes, exploration, activities of factories utilizing gasoline-powered machinery, fossil fuel from transport vehicles, etc. must be well regulated by the appropriate authorities.

Tradable permits can also be handy in limiting the number of gas emissions. This research greatly recommends the enforcement of various trade permits under the extant law.

Various laws like the Mining Act should be amended to ensure that environmentally unfriendly activities are checked and discouraged. Concentrating on the above is enough to set the pace proper since there are various legislations with the flavour of environmental taxes. The best approach is to harmonize their provisions and ensure that incidents of double taxation are by all means discouraged.