

ADEOLA OLUFUNKE KEHINDE,¹ DAUDA ADEYEMI ARIYOOSU²

Legal Effects of Environmental Taxation in Tackling Greenhouse Gas Emission in Nigeria: The Need for a Comprehensive Legal Framework

Abstract: Reducing greenhouse gas emissions has emerged as a significant undertaking undertaken by nations worldwide, driven by the urgency to address the escalating global climate change and its widespread impacts. However, Nigeria has exhibited limited progress in tackling the challenges of climate change and other environmental issues inside its borders. This article focuses on examining environmental taxation as a potential strategy for addressing environmental concerns in Nigeria. It draws upon examples from several European countries that have effectively utilised environmental taxation as a means of achieving notable achievement in environmental protection. The study is relevant in the current context, as it is imperative to promptly explore strategies for overcoming the environmental difficulties faced by Nigeria. It is also crucial to promptly intensify the implementation of environmental taxation in Nigeria to effectively discourage individuals or entities from engaging in activities that contribute to environmental degradation. This measure will ultimately lead to a significant reduction in environmental pollution throughout the country, thereby addressing the issue of greenhouse gas emissions, which

1 Adeola Olufunke Kehinde, Faculty of Law, Federal University Oye Ekiti, Ekiti State, Nigeria. e-mail: Princessadeola2000@gmail.com, <https://orcid.org/0000-0002-1554-6247>.

2 Dauda Adeyemi Ariyoosu, Faculty of Law, University of Ilorin, Ilorin kwara State, Nigeria. e-mail: ariyoosu4@gmail.com, <https://orcid.org/0009-0006-7057-313X>.

are primarily responsible for global climate change. The subject of environmental taxes and their implications in addressing environmental concerns, particularly in the context of Nigeria, has garnered significant attention in academic discourse. Like many other nations, Nigeria has pressing environmental issues that necessitate the implementation of effective policies and regulations. In this regard, the role of environmental laws and their potential impact on mitigating climate change is the subject of scholarly investigation. This paper concludes by stating that there is no comprehensive legal framework on environmental taxation in Nigeria and thereby recommends a standardised law on environmental taxation.

Keywords: environmental taxation, environmental challenges, greenhouse gas emission, environmental laws, climate change

Introduction

The environmental challenge is not exclusive to Nigeria; it is a global phenomenon.³ One of the primary considerations regarding this subject pertains to the relationship between environmental pollution and taxation. It is widely held that governments the world over levy taxes on individuals and corporations primarily for the purpose of generating revenue, and this is indeed one of the fundamental objectives of taxation.⁴ It is crucial to emphasise there is a significant crossover between environmental legislation and taxation. In this context, taxes are levied by the governing authorities with the aim of fostering the development of an environmentally sustainable society. There is a need to regulate human activities that negatively impact the environment. Therefore, it is imperative to enact strict regulations to ensuring the responsible use of

3 Muano Nemavhidi and Ademola Oluborode, "Carbon Tax as a Climate Intervention in South Africa: A Potential Aid or Hindrance to Human Rights?," *Environmental Law Review* 25, no. 1(2023): 11, <https://doi.org/10.1177/14614529221149836>.

4 "Taxes & Government Revenue," World Bank, accessed August 24, 2023, <https://www.worldbank.org/en/topic/taxes-and-government-revenue>.

the environment, thereby encouraging sustainable development. Failure to regulate the use of the environment will result in adverse consequences for future generations, while the current generation will also experience negative repercussions.⁵

For nations to achieve the sustainable development objectives, in particular, goals six and fifteen, which pertain to environmental protection, it is imperative that governments worldwide take significant action on to environmental concerns, namely, in the realm of environmental protection.⁶ The extent to which climate change is causing devastation globally, including Nigeria, is a matter of great concern, as it is resulting in significant adverse impacts that are experienced daily.⁷ The escalation of climate instability in Nigeria has led to an increase in the occurrence of intense and frequent downpour events. The severity of flash floods, landslides, and gully erosion has grown, exacerbating the soil condition in one of the top ten countries exhibiting heightened susceptibility to the impacts of climate change. By the year 2009, it was projected that around 6,000 gullies in both rural and urban regions of Nigeria were causing significant damage to residential structures, pipelines, and transportation infrastructure.⁸ The terrible weather disasters have elicited feelings of fear and grief among a significant number of Nigerians.⁹ Additional consequences include elevated temperatures, intensified storms, heightened drought conditions, growing health hazards, socio-economic impoverishment and population displacement, as well as intensi-

5 Lawrence Asekome Atsegbua et al., *Environmental Law in Nigeria: Theory and Practice* (Ababa Press, 2004).

6 Asekome Atsegbua et al., *Environmental Law in Nigeria*.

7 Adeola Olufunke Kehinde, "Environmental Problems in Nigeria: Pollution in Focus," *Economics & Law* 3, no. 2(2021): 9, <https://doi.org/10.37708/el.swu.v3i2.2>.

8 Kehinde, "Environmental Problems in Nigeria."

9 Oladipo Airenakho, "Land, Soil and Climate Change: How Nigeria Is Enhancing Climate Resilience to Save the Future of Its People," World Bank, published October 19, 2022, <https://www.worldbank.org/en/news/feature/2022/10/18/land-soil-and-climate-change-how-nigeria-is-enhancing-climate-resilience-to-save-the-future-of-its-people#:~:text=Increasing%20climate%20variability%20in%20Nigeria,countries%20to%20climate%20change%20impacts.>

fied precipitation and storms.¹⁰ Thus, the issue of environmental protection should not be taken for granted by any nation.¹¹

The issue of climate change has endured for an extended period and is currently recognised as one of the most urgent global challenges. Regardless of our awareness, it is widely acknowledged by specialists that the actions of humans can have detrimental effects on global climate systems, ultimately contributing to the phenomenon of global warming.¹² It is widely recognised that the global nature of climate change requires collective efforts rather than individual actions. Pollution constitutes a significant environmental concern in Nigeria.¹³ This includes air pollution, water pollution, soil contamination, electrical pollution, and other forms connected with the phenomenon of global warming.¹⁴

To attain environmental sustainability and address the issue of climate change, it is imperative to reduce greenhouse gas emissions,¹⁵ and conscious measures are required to mitigate such emissions.¹⁶ The Paris Agreement has imposed a global obligation to reduce greenhouse gas emissions to 1.5 degrees Celsius by the end of this century.¹⁷ The 2018 study conducted by the Intergovernmental Panel on Climate Change (IPCC) under the auspices of the United Nations (UN) stated that it is imperative to bring about a 45%

10 Adeola Olufunke Kehinde and Olufemi Abifarin, "Legal Framework for Combating Climate Change in Nigeria," *Kutafin Law Review* 9, no. 3(2022): 395, <https://doi.org/10.17803/2713-0525.2022.3.21.395-414>.

11 Shawkat Alam et al., "Introduction," in *Routledge Handbook of International Environmental Law*, ed. Erika Techera (Routledge, 2012), <https://doi.org/10.4324/9780203093474>.

12 Kemal Dervis, "Climate Change Threatens the Development Gains Already Achieved," UN Climate Change Learning Partnership, accessed June 21, 2023, <https://www.uncclearn.org/wp-content/uploads/library/undp30.pdf>.

13 Asekome Atsegbua et al., *Environmental Law in Nigeria*.

14 Kehinde, "Environmental Problems in Nigeria."

15 Dervis, "Climate Change Threatens the Development Gains Already Achieved."

16 "Environmental Tax," World Bank, accessed June 21, 2023, <https://www.worldbank.org/en/programs/the-global-tax-program/environmental-taxes>.

17 "The Paris Agreement," United Nations Climate Change, accessed June 21, 2023, <https://unfccc.int/process-and-meetings/the-paris-agreement>.

reduction in carbon dioxide (CO₂) emissions by 2030¹⁸ relative to the levels recorded in 2010. Based on the latest scientific findings from the IPCC, as presented in their recent publication taking 2019 as a reference point, it is imperative to achieve a 43% reduction in greenhouse gas (GHG) emissions by the year 2030.¹⁹ Conscious efforts must be made by all nations of the world to mitigate the most detrimental consequences of climate change, and to achieve the objective outlined in the Paris Agreement,²⁰ as noted by Sameh Shoukry, the Egyptian Minister of Foreign Affairs. This article will demonstrate the efficacy of one measure aiming to mitigate greenhouse gas emissions, namely, greenhouse tax regimes implemented in various regions worldwide.

Research Methodology

The method of research employed in writing this paper was primarily doctrinal in nature. The process involves comprehensive research in libraries, utilising both primary and secondary sources of information. The primary sources included the Constitution of the Federal Republic of Nigeria (1999), Environmental Impact Assessment Act 2022, National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007, Nigerian Minerals and Mining Act 2007 and the National Climate Change Act 2021. Secondary materials such as scholarly publications, articles, and newspaper stories were consulted, with the internet playing a significant role in this task.

18 “Special Climate Report: 1.5°C Is Possible but Requires Unprecedented and Urgent Action,” United Nations, published October 8, 2018, <https://www.un.org/sustainabledevelopment/blog/2018/10/special-climate-report-1-5oc-is-possible-but-requires-unprecedented-and-urgent-action/>.

19 “Climate Plans Remain Insufficient: More Ambitious Action Needed Now,” United Nations Climate Change, published October 26, 2022, <https://unfccc.int/news/climate-plans-remain-insufficient-more-ambitious-action-needed-now>.

20 “Climate Plans Remain Insufficient.”

Environmental Challenges in Nigeria and Efforts to Combat Them

Nigeria is confronted with several environmental concerns. The country has faced challenges in effectively addressing these concerns, particularly reducing greenhouse gas emissions as outlined in the Paris Agreement. For several decades, its oil and gas industry has contributed heavily to such emissions due to its practice of gas flaring. While these challenges may not be unique to Nigeria, the approach taken by the Nigerian government and other stakeholders in the environmental sector to solve these issues is alarming. The nation of Nigeria has had challenges in effectively addressing environmental safety concerns, particularly in relation to the reduction of greenhouse gas emissions as outlined in the Paris Agreement.²¹ For several decades, the oil and gas industry in Nigeria, renowned for its practise of gas flaring, has made a substantial contribution to the worldwide escalation of greenhouse gas emissions.²²

In 2021, Nigeria enacted the Climate Change Act as part of its efforts to address the challenges posed by climate change.²³ It might be argued that this legislation is the most extensive set of municipal regulations meant to tackle the issue of climate change in Nigeria. It establishes an institutional and legal framework for implementing programmes and policies to mitigate greenhouse gases. The objectives of the Act include balancing greenhouse gas emissions by 2050–2070, a target which aligns with Nigeria’s global obligations in addressing the issue of climate change.²⁴ The Climate Change Act established the

21 Adeola Olufunke Kehinde, “Water Pollution in Nigeria and Its Effect on Agriculture: A Case Study of Niger Delta,” *Research and Science Today* 1, no. 23(2022): 21, <https://doi.org/10.38173/rst.2022.23.1.2:21-31>.

22 Uzuazo Etemire, “The Future of Climate Change Litigation in Nigeria: COPW v NNPC in the Spotlight,” *Carbon & Climate Law Review* 15, no. 2(2021): 158, <https://doi.org/10.21552/cclr/2021/2/7>.

23 Muhammed Tawfiq Ladan, “A Review of Nigeria’s 2021 Climate Change Act: Potential for Increased Climate Litigation,” International Union for Conservation of Nature, published June 28, 2022, <https://www.iucn.org/news/commission-environmental-economic-and-social-policy/202203/a-review-nigerias-2021-climate-change-act-potential-increased-climate-litigation>.

24 Section 1 (f) of the Climate Change Act 2021.

National Council on Climate Change, endowing it with legal personhood and granting it the capacity to initiate legal proceedings both as a plaintiff and a defendant under its corporate identity. In Nigeria, there exists the authority to establish regulations and conduct investigations concerning changes in climatic conditions. The Council is responsible for supervising the attainment of sector-specific goals and proposals for regulating greenhouse gas emissions and other anthropogenic factors contributing to climate change. Additionally, it is tasked with authorising and monitoring the implementation of the National Climate Action Plan, as well as overseeing the allocation of funds designated for this purpose.²⁵

To limit the global temperature increase to an average of 2°C and work towards achieving a target of 1.5°C above pre-industrial levels, it is imperative for governmental parastatals responsible for environmental and land use planning to establish a carbon budget. Similarly, the Council is required to formulate a comprehensive action plan on climate change at the national level every five years, in collaboration with the parastatals. The initial plan is required to be submitted within several months of the effective date of the Act.²⁶ However, like its predecessors, the effectiveness of this legislation will be weakened without proactive measures to guarantee rigorous adherence.²⁷ Hence, based on previous observations inside the nation, addressing the issue of climate change using this approach may provide challenges, particularly in terms of adhering to the specified timeframe for mitigation outlined in the Paris Agreement. In accordance with internationally recognised best practices, it is imperative to implement additional measures aimed at addressing environmental concerns.

Scholars have observed that the courts in Nigeria should enforce the right to a healthy environment, as stipulated in the 1999 Constitution, to ensure

25 Section 3 (1) Climate Change Act 2021.

26 Kehinde and Abifarin, "Legal Framework for Combating Climate Change in Nigeria," 398.

27 Zainab Akintola et al., "A Review of Nigeria's Climate Change Act, 2021," Aluko & Oye-bode, published January 24, 2022, <https://www.aluko-oyebode.com/insights/a-review-of-nigerias-climate-change-act-2021/>.

comprehensive environmental preservation throughout the country.²⁸ In certain instances, the Nigerian judiciary has determined that the government should address specific concerns arising from environmental exploitation by certain corporate entities, particularly when such activities have a significantly negative impact on individuals' lives. The courts' efforts in this matter should be acknowledged due to the absence of explicit provisions for environmental rights in Nigeria's laws.²⁹ Furthermore, Section 20 of the Constitution,³⁰ which pertains to environmental preservation, is non-justiciable.³¹ The following cases exemplify the efforts of Nigeria's courts in addressing environmental issues, highlighting the courts' recognition that the emission of greenhouse gases by non-compliant companies can be addressed as a violation of fundamental human rights, as stipulated in the Nigerian Constitution and other international human rights treaties. It has also been argued that there is a need to access environmental justice in Nigeria to guarantee environmental protection, as we shall consider in the below cases.³²

The case of *Jonah Gbemre vs Shell Petroleum Development Company Nigeria Ltd & Others*³³ involved applicants seeking the enforcement of their fundamental rights to life and human dignity in the face of this company's gas flaring activities. The court held that Shell's gas flaring activities in the affected community resulted in a significant violation of the applicants' constitutional

28 Rhuks Ako et al., "Overcoming the (Non)Justiciable Conundrum: The Doctrine of Harmonious Construction and the Interpretation of the Right to a Healthy Environment in Nigeria," in *Justiciability of Human Rights Law in Domestic Jurisdictions*, ed. Alice Diver and Jacinta Miller (Springer, 2015), 123.

29 Onyeka K. Anaebo and Eghosa O. Ekhaton, "Realising Substantive Rights to Healthy Environment in Nigeria," *Environmental Law Review* 17, no. 2(2015): 82, <https://doi.org/10.1177/1461452915578831>.

30 1999 Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004.

31 Section 6 (6) (c) 1999 Constitution of the Federal Republic of Nigeria.

32 Muhammed Ladan, *Trend In Environmental Law And Access To Justice In Nigeria: Recent Trends In Environmental Law And Access To Justice In Nigeria* (LAP LAMBERT Academic Publishing, 2012).

33 2005 AHRLR 151.

rights to life, including the right to reside in a healthy environment, and the preservation of human dignity, as enshrined in Nigeria's Constitution.³⁴

The case specifically declared gas flaring to be unconstitutional,³⁵ a groundbreaking development within the Nigerian context. The 1999 Constitution of the Federal Republic of Nigeria ensures the provision of the right to a healthy environment. The matter pertains to the essential human rights to life and dignity, as outlined in Sections 33(1) and 34(1) of the Constitution. Consequently, it falls within the purview of legal recourse, in contrast to Section 20 of the Constitution, which is not susceptible to judicial review due to the provisions of Section 6(6)(C) of the Constitution.

Despite the favourable nature of the judgement, it is disheartening to note the lack of enforcement. This unfortunate situation can be seen as a deliberate attempt to hinder the judiciary's efforts to address environmental issues in Nigeria. The judgement does not seek financial compensation from the court, but rather aims to rectify regulatory deficiencies in Nigeria's history as a nation.³⁶ This observation highlights the lack of political resolve among Nigerian authorities to address environmental concerns.³⁷

In *Centre for Oil Pollution Watch vs NNPC*,³⁸ May 13, 2005 the Centre asserted that the Nigerian National Petroleum Corporation (NNPC) had contravened international law through its involvement in an oil spillage. This oil spill took place at ACHA Village, in Abia State, Nigeria. As a result, the case was brought before the Lagos Division of the Federal High Court. The defen-

34 1999 Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004.

35 James R. May and Tiwajopelo Dayo, "Dignity and Environmental Justice in Nigeria: The Case of *Gbemre v. Shell* (2019)," *Widener Law Review* 25, 2019.

36 BukolaFatureti et al., "Environmental Protection in the Nigerian Oil and Gas Industry and *Jonah Gbemre v. Shell PDC Nigeria Limited: Let the Plunder Continue?*," *African Journal of International and Comparative Law* 27, no. 2(2019): 225, <https://doi.org/10.3366/ajicl.2019.0270>.

37 Ayodele Morocco-Clarke, "The Case of *Gbemre v. Shell* as a Catalyst for Change in Environmental Pollution Litigation," *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 12, no. 2(2021): 28.

38 (2019) 5 NWLR (Pt 1666) 518.

dant was accused of being responsible for the oil spill, which was attributed to the corrosion of their pipeline resulting from a lack of proper maintenance and care. The primary water sources in the settlement were compromised because of contamination caused by the accidental burst in a nearby mineral oil container, leading to its entire contents entering neighbouring Ineh/Aku streams. The plaintiff contended that the respondent was negligent in both the origin and the control of the oil leakage, resulting in adverse consequences for human health, marine organisms, natural resources, and other activities associated with the Ineh/Aku streams. It should be noted, however, that the defendant did take measures to address the surface spill and restore the affected streams and river. The defendant raised concerns regarding the plaintiff's locus standi to seek the dismissal of the lawsuit. On February 9, 2006, the trial court rejected the action for lack of jurisdiction due to the absence of any actual harm suffered by the plaintiff because of the alleged oil leak. Furthermore, the court found no evidence to support the claim that the plaintiff had experienced more severe harm than any other resident of Acha hamlet. On January 28, 2013, the Court of Appeal issued a decision confirming the judgement of the trial court, resulting in the dismissal of the lawsuit. On March 9, 2013, the plaintiffs filed an appeal with the Supreme Court. On July 20, 2018, the Supreme Court gave a unanimous decision to grant the appeal.

The court held, among other things, that the appellant non-governmental organisation possessed the lawful entitlement (locus standi) to initiate the legal proceedings. It was further established that individuals and entities who adhere to the law exercise the prerogative to bring forth legal complaints against pertinent public officials and private corporations. This serves to ensure compliance with relevant legislation by the latter and to facilitate the remediation, restoration, and preservation of the environment by the former.

According to Aka'ahs (Justice of the Supreme Court), it is evident that there is a growing concern regarding various environmental issues such as climate change, ozone layer depletion, waste management, flooding, and global

warming. Justice Aka'ahs strongly believes that the court, being a policy court, should broaden the scope of the Plaintiff/Appellant's legal standing to bring forth lawsuits. This is because both nations and organisations, on a national and international level, are increasingly implementing more stringent measures to preserve and protect the environment for the present and future generations. The Supreme Court has rendered a ruling affirming the justiciability of Section 20 of the Nigerian Constitution, pertaining to the State's responsibility to protect the environment. The Supreme Court officially recognised the inherent entitlement of all individuals to a secure and salubrious environment, as stipulated in Section 33 of the Constitution which guarantees the right to life. It is crucial to emphasise that the court's decision carries significant ramifications for environmental legislation, since it endows non-governmental organisations (NGOs) with the power to take measures aimed at protecting the environment.³⁹

In *The Social and Economic Rights Action Centre and The Centre for Economic and Social Rights v Nigeria*,⁴⁰ the applicant asserted that the Nigerian government bore responsibility for the environmental pollution inside the Ogoni people's area, which was caused by the Nigerian National Petroleum Company disposing hazardous waste into the environment. The adverse impact on the health of the Ogoni people resulted from the contamination of water, land, and air due to oil leaks. The applicant asserted that the government had failed to enforce mandatory safety protocols for oil firms and had utilized Nigerian military personnel, resulting in the incineration and devastation of Ogoni villages and food resources. The applicant presented several purported instances of rights infringements under the African Charter on Human and Peoples' Rights, including the right to life, health, and a pristine environment.

39 Miriam Chinyere Anozie and Emmanuel Onyedi Wingate, "NGO Standing in Petroleum Pollution Litigation in Nigeria—*Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation*," *The Journal of World Energy Law & Business* 13, no. 5–6(2020): 490, <https://doi.org/10.1093/jwelb/jwaa031>.

40 *SERAC v. Nigeria*, Decision, Comm. 155/96 (ACmHPR, October 27, 2001).

The Commission reached the verdict that the government's failure to prevent extensive killing of the Ogoni people, as well as environmental pollution and degradation, constituted violations of Articles 4 (pertaining to the right to life), 16 (pertaining to the right to health), and 24 (pertaining to the right to a clean environment). Moreover, it was established that Nigeria had infringed the Ogoni people's entitlement to exercise their right to freely manage their wealth and natural resources, as stipulated in Article 21. This violation is evident in the government's active role in facilitating the destruction of Ogoniland.

Selected Laws Relating to Environmental Taxation in Nigeria

As mentioned earlier in this article, the idea of environmental taxation is not new in the history of Nigeria. In addition to the 1999 Constitution of Nigeria and the 2021 Climate Change Act discussed in this paper, other laws can be related to environmental taxation in the Nigerian context. The question is whether these laws have been effective in tackling environmental challenges in Nigeria? Can it be said that Nigeria has a comprehensive legal framework on environmental taxation? Can these laws be compared to what we have in other developed/developing countries of the world, who strive to achieve environmental sustainability? The answer is negative. Several of the existing laws relating to environmental taxation will be considered here:

- 1) The National Environmental Standard and Regulations Enforcement Agency Act⁴¹ is a legislative framework that governs the operations of the National Environmental Standard and Regulations Enforcement Agency. The primary purpose of establishing the Agency is to assume responsibility for safeguarding and promoting the environment, conserving biodiversity, and ensuring sustainable development of Nige-

41 The National Environmental Standard And Regulations Enforcement Agency Act Cap 301 LFN 2010.

ria's natural resources. This includes managing environmental technology and facilitating collaboration with relevant stakeholders, both domestically and internationally, to enforce environmental standards, regulations, rules, laws, policies and guidelines. This law makes provision for certain taxes on the environment, in which it prescribes penalties for noncompliance with environmental regulations.⁴²

- 2) The Environmental Impact Assessment (EIA) Act⁴³ was enacted to evaluate the environmental impact of any project and to require the Federal Ministry of Environment to issue an EIA report. The process of Environmental Impact Assessment involves identifying any adverse effects that may stem from the placement of specific projects in a particular area. It also involves establishing mechanisms to contain, curtail and mitigate these adverse effects, as well as providing restitution to parties who are adversely affected. Therefore, the EIA should guarantee that the relevant government authorities have thoroughly identified and evaluated the environmental implications of the proposed activities within their jurisdiction and control before granting approval for any project. Additionally, affected citizens should be afforded the opportunity to assess the proposed project and communicate their opinions to the decision-makers. This law makes provision for specific fees for EIA and penalties for noncompliance with EIA.⁴⁴
- 3) The Federal Inland Revenue Service (FIRS) Act⁴⁵ empowers FIRS to collect taxes and levies on behalf of the federal government, including environment-related taxes. However, it does not specifically mention an environmental tax in the sense discussed in this article.

42 Section 23 The National Environmental Standard And Regulations Enforcement Agency Act Cap 301 LFN 2010.

43 Environmental Impact Assessment Cap E12, LFN 2004.

44 Section 12 Environmental Impact Assessment Cap E12, LFN 2004.

45 The Federal Inland Revenue Service Act, Cap F36, LFN 2010.

- 4) The Pollution Control (Fees and Penalties) Regulations⁴⁶ provides for the imposition of pollution control fees on industries.⁴⁷
- 5) The Customs and Excise Tariff (Consolidation) Act, 2003⁴⁸: This law imposes a 5% duty on any materials imported into Nigeria which are hazardous in nature.
- 6) The National Oil Spill Detection and Response Agency (NOS-DRA) Act⁴⁹: This law was promulgated in 2006 in response to the need to tackle oil spills in Nigeria. It regulates oil spills by imposing fees and penalties. It imposes a penalty on operators for failure to comply with regulations,⁵⁰ and further imposes a fine on them for noncompliance with the Act.⁵¹

Environmental Taxation

The concept of environmental taxation refers to the practice of imposing taxes on activities or products that have negative impacts on the environment.⁵² Environmental taxes, also referred to as “green taxes,” “pollution taxes,” or “ecotaxes,” encompass a range of fiscal measures imposed by governments on firms and individuals with the aim being to mitigate environmentally detrimental actions. When employed in conjunction with other instruments, environ-

46 The Pollution Control (Fees and Penalties) Regulations Cap P26, LFN 2004.

47 Regulation 10 of The Pollution Control (Fees and Penalties) Regulations Cap P26, LFN 2004.

48 Customs and Excise (Consolidation) Tariff Act, Cap C 49 LFN 2004.

49 National Oil Spill Detection and Response Agency (Establishment) Act, Cap N161 LFN 2010.

50 Section 26 National Oil Spill Detection and Response Agency (Establishment) Act, Cap N161 LFN 2010.

51 Section 29 National Oil Spill Detection and Response Agency (Establishment) Act, Cap N161 LFN 2010; Soala Ariweriokuma, *The Political Economy of Oil and Gas in Africa: The Case of Nigeria* (Routledge, 2009), <http://ci.nii.ac.jp/ncid/BA88338774>.

52 “What Are Environmental Taxes?,” Envirotech Online, published April 2, 2015, <https://www.envirotech-online.com/news/air-monitoring/6/breaking-news/what-are-environmental-taxes/34066>.

mental taxes have the potential to facilitate the necessary transformations required to tackle the prevailing environmental and climatic challenges. Environmental taxes have the potential to effectively tackle various dimensions of environmental safeguarding and preservation.⁵³ Environmental taxation is a strategy employed to incentivize customers towards making environmentally conscious choices.⁵⁴ The underlying concept of environmental taxation is to incorporate the costs associated with environmental damage, sometimes referred to as negative externalities, into the pricing mechanism. This approach aims to shape production and consumption decisions towards more environmentally sustainable alternatives.⁵⁵ Tax policies can be used to mitigate the effects of climate change, specifically pollution, environmental strain resulting from resource consumption and biodiversity decline, as well as contributing elements such as emissions from petrol and the utilisation of potentially harmful compounds.⁵⁶ Environmental taxes offer several notable advantages, including enhanced economic productivity, the capacity to generate public revenue, increased transparency, and improved environmental effectiveness.

Various forms of environmental taxes exist, serving diverse purposes, such as penalising persons who emit hazardous substances and incentivizing those who adopt environmentally good practises. The following methods are enumerated below:

- 1) Industrial pollution taxes: Industrial pollution taxes are levied on industries that typically release significant amounts of carbon emissions, which adversely affect the local environment. One potential approach to implementation is through a carbon tax, wherein a fee is

53 Newman U. Richards, "Overview of the National Tax Policy and Its Implication for Tax Administration in Nigeria," *Nnamdi Azikwe University Journal of International Law and Jurisprudence* 10, no. 2(2019): 42.

54 "Understanding Environmental Taxation," Think Tank European Parliament, accessed June 19, 2023, [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2020\)646124](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2020)646124).

55 Leyira Christian Micah et al., "Tax System in Nigeria – Challenges and the Way Forward," *Research Journal of Finance and Accounting* 3, no. 5(2012): 9.

56 Micah et al., "Tax System in Nigeria – Challenges and the Way Forward."

levied on the amount of carbon present in the fossil fuels used within a certain industrial facility. The method described has been widely observed in regions of Europe, Australia, and India since the year 2010.⁵⁷

- 2) Individual revenue-based taxes: The primary focus of these taxes is to mitigate environmental harm by targeting private persons rather than large corporations and industries. For example, measures that can be used to address traffic congestion include the implementation of congestion fees, the imposition of different forms of car taxation, or the increase of gasoline taxes. While these measures may not currently enjoy widespread popularity, their benefits are shown by historical data. Since its introduction in 2003, the congestion charge in London has been associated with a notable reduction of 30% in traffic volume and a corresponding fall of 20% in carbon dioxide (CO₂) emissions.⁵⁸
- 3) Incentivized taxation: In contrast to the aforementioned two forms, this tax is applied to both domestic and commercial endeavours. Rather than criticising individuals for their excessive production of harmful gases, the approach advocated here is to incentivize individuals for embracing environmentally sustainable practices. For example, subsidies for installing solar panels, along with subsequent tax reductions, act as an incentive for both residential and commercial property owners to adopt sustainable practices. While these efforts may lead to a slight rise in pollution, the rate of increase per individual is expected to be lower. The increase observed in the number of polluters requires stringent regulation due to the corresponding decrease in pollution output per entity.⁵⁹

57 “What Are Environmental Taxes?”

58 “What Are Environmental Taxes?”

59 “What Are Environmental Taxes?”

The Significance of Environmental Taxes

The field of ecology has experienced notable impacts in recent decades due to the world's growing population.⁶⁰ The extensive use of restricted natural resources and the escalating levels of pollution have led to the substantial release of greenhouse gases into the atmosphere.⁶¹ Ecological mismanagement generates several significant issues, including climate change, the proliferation of chronic diseases, rising sea levels, and adverse economic consequences. Environmental taxes, often known as green taxes or eco taxes, play a crucial role in discouraging individuals, organisations, and other entities from engaging in activities that harm the environment.⁶² The need for environmental levies stems primarily from the imperative to save the environment. Nevertheless, there are other rationales for environmental fees. The promotion of energy efficiency and the utilisation of renewable sources are among the strategies that might be employed. By addressing the negative externalities associated with enterprises, there is an opportunity to foster innovation in sustainable practises and discourage anti-environmental behaviour.

In short, environmental taxes aim to impose penalties on polluters for the detrimental effects they cause to the environment and society, thus ensuring a just and equitable system of punishment. Moreover, the primary objective is to provide direct compensation to emissions producers as a financially efficient strategy to incentivize them to mitigate their pollution levels, perhaps reaching a threshold where further reductions could be economically unfeasible.⁶³

60 Richards, "Overview of the National Tax Policy and Its Implication for Tax Administration in Nigeria," 42.

61 "Environmental Taxes: Types of Environment Taxes," BYJU'S, published December 14, 2022, <https://byjus.com/current-affairs/environmental-tax>.

62 Akinleye Gideon Tayo and Olaniyan Niyi Oladipo, "The Effect of Environmental Tax on Pollution Control in Nigeria," *Farabi Journal of Social Sciences* 8, 2022: 63–70, <https://doi.org/10.26577/fjss.2022.v8.i1.09>.

63 Tayo and Oladipo, "The Effect of Environmental Tax on Pollution Control in Nigeria."

Some of Europe's Most Effective Green Taxes

This section explores the efficacy of environmental taxes as a tool employed by Europe to address and mitigate environmental concerns. In recent times, various entities, including the OECD and the European Commission, have provided guidance to countries regarding the redistribution of tax responsibilities from employees to individuals or entities who are parties to environmental pollution. Green taxes have the potential to discourage environmentally and socially harmful behaviour, such as plastic pollution, air quality degradation among others. This analysis will briefly explore certain European countries, focusing on the effects of environmental taxation in ensuring that the environment is adequately conserved.

Plastic Bag Tax in Ireland

A point-of-sale charge for plastic bags was introduced in Ireland in 2002, with an initial price of €0.15. Subsequently, in 2007, the charge was increased to €0.22. The objective was to reduce consumption and mitigate the adverse environmental impacts associated with the disposal of plastic bags. Consequently, the proportion of litter pollution attributed to abandoned plastic bags declined from 5% in 2001 to 0.13% in 2015. During a period of 12 years, this tax generated a total revenue of €200 million. These funds were allocated towards financing environmental initiatives across the country. The Irish plastic bag tax is widely seen as the most effective and impactful environmental initiatives to date.⁶⁴

Fishing Licences in Ireland

In response to the depletion of its salmon stocks, in 2007 the Irish government raised the fees for both commercial and recreational salmon fishing licences. This change resulted in a decrease in fishing activity targeting salmon populations, thus alleviating the pressure on their runs. The revenue generated

⁶⁴ Mauro Anastasio, "The 5 Most Successful Environmental Taxes in Europe," META, published July 3, 2018, <https://meta.eeb.org/2017/11/23/the-5-most-successful-environmental-taxes-in-europe/>.

by this programme was subsequently allocated towards initiatives focused on conserving natural resources and habitats. This resulted in the stabilisation of salmon populations, hence yielding a positive outcome. However, it is crucial to note that this intervention played a significant role in the rehabilitation of riparian zones and the enhancement of riverine ecosystems, hence yielding favourable outcomes for the overall environmental well-being.⁶⁵

The Landfill Tax in the United Kingdom

To address the ecological costs of landfilling, including the emission of greenhouse gases, and to effectively reduce trash generation while promoting recycling, in 1996 the United Kingdom introduced a landfill tax. The amount of waste deposited in landfills decreased significantly from fifty million tonnes in 2001 to twelve million tonnes in 2015, which can primarily be attributed to the implementation of this tax policy.⁶⁶

The imposition of a NOx tax in Sweden

In 1992, the Swedish government implemented a tax on nitrogen (NO_x), a pollutant linked to acid rain and respiratory ailments. To mitigate the adverse effects of soil acidification, which poses a significant risk to agricultural and pasture productivity, a tax was implemented on energy use related to space heating, electricity generation, and industrial operations. Implementing this tax policy led to a significant reduction in NO_x emissions of approximately 30–40%. The first tax rate for all types of fuel was established at SEK 40 per kilogramme of NO_x released. Subsequently, in 2008, this fee was raised to SEK 50 per kilogramme, which was approximately equivalent to €5 at that time. To promote energy efficiency and mitigate potential negative impacts on competitiveness, the revenue generated was allocated to compensating taxed plants that emit moderate amounts of NO_x.

65 Anastasio, "The 5 Most Successful Environmental Taxes in Europe."

66 Anastasio, "The 5 Most Successful Environmental Taxes in Europe."

Environmental Tax in South Africa

South Africa is the primary source of greenhouse gas (GHG) emissions in Africa, emitting the highest amount of GHGs compared to other countries in the continent.⁶⁷ The GHG emissions, excluding forestry and other land use, saw a significant increase of over 67 percent between 1990 and 2019. In 2019, the energy sector was responsible for approximately 86 percent of the emissions, having played a role in nearly 91 percent of the growth in greenhouse gas emissions over the preceding three decades.⁶⁸ The country's National Development Plan 2030 already includes the integration of a green and climate resilient economy. The carbon tax was introduced in 2019 as a significant policy tool to support the country's efforts to reduce greenhouse gas emissions.⁶⁹ The tax adheres to the polluter-pays-principle and is levied on fuel inputs according to emission factors and procedures that align with the standards established by the Intergovernmental Panel on Climate Change. The initial carbon tax rate was officially established at R120 (equivalent to approximately \$7 per tonne of CO₂e). By the end of 2022, it was raised to R134 (or about \$8). Nevertheless, considering the amount of carbon tax money collected, the predicted rate of effectiveness was below R7 per tonne of CO₂e for the fiscal year 2021–2022.⁷⁰

What follows are some of South Africa's laws in this regard:

- 1) Carbon Tax Act 2019⁷¹: The Act is a significant piece of legislation on environmental taxation in South Africa. An exhaustive examination of the legislation shows that it enforces a carbon tax to diminish greenhouse gas emissions and alleviate the effects of climate change.

67 International Monetary Fund. African Dept., *South Africa Carbon Pricing and Climate Mitigation Policy* (International Monetary Fund, 2023), <https://doi.org/10.5089/9798400245350.002>.

68 International Monetary Fund. African Dept., *South Africa Carbon Pricing and Climate Mitigation Policy*.

69 International Monetary Fund. African Dept., *South Africa Carbon Pricing and Climate Mitigation Policy*.

70 International Monetary Fund. African Dept., *South Africa Carbon Pricing and Climate Mitigation Policy*.

71 Carbon Tax Act, 2019 (Act No. 15 of 2019).

Legislation incentivises corporations to shift towards more environmentally friendly energy sources and reduce their carbon emissions. This law is significant, as it brings South Africa in line with global initiatives aimed at tackling climate change. Ultimately, the legislation promotes sustainable development and the establishment of a low-carbon economy, a significant step for South Africa towards reduced greenhouse gas emissions and a more sustainable future.

- 2) National Environmental Management Waste Act 2008⁷²: This law makes provisions for waste management levies and fees.
- 3) National Environmental Management Act 1998⁷³: This law incorporates environmental management into all facets of government and societal decision-making. The minister of environmental affairs is granted the authority to enforce environmental taxes and fines. Since its enactment in 1998, the legislation has undergone several revisions, including the National Environmental Management Amendment Act, 2003 (Act No 46 of 2003) and the National Environmental Management Amendment Act, 2014 (Act No 25 of 2014), among others.
- 4) Air Quality Act 2004⁷⁴: The law is significant because it effectively decreases greenhouse gas emissions, making a valuable contribution to South Africa's efforts to address climate change. Furthermore, it fosters sustainable development by promoting eco-friendly actions, greener energy sources, and sustainable industrial processes.
- 5) CUSTOMS and Excise Act 1964⁷⁵: The Act makes provisions for environmental levies on imported goods such as plastics and batteries.

Examining all these laws enacted in South Africa with respect to environmental taxes, it is important to note that before the implementation of the Carbon Tax, most of the existing tax instruments relating to the environment were

72 National Environmental Management Waste Act 2008 (Act No. 107 of 1998).

73 National Environmental Management Act 1998 (Act No. 107 of 1998).

74 Air Quality Act 2004 (Act No 39 of 2004).

75 Custom and Excise duty Act 1964 (Act No 91 of 1964).

designed primarily to generate income, rather than to prioritise environmental concerns.⁷⁶

Implementation of Environmental Taxation Policies Within the Context of Nigeria

Salisu Dahiru, the DG of the Council for Climate Change in Nigeria, has publicly announced the country's intention to implement a carbon taxing policy and budgeting system in accordance with the provisions outlined in the Climate Change Act of 2021. He posits that the tax serves as an incentive for individuals to adopt ecologically sustainable fuels, employ innovative technologies, and reduce emissions to circumvent the tax obligation. Furthermore, he contends that this tax not only helps the government by generating revenue but also contributes to the objectives.⁷⁷

It is important to acknowledge that the concept of taxes in Nigeria is not a recent development, but rather a longstanding practice that has encountered a range of obstacles, as highlighted by certain scholars.⁷⁸ One of the issues pertains to the heightened necessity of augmenting IGR (Internally Generated Revenue), which has led to the use of taxation authorities to the detriment of taxpayers who bear the burden of various taxes, thus exceeding their anticipated tax obligations.⁷⁹ Furthermore, there is a lack of sufficient information provided to taxpayers regarding the necessary criteria for tax compliance. This deficiency can result in ambiguity and potential vulnerabilities within

⁷⁶ International Monetary Fund. African Dept., *South Africa Carbon Pricing and Climate Mitigation Policy*.

⁷⁷ Abdulkareem Mojeed, "Climate Change: FG to Unveil Carbon Tax System for Nigeria," Premium Times Nigeria, published February 13, 2023, <https://www.premiumtimesng.com/news/more-news/581752-climate-change-fg-to-unveil-carbon-tax-system-for-nigeria.html>.

⁷⁸ Iliya Garba and Kennedy Gunawardana, "Barriers and Challenges of Introducing Environmental Taxation in Nigeria, for Future Sustainability," in *Proceedings of 12th International Conference on Business Management, 7th and 8th December 2015, Colombo, Sri Lanka* (SSRN Electronic Journal, 2015), <https://doi.org/10.2139/ssrn.2699779>.

⁷⁹ Micah et al., "Tax System in Nigeria – Challenges and the Way Forward," 9.

the tax system. Additionally, the timely refund of excess taxes to taxpayers is hindered by the absence of efficient systems, such as computerised and data capturing mechanisms.⁸⁰ Furthermore, the transfer of revenue authorities to third parties is made worse by the lack of defined policy directives, norms, and procedures relevant to tax matters in Nigeria.

This delegation ultimately leads to increased costs associated with tax compliance. Implementing an environmental tax in Nigeria has the potential to effectively mitigate greenhouse gas emissions.⁸¹ The emergence of environmental pollution and degradation can be attributed to the indiscriminate environmental damage resulting from anthropogenic activities undertaken by individuals in their pursuit of growth. If these activities are not effectively regulated, there will be an increase in carbon emissions. One potential strategy for mitigating this issue involves the implementation of taxation measures targeting the entities accountable to produce those emissions.⁸²

Major Benefits of Introducing Environmental Taxation

Introducing a carbon tax in Nigeria can have an exceptional and positive impact on the economy, environment and the economy. An environmental tax is essential due to its numerous benefits. Firstly, carbon pricing mechanisms effectively mitigate pollution by incentivising companies and individuals to minimise their environmental footprint through imposing higher costs on polluting activities.⁸³ When a tax is imposed on CO₂ emissions in Nigeria, the country will be forced to reduce its reliance on fossil fuel and mitigate climate change. Additionally, such

80 Garba and Gunawardana, "Barriers and Challenges of Introducing Environmental Taxation in Nigeria, for Future Sustainability," footnote 54.

81 Kayode Oyende, "Carbon Taxation as a Lever for Advancing Environmental Pollution Control in Nigeria," *The Gravitas Review of Business and Property Law* 13, no. 3(2022).

82 Rotimi Oladele, "Environmental Tax and Pollution Control in Nigeria," *KIU Interdisciplinary Journal of Humanities and Social Science* 2, no. 1(2021): 280.

83 Zhengyan Wang et al., "The Impact of Environmental Taxes on Economic Benefits and Technology Innovation Input of Heavily Polluting Industries in China," *Frontiers in Environmental Science* 10, 2022: article 959939. <https://doi.org/10.3389/fenvs.2022.959939>.

a tax promotes sustainable growth by fostering eco-friendly activities and the adoption of cleaner technologies.⁸⁴ Likewise, the implementation of an environmental tax leads to a decrease in pollution, which subsequently enhances public health and lowers healthcare expenses.⁸⁵ It promotes innovation by fostering the development of clean technologies and sustainable practices.⁸⁶ Implementing an environmental tax is crucial, as it contributes to income generation, hence stimulating the country's economy.⁸⁷ It has been noted that environmental taxes encourage energy conservation,⁸⁸ which will also lead to an increased investment in renewable energy, since it motivates investments in clean technologies and energy efficiency.⁸⁹ This, in turn, will contribute to job creation by creating new employment opportunities for young people across Nigeria.

The National Environmental Standards and Regulations Enforcement Agency (NESREA), which serves as the primary governing body responsible for environmental protection in Nigeria, lacks the necessary resources and capabilities to effectively impose environmental fees, however.⁹⁰ As a result, the Federal Government of Nigeria should establish a tax system that enables the implementation of environmental tax policies. This would ensure that taxation is strategically designed to target individuals or entities responsible for causing specific

84 Zhe Tan et al., "An Overview on Implementation of Environmental Tax and Related Economic Instruments in Typical Countries," *Journal of Cleaner Production* 330, 2022: article 129688. <https://doi.org/10.1016/j.jclepro.2021.129688>.

85 Wang et al., "The Impact of Environmental Taxes on Economic Benefits and Technology Innovation Input of Heavily Polluting Industries in China."

86 Giovanni Occhiali, "Obstacles and Appeal of Environmental Taxation: Insights from Sub-Saharan Africa," *Environmental Development* 51, 2024: article 101037, <https://doi.org/10.1016/j.envdev.2024.101037>.

87 Micah et al., "Tax System in Nigeria – Challenges and the Way Forward," 9.

88 Joseph Brown, "Impact of Environmental Taxation on Environmental Sustainability in Nigeria," *Texila International Journal of Academic Research* 9, no. 3(2022): 11–20, <https://doi.org/10.21522/tijar.2014.09.03>.

89 Erica Rustico and Stanko Dimitrov. "Environmental Taxation: The Impact of Carbon Tax Policy Commitment on Technology Choice and Social Welfare," *International Journal of Production Economics* 243, 2022: article 108328, <https://doi.org/10.1016/j.ijpe.2021.108328>.

90 C. N. Okubor, "Legal Issues on Environmental Protection," *Ajayi Crowther University Law Journal* 1, no. 2(2016).

environmental issues. Given the gravity of these environmental hazards and their substantial impact on human lives, it is imperative to address this matter.⁹¹

Lessons Nigeria Should Learn from Europe and South Africa

In contrast to the extensive efforts implemented in Europe to mitigate greenhouse gas emissions, Nigeria has made limited progress in the realm of environmental protection with regard to reducing such emissions. Nigeria should draw on lessons from Europe, a developed region, and implement more legislative measures and administrative strategies like those employed in Europe to tackle the issue at hand. Nigeria ought to adopt a more systematic and purposeful approach in dealing with the issue. Despite the ongoing efforts implemented thus far in Europe, this region continues in its efforts to mitigate greenhouse gas emissions. It is imperative for Nigeria to address the issue proactively, as has been effectively undertaken in Europe and other economically advanced nations.

In the same vein, most of the laws on environmental levies in South Africa were not targeted towards environmental protection, as is the case in Nigeria. The former saw the need to be proactive in cutting greenhouse gas emission and enacted a Carbon Tax Act, which has helped the country significantly in addressing environmental challenges. However, it is still making efforts to reduce its greenhouse gas emissions and ensure a green and resilient economy by the year 2030. Nigeria should follow South Africa's lead and ensure there is a standard and all-encompassing legal framework on environmental taxation.

Recommendations and Conclusion

As this study reveals, there is no comprehensive legal framework on environmental taxation in Nigeria. Moreover, the available laws related to environmental tax-

91 Tayo and Oladipo, "The Effect of Environmental Tax on Pollution Control in Nigeria."

es lack enforcement mechanisms, and in some instances, the penalties attached to such laws are insufficient to curb environmental problems.

In summary, this study has investigated Nigeria's current state in terms of climate change and GGEs, with a significant gap existing between Nigeria and other countries. The study provides further insights into the significance of environmental taxation and emphasises the need for countries worldwide to implement such measures to mitigate environmental exploitation. It also elucidates the advantageous outcomes that Europe has derived from implementing environmental taxation. It is imperative for Nigeria to adopt a proactive stance in addressing the matter of environmental preservation: merely observing passively no longer suffices. It is crucial to make further efforts to curtail greenhouse gas emissions effectively, along with the stipulations outlined in the Paris Agreement.

It is hereby recommended that there is a need to swiftly enact comprehensive legislation on environmental taxes, as seen from the example of Europe. This continent has adopted a very strong legislative approach towards environmental taxation, which has been of considerable benefit.

It is of utmost importance to prioritise the reduction of greenhouse gas emissions, mitigate deforestation, and reduce reliance on fossil fuels and fuel wood. It is recommended that there is a need to implement afforestation and novel technology. Moreover, to significantly reduce reliance on wood and paraffin, it is crucial to conduct feasibility studies on grid-connected solar power plants, transportation systems powered by natural gas, and computerised Environmental Impact Assessments (EIAs). Moreover, it is crucial to adhere to environmental protection judgements given by courts.

It is imperative to expeditiously establish specialised courts dedicated solely to addressing issues related to environmental protection. This measure is crucial to guarantee the prompt resolution of such cases. Finally, it is vital to ensure effective implementation and enforcement of environmental taxation legislation in Nigeria.

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