

Law and Sustainable Development ⁱⁿ Africa



Edited by:
P.E. BONDZI-SIMPSON
Wahab Olasupo EGBEWOLE
Muhtar Adeiza ETUDAIYE
Olugbenga Ajani OLATUNJI

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TABLE OF CONTENTS

List of Contributors	iii
Table of Contents	vi
Foreword	ix
Table of Cases	xi
List of Statutes	xiii
Index	445

PART ONE

SOCIO-POLITICAL SUSTAINABILITY

1. Peace and Sustainable Development in Africa by Prof I.O. Albert.....	3
2. Legal and Institutional Frameworks for Peace and Sustainable Development by Lanre Aladeitan	26
3. Hijacking of Aircraft: Threat to Peace and Sustainable Development by Dr Adedoyin-Raji J.O. and Ismail A.M.....	39
4. Legal Education, Globalization and Sustainable Development by Dr Wahab Egbewole, Dr Etudaiye M.A., Owoade A.A., and Olatunji O.A	55
5. Challenges of Sustainable Development in Nigeria: Legal Perspectives by Imam-Tamim M.K.....	84
6. The Rights of Indigenous People to Sustainable Development in Africa: the Case of Gbagyi of Nigeria by Adeoye, R.O	117
7. Constitutionalism and Sustainable Development in Africa: the Nigerian Legislative and Institutional Responses by Dr A.T. Sheu	142
8. Sustainable Development and Housing Delivery in Nigeria: An Examination of the Legal Perspective of the Public Private Partnership Initiatives by Dr M.M. Akanbi and Olatunji O.A	172
9. Public-Private-Partnership and Sustainable Development in Nigeria by M.T. Adekilekun	204
10. Socio-Economic Rights for Sustainable Development in Nigeria: Prospects and Challenges by A.O Sambo and A.B. Abdulkadir.....	218
11. Corporate Social Responsibilities and Sustainable Development in Nigeria: the Role of Language Rights by Onuora-Oguno Azubike and Ajoku O.O.....	236

Table of Contents

12. Child Labour and Sustainable Development by Owolabi E.F.....	248
13. Food Security and Sustainable Development in Africa by Prof. O.A. Omotesho.....	264
14. Poverty, Sustainable Development, and the Future Generation by Dr I.O. Babatunde.....	285
15. Poverty and Its Implication for Development in Nigeria by Prof. H.A. Saliu and A.I. Aladegbola.....	312

PART TWO

ECONOMIC SUSTAINABILITY

16. Tax Education and Mobilization: A Means to Sustainable Development in Nigeria by Olokooba S.M., Kareem A.A., and Adimula B.....	351
17. The Nigerian Constitution, Taxation, and Sustainable Development by H.I. Sa'adu.....	367
18. Financial Innovation and Sustainable Development in Nigerian Financial System by R.T. Salman and O.F. Etudaiye-Muhtar.....	380

PART THREE

ENVIRONMENTAL SUSTAINABILITY

19. Land Tenure and Sustainable Development in Africa by Mallam Yusuf Ali, SAN.....	397
20. Green Jurisprudence: Law's Place in Sustainable Development by P.E. Bondzi-Simpson	417
21. Local Content Law and Sustainability of Development in the Hydro-Electric Power Producing Areas In Nigeria by Dr Usman Abdullateef and Ibrahim Imam	433

FOREWORD

Sustainable development is an emerging concept that is fast gaining grounds and has fundamental and far-reaching effects on the global domain in all its ramifications. Sustainable development has been defined by the Brundtland Commission as the development that “meets the needs of the present without compromising the ability of future generations to meet their own needs.” The Commission further states that the field of sustainable development can be conceptually broken into three constituent parts: environmental sustainability, economic sustainability and socio-political sustainability.

These are issues discussed in this book which is a result of a conference organized by the Faculty of Law, University of Ilorin between 6th and 8th December, 2011 as a follow up to the 2010 Workshop on Law and Climate Change which received positive supports from different quarters in and outside Nigeria, and which culminated in the book *Law and Climate Change in Nigeria* published in October, 2011.

This book titled *Law and Sustainable Development in Africa* is a collection of contributions from 34 intellectual giants in their own rights drawn from across Africa and Asia. They all take a critical look at this concept from the perspectives of law, good governance, economics, environment, conflict management and peace studies, constitutionalism, taxation to mention a few. The book is structured into three parts of Socio-political sustainability, economic sustainability and environmental sustainability projecting the views of African scholars on this fundamental issue and how it affects global development.

This is a book that must be owned and read by anybody truly interested in the development of our thermo-dynamic world in the light of the fact that “for their tomorrow we must give our today”.

The Faculty of Law, University of Ilorin is also blazing the trail by making this effort available for a greater readership by publishing it with Grosvenor House Publishing in the United Kingdom to

Foreword

ensure international standard as well as make it available in first class libraries in the world so that it will serve the purpose for which it was originally designed.

I commend all the contributors for airing their views on this subject and hope that other researchers will pick up the challenge from where they stopped in order to enlarge the scope of research in this field of study.

*DR WAHAB O EGBEWOLE
ILORIN, NIGERIA
FEBRUARY 2012*

TABLE OF CASES

■ <i>Adamu v Attorney General, Borno State</i> (1996) 8 NWLR (pt 465) 203.....	194
■ <i>Adewole v Jakande</i> (1981) 1 NCLR 262.....	198
■ <i>A-G Ondo State v A-G Federation & Ors</i> (2002) 6 SCNJ 1.....	89, 189
■ <i>Ajoku v Attorney General Rivers State</i> [2006] All. F.W.L.R. (Pt. 312) P. 2147.....	275
■ <i>Anache v FRN</i> (2004) WRN 1	198
■ <i>Attorney-General, Abia State v. Attorney-General of the Federation</i> (2002) 6 NWLR (Pt. 763) p. 476.....	326
■ <i>Awolowo v Federal Minister of Internal Affairs</i> (1962) LLR 177.....	68
■ <i>Dawodu v. Danmole</i> (1962) 1 W.L.R. 1053	51
■ <i>Dele Giwa v Inspector General of Police</i> Unreported Suit no 44/83 of 30/07/84.....	194
■ <i>Edet v. Essien</i> (1932) 11 N.L.R. 47	51, 52
■ <i>Ehinmare v Governor, Lagos State</i> (1981) NCLR 166	198
■ <i>Ejanor v. Okenome</i> (1976) 1 UILR (Part III) 378.....	52
■ <i>Famuroti v Agbeke</i> [1991] 5 N.W.L.R (Pt 189) p 1.....	275
■ <i>Jonah Gbemre v Shell Petroleum Development Company & 2 others</i> (unreported Suit No. FHC/CS/B/53/2005)	147
■ <i>Libya v. United States of America</i> (Provisional Measures) International Court of Justice	41, 45
■ <i>Macaulay v Omiyale</i> [1997] N.W.L.R (Pt 497) P 94	275
■ <i>Mariyamo v. Sadiku Ejo</i> (1961) NNLR 81.....	51, 52
■ <i>Ogiale v. Shell</i> (1997)1 NWLR (Pt 480) 148	147
■ <i>Okaegbu v AG Imo State</i> SC/83/1983 of 30/03/83. SC.....	198
■ <i>Okafor v Nweke</i> (2007) 10 NWLR (Pt 1043) 521.....	323
■ <i>Oketade v. Adewumi</i> (2010) All FWLR (Pt 526) 511	323
■ <i>Okogie v AG Lagos State</i> (1981) 2 NCLR 337.....	198
■ <i>Oronto-Douglas v Shell Petroleum Development Company & 5 others</i> (unreported Suit No. FHC/CS/573/93).....	147
■ <i>Ratlam Municipality v Vardhichand</i> AIR 1980 SC 1622.....	147
■ <i>Rural Litigation and Entitlement Kendra v State of Uttar Pradesh</i> AIR 1988 SC 2187	147
■ <i>Seismograph services v. Mark</i> (1993)7 NWLR (Pt 304) 203	147
■ <i>Shell v. Ambah</i> (1999) 3 NWLR (Pt 593) 1	147

Table of Cases

■ <i>Shell v Farab</i> (1995) 3 NWLR 9Pt382) 148	147, 148
■ <i>Shell v. Isatab</i> (1997) 6 NWLR (Pt 508) 236	147
■ <i>Shell v. Tiebo VII</i> (1996) 4 NWLR (Pt 445) 657	147
■ <i>Shitu v. NACB & 1 or</i> (2001) 10 NWLR (Pt 721) 298.. ..	321
■ <i>State of Himachal Pradesh v Ganesh Wood Products</i> AIR 1996 SC 149.. ..	147
■ <i>State of Madras v Champakan</i> (1951) SCR 252.....	198
■ <i>Vellore Citizens Welfare Forum v Union of India</i> AIR 1999 SC 812.....	147

TABLE OF STATUTES

■ African Charter on Human and People's Rights 1981.....	147, 155, 195, 208, 269
■ African Convention on the Conservation of Nature and Natural Resources ("Algiers Convention"), 1968	134
■ African Union's Convention on the Conservation of Nature and National Resources, 2003	136
■ American Convention on Human Rights 1969	155
■ American Declaration of the Rights and Duties of Man 1948	
Art ii.....	200
Art ix.....	200
Art xii.....	200
Art xiv	200
Art xv.....	200
Art xvi.....	200
Art xviii.....	200
■ Associated Gas Re-injection Act Cap. 20, Laws of the Federation, 2004	146
■ Bonn Declaration, 1978	43
■ Cairo Human Rights Declaration in Islam 1990	
Art 15.....	202
Art 17.....	202
Art 19.....	202
■ Child Rights Act 2003	
S 1	232
■ Companies Income Tax Act CAP	
C21, LFN 2004	314, 315, 316, 318, 319, 320
■ Constitution of the Federal Republic of Nigeria 1999 (as amended)	
S 1(3).....	326
S 2(2).....	188
S 4	189
S 6(6) (c)	86, 196
S 12	43
S 13.....	85, 193, 198
Ss 14-18	86
S 15(5).....	86, 189

Table of Statutes

§ 16(1) (b).....	86, 189
§ 16(2) (c)	86, 196
§ 16(2) (d).....	86, 157, 196
§ 17(1).....	82, 196
§ 17(2) (a)	82, 196
§ 17(3) (a)	82, 196
§ 18	196
§ 19	86
§ 20-21.....	86, 148, 196
Ss 33-46	116
§ 42	82
§ 80(4).....	190
§ 120(4).....	190
§ 162(3).....	326
■ Convention for the Suppression of Unlawful Seizure of Aircraft, 1970 (Hague Convention, 1970)	
Art 2.....	45
Art 4.....	45
Art 8.....	44
Art 11.....	33
■ Convention on Biological Diversity	134
■ Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963 (Tokyo Convention)	
Art 1(1)	46
Art 3.....	45
Art 4.....	45
Art 6.....	45
Art 7.....	45
Art 8.....	45
Art 9.....	45
Art 16.....	44
■ Convention on the Elimination of all forms of Discrimination against Women 1979	
Art 3.....	203
Art 11(1) (a-f).....	203
Art 13(a-b)	204
Art 14(2) (b-e, h).....	204

Law and Sustainable Development in Africa

■ Convention on the Elimination of All Forms of Racial Discrimination (1966)	
Art 1.....	117
Art 5(e) (i-iv)	202
■ Convention on the Prevention and Punishment of the Crime of Genocide (1951)	
Art 2.....	116
■ Convention on the Rights of the Child 1989	
Art 2.....	203
Art 16(2)	203
Art 24(2) (f).....	203
Art 28.....	203
Art 29.....	203
Art 34.....	203
Art 49.....	203
■ Convention Relating to the Status of Refugees (1951)	155
■ Criminal Code Cap C38 LFN 2004	225
■ Declaration on the Responsibilities of the Present Generations towards Future Generations 1997	111
■ Declaration on the Rights of Indigenous Peoples 2007	115
■ Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992)	
Art 1.....	117
Art 2.....	117
Art 3.....	118
Art 4.....	118
■ Endangered Species Act Cap. E9, laws of the Federation, 2004.....	146
■ Environmental Impact Assessment Act Cap. E12, Laws of the Federation, 2004..	146
■ European Convention on Human Rights 1980	155
■ Federal Capital Territory Act 1976	
S 1	119
■ Federal Inland Revenue Service (Establishment) Act, 2007	
S 2(b) (i-iv)	321
S 8(r)	321
S 18(2-3)	322, 323
■ Fisheries Act Cap. S4, Laws of the Federation, 2004	146

Table of Statutes

■ Freedom of Information Act 2011	
S 2	92
S 3	92
S 10	92
■ Harmful Waste Act Cap. H 1, Laws of the Federation, 2004	146
■ High Court Law of Northern Nigeria 1963 Cap 49	
Laws of Northern Nigeria	
S 34(1)	51
■ ILO C169 Indigenous and Tribal Peoples Convention 1989	114, 115
■ Infrastructure Concession Regulatory Commission	
(Establishment, etc.) Act 2005	
S 1	172, 173, 183, 187
■ Inland Fisheries Act Cap.110, Laws of the Federation, 2004	146
■ International Convention on Civil and Political Rights 1966	
Art 27	117, 155, 263, 274
■ International Convention on the Protection of the Rights of	
All Migrant Workers and Members of Their Families (1990)	155
■ International Conventions on the Suppression of Skyjacking	
and Other Acts against Civil Aviation 1971 (Montreal Convention)	
Art 3	45
Art 5	45
Art 8	44
■ International Covenant on Economic, Social and Cultural Rights 1966	
Art 1	199
Art 2	199
Art 6	199
Art 7	199
Art 8	199
Art 9	199
Art 10	200
Art 11	200
Art 13	200
■ Labour Act Cap 198 LFN 1990	
S 58	226
■ Land Use Act Cap. N202 Laws of the Federation, 2004	
S 1	119, 182
S 22	182

Law and Sustainable Development in Africa

■ Legal Education (Consolidation etc) Act, 1976.....	54
■ Legal Education (Consolidation, etc) (Amendment) Act of 1992.....	54
■ Legal Education Act and Legal Practitioner's Act 1962.....	54
■ Legal Practitioners Act, 1975	
S 2(1).....	323
S 24.....	323
■ National Environmental Standards Regulation and Enforcement Agency Act No. 25, 2007.....	146
■ National Housing Fund Decree No. 3 of 1992.....	159, 160
■ Niger Delta Development Commission Act.....	146
■ Nigerian Civil Aviation Act (No 6) 2006.....	33, 43, 45
■ Nigerian Urban and Regional Planning Act Cap. N138, Laws of the Federation, 2004.....	146, 160
■ Nuclear Safety and Radiation Protection Act Cap. N142, Laws of the Federation, 2004.....	146
■ Oil in Navigable Waters Act Cap. 06, Laws of The Federation, 2004.....	146
■ Oil Pipeline Act Cap 07, Laws of the Federation, 2004.....	146
■ Penal Code Cap 89 LFN 1990	
S 280.....	227
■ Personal Income Tax Act CAP P8, LFN 2004	
S 104.....	312
■ Petroleum Act Cap. P10, laws of the Federation, 2004.....	146
■ Petroleum Profit Tax Act CAP P13, LFN 2004.....	314, 316, 317, 318
■ Public Private Partnership in Infrastructural Development	
Law NO 5 of Rivers State.....	191
■ Public Procurement Act 2007.....	187, 191
■ Evidence Act Cap. 112 Laws of the Federation 1990	
S 14(3).....	51
■ Immigration and Nationality Act, 2002	
S 231.....	42
■ High Court Law of Lagos State	
S 26(1).....	51
■ United States of America Enhanced Border Security and Visa Entry Reform Act, 2002	
S 402.....	42
■ Stockholm Declaration 1972	
Principle 1.....	275

Table of Statutes

Principle 2	275
Principle 5	275
Principle 11	275
■ The Rio Declaration on Environment and Development 1992	
Principle 1	138, 275
Principle 2	138
Principle 3	138, 275
Principle 5	275
Principle 8	275
Principle 9	275
Principle 10	139
Principle 12	275
Principle 13	139
Principle 15	139
Principle 17	140
Agenda 21	76, 118, 135, 136, 137, 139, 141, 149
Principle 22	118
Principle 25	31
■ United Nations Declaration on the Right to Development	
Paragraph 2	26
■ Universal Declaration of Human Right of 1948	
Art 1-2	116
Art 6	200
Art 7-15	200
Art 17	200
Art 25	154
Art 27	212
■ Universal Islamic Declaration of Human Rights, 1981	
Art 3	201
Art 15	201
Art 16	201
Art 17	202
Art 18	202
Art 21	202

CHAPTER SIXTEEN

TAX EDUCATION AND MOBILISATION: A MEANS TO SUSTAINABLE DEVELOPMENT IN NIGERIA

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Introduction

There are numerous ways by which government generate revenue to execute project for the benefit of the populace. One of the major ways and means by which this is done is through tax. In Nigeria, government has legislative powers to impose any form of tax at whatever rate it deems appropriate on its citizens.¹ The essence and impact of taxation on any economy be it developed or developing cannot be over-emphasized. A country's tax system is one of the key instruments for shaping and transforming the economic development of the country. Tax is a compulsory exaction of money by the government for public purposes.² It is

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¹ See section 4 Constitution of the Federal Republic of Nigeria, 1999. See also, items 58 & 59 Exclusive list and also items 7 & 8 Concurrent Legislative list.

² Mathews v Chicory Marketing Board (1938) 60 GLR 263 at 276; United States v Buttler (1936) 2279 U & 1 at 61, Ayua I.A- *The Nigerian Tax Law*, (Spectrum Law Publishing, Ibadan, 1996), Pp 3-4; Okorodudu Fubara M.T S. *A Authority v. Regional Tax Board (Tax Must be Clearly and Specifically Imposed by Statute on Subject)* 1970 NSCC, In Taiwo Fakoyede (ed) *FRA Williams Through the Cases*, (Longman, Lagos, 2000) p66, Abdulrazaq M.T- *Nigerian Revenue Law*, (Malthouse Press Lagos 2005), P1.

Tax Education and Mobilisation:

not a voluntary payment but an enforced contribution exacted pursuant to legislative authority.³ Considering this definition on the face value, one tends to have the impression that tax is only characterized with compulsion or that it is a contribution demanded only with menaces. Truly, this impression cannot be outrightly incorrect for the reason that tax law, like every law, is designed to bring about certain desired conduct through the threat of punishment for contrary conduct. This justifies why tax authorities possess comprehensive and forceful powers to enforce and recover income tax in Nigeria such as powers to levy distress,⁴ conduct search and seizure⁵ and to prosecute tax delinquencies.⁶

But suffice to say that coercive order alone cannot guarantee compliance with tax laws and consequently may not enhance adequate revenue generation. Rather, tax payers' education and constant public enlightenment are capable of changing the tax orientation of Nigerians if integrated as complements to enforcement instruments. However, Nigerian government, over the years, pays little attention to tax payers' education and mobilization. As a matter of fact, if Nigeria is seriously committed to genuine pursuit of sustainable development, it is incumbent on the tax authorities to constantly educate tax payers on the relevant aspects of the Nigerian tax system in order to stimulate and mobilize them to discharge their civic obligations in a well-mannered way without external push from the tax authorities to compel them to do so. This is predicated on the fact that once the tax payers are sufficiently educated and enlightened, the cost of administration and, by extension, the huge revenue loss will be considerably reduced. This key component is hitherto missing in the Nigerian

³ Michigan Employment Sec. Commissioner v. Patt; 4 Mich. App. 224, 144 NW 2nd 663, 665 quoted in Ayua I.A. op cit. P4.

⁴ Section 104, *Personal Income Tax Act (PITA)*, CAP P8, Laws of Federation of Nigeria (LFN), 2004; Section 86(1), *Companies Income Tax Act (CITA)*, CAP C21, LFN, 2004; Section 33 (1) *Federal Inland Revenue Service (FIRS) (Establishment) Act*, 2007

⁵ Section 53 (1) *PITA*, 2004; Section 64 *CITA*, 2004

⁶ Section 78 (1) *PITA*, 2004; Section 34 (1), *FIRS (Establishment) Act*

tax system to complement the enforcement instruments prescribed by the various tax laws.

This paper analyzes the legal framework for tax education and mobilization with the ultimate aim of finding out its role and the extent it can promote tax administration and sustainable development in Nigeria.

Meaning of Tax Education and Mobilization

This paper sees tax education and tax mobilization as the same in meaning. This is because it is when tax payers are sufficiently educated that they will be easily mobilized to pay tax without compulsion. This paper therefore uses the two terms interchangeably. Tax education or mobilization is a relatively new concept under the Nigerian tax system. It is new in terms of the present serious attention given to it *vide* legislation by the government,⁷ as stimulus to restore a robust tax system that can grow the Nigerian economy. Hitherto, tax education existed only as a feature attributable to a tax system. Nowhere in any tax statutes was it expressly provided for as a benchmark for the enhancement of tax compliance until the legislation of the *Federal Inland Revenue Service, (Establishment) Act, 2007*.

Nevertheless, the concept of tax education is not defined in the FIRS (Establishment) Act 2007 or any tax statute. However, in the humble view of this paper it is seen as a generic term denoting any persuasive activity of the revenue authorities geared towards stimulating tax payers to discharge their civic obligations promptly. An in-depth perception of the concept indicates that it is rooted in the natural law jurisprudence which epitomizes morality and persuasive method of compliance to the law. Its eventual enforcement lies in overt and covert psychological pressures from the state.⁸

⁷ *FIRS (Establishment) Act, 2007*

⁸ Adaramola F. – *Basic Jurisprudence*, (Rahmat Printing Investment, Ilorin 1995), Pp 52-66

Tax Education and Mobilisation:

In other words, tax mobilization appeals more to the conscience of the tax payers who are required to obey the law than coercion that characterizes all the existing tax enforcement instruments in Nigeria. In the humble view of this paper, it may manifest in various forms such as public enlightenments; national tax payers' awards; incorporating tax education into our educational system curriculum at all levels; and utilizing tax proceeds judiciously. The underlining idea for the introduction of tax education into the corpus of the Nigerian tax system is premised on the fact that once a taxpayer is sufficiently educated about his tax obligation and the reasons why he should discharge it; or he is politely informed about the procedures involved to discharge it and the tax laws to comply with are simply and elegantly drafted, there would not be much ado about compliance.⁹ Consequently, revenue generation will be enhanced.

History of Income Tax in Nigeria as it Relates to Tax Education and Mobilization

A country's tax system is essentially a by-product of history, economic structure and political economy of that country.¹⁰ In the case of Nigeria, the main structure of the modern concepts and principles outlining income taxation in Nigeria is of distinctly British origin. It dates back to 1939 when the idea of bringing both companies and individuals into the tax net was conceived. From that period till date, income tax (among others) has been used by the government at a stage of one economic development or the other to achieve the purposes of revenue generation, social reform or instrument of fiscal measure. Consequently, it is desirable to examine in some detail the annals of the changes brought about by the reforms of these years with the view to expose the fact that tax education and mobilization is hitherto a missing component in Nigeria tax system.

⁹ The Nigerian Tax Reform in 2003 & Beyond, p:12

¹⁰ Philips D. - Nigeria Tax System at Cross-Road; In: Omorogiuwa P.A. (eds.) *Nigerian Institute of Taxation Selected Papers* (NIT) Lagos, 1987, p.39

Although, the substantive tax laws such as *Companies Income Tax Act*,¹¹ *the Petroleum Profit Tax Act*,¹² *Personal Income Tax Act*¹³ contain bulk of the income tax laws and their general principles, there are nevertheless, a large number of other enactments which are directly relevant to their administration in Nigeria.¹⁴ Over the years, these enactments have cross-bred one another in such a way that engendered series of reforms and modifications in Nigeria's tax structure, laws and systems useful to implement changes in policies. The historical knowledge of the prospects and problems of the reforms of these periods is therefore of considerable importance. This will promote a better understanding of the topic under consideration and generally of the development of taxation in Nigeria.

The historical development of income tax in Nigeria shall be divided into four distinct phases in this paper, namely: era of tax consciousness (1939-1960); era of fiscal measure (1961-1978); era of fiscal censure (1979-1993); and era of tax as instrument of social reform.

a) Era of Tax Consciousness

This is the colonial period in Nigeria. It spanned, for the purpose of this paper, between 1939-1960. The colonial history of Nigeria is particularly relevant in her income tax system. Indeed, the broad outline of Nigeria's tax system took shape during the colonial era and remains, in some materials, unchanged up to the present period.¹⁵

The first real effort at income tax legislation was enacted in 1939 entitled *Companies Income Tax Ordinance (CITO)*. One

¹¹ CAP C21, LFN 2004

¹² CAP P13, LFN 2004

¹³ CAP P8, LFN 2004

¹⁴ Such as *Federal Inland Revenue (Establishment) Act* 2007, Tax Treaties and Conventions, Official Circulars and Regulations.

¹⁵ The main features of *CITA* 1961 are still maintained in the current Principal Act such as: administration, the charging sections, the determination of profits, assessable and total profits, the assessment procedure, appeals procedure, collection procedure, offences and penalties etc No 4, CAP 54, 1940

noticeable pitfall of the 1939 ordinance was that it left out individuals from the tax net. When this error was detected, the Nigeria *Income Tax Ordinance* was enacted in 1940 as a substitute.¹⁶ This legislation brought into the tax net both companies and individuals under a single codification, and for the first time the first commissioner for income tax was appointed to cover Gambia, Sierra Leone, Ghana and Nigeria.¹⁷

Three years after, the 1940 ordinance was again replaced by *Income Tax Ordinance* (No 29) of 1943. The *Income Tax Ordinance* (Revised Edition) of 1948 Cap 92 consolidated the 1943 ordinance and subsequent amendments. Companies and individuals were taxed under the ordinance which was repealed along with Amendment ordinances by *Companies Income Tax Act* 1961.¹⁸ It is worthy of note that during the colonial period there is no legal instrument prescribed by the tax laws to stimulate tax payers education and mobilization.

b) Era of Fiscal Measure (1961-1978)

This is the period when Nigeria was grappling with challenges of fiscal stability in nation building. One of the challenges faced by Nigeria on her path to independence in 1960 was the issue of income tax. It generated a contentious argument in 1957 Constitutional Conference in London. As a result of this and in order not to allow it to distract the task of nation building on attainment of independence and thereafter, a two-man fiscal commission was established in 1958 under the chairmanship of Sir Jeremy Raisman. When the commission was on with its assignment, the Nigerian government observed and reasoned that companies that engaged in petroleum trade operations have their peculiarities arising from the specialized nature of the petroleum industry. Peculiarities arose also from their multinational nature and activities and as such, taxation of their profits need be governed by separate enactment distinct from the one governing

¹⁶ 15 No 4, CAP 54, 1940

¹⁷ By name, Mr. Walter Bliss Daye. See detail in Ani A. p. viii

¹⁸ Arogundade J.A. - *Nigerian Income Tax & Its International Dimension*, (Spectrum Books Ltd, Ibadan 2005), p.11

other non-oil companies.¹⁹ To actualize this, the *Petroleum Tax Ordinance*²⁰ was enacted in 1959 but with a retrospective effect, since it was deemed to have come into operation on 1 January, 1958.²¹ The result of the Raisman's Commission was a prelude to the 1961 tax reform which eventually gave birth to the promulgation of *Companies Income Tax Act* 1961.²²

The dichotomy into Companies' Income Tax (CIT) and Personal Income Tax (PIT) was introduced in 1961 with the creation of separate statutes for the taxation of companies and individuals - namely *Companies Income Tax Act* 1961 and *Income Tax Management Act* 1961 respectively. Thus, the companies' income tax and petroleum profit tax became Federal taxes under the administration of Federal Board of Inland Revenue;²³ while regions and Lagos territory assumed responsibility for personal income tax. The *Income Tax Management Act* was promulgated to ensure uniformity in the administration of the personal income tax.

Companies Income Tax Act 1961 was broader in outline and scope than the earlier enactments. It introduced for the first time some salient fiscal measures governing principles, practice and administration of companies' income tax in Nigeria. One of the highlights of the tax measures is power of Federal Board of Inland Revenue (FBIR) to levy distress on the property of tax defaulter where tax remained unpaid.²⁴

¹⁹ Ola C.S. *Income Tax Law for Corporate and Unincorporated Bodies in Nigeria*, (Heinemann Educational Books (Nigeria) Ltd., Ibadan 1984), p: 437

²⁰ No 15 of 1959

²¹ Ola C.S. p: 437

²² No 22 of 1961

²³ FBIR was established under section 3 of the Income Tax Administration Ordinance (No 39) of 1958 and constituted by Legal Notice 209 of 1958 as the legal instrument. It came into operation on 1st January, 1959

²⁴ Pursuant to Decree 65 of 1966. Other highlights include special levy introduced on excess profit of banks (introduced vide 1978/79 fiscal year); grant of fiscal incentives to pioneer companies (pursuant to Industrial Development Decree No 22 of 1971); establishment of revenue court (pursuant to Decree 13 of 1973); conditions for allowable expenses and deductions wholly, exclusively, necessarily and reasonably incurred (introduced in 1973/74 assessment year); introduction of the application of turnover to corporate taxation in Nigeria as anti-avoidance scheme (pursuant to Decree No 45 of 1967). See detail in Arogundade J.A op.cit, Pp12-14

A keen perception of the tax measures above highlighted reveals that tax payers' education was not accorded a prominent place in that era. The company's income tax of the period was designed and characterized by a harsh inquisitorial system which was anxious to strengthen its powers by assuming the right to interrogate taxpayers; examine bank accounts; and insist on returns of total incomes of companies, and prosecute tax defaulters.

As at 1978, the income tax enactments in existence were the *Petroleum Profits Tax Act, 1959*, *Companies' Income Tax Act 1961*, *Income Tax Management Act 1961*, *Income Tax Amendment Decree 1966*,²⁵ *Income Tax (Amendment) Decree 1967*,²⁶ *Industrial Development (Income Tax Relief) Decree 1971*,²⁷ *Petroleum Profit Tax (Amendment) Decree 1973* and *Finance (Miscellaneous Taxation Provisions) Decree 1976*.²⁸ None of these enactments introduced tax education as a key component of the Nigerian tax system.

c) Era of Fiscal Censure (1979-1992)

The period between 1979 to 1992 marked the era of fiscal reprimand and condemnation either of the income tax laws, provisions, principles or administrations by the stakeholders in the system. This prompted the government into commissioning task forces on tax administration to have a thorough and dispassionate overhaul of the corporate tax enactments of the period, in order to remove any noticeable fiscal impairment. Emphasis was basically on how to widen tax bases to cover a wide range of services and activities to boost revenue generation rather than introducing any comprehensive reform to the system such as tax payers' education.

In 1978, the federal government set up task force on tax administration. Before the commissioning of the task force, the

²⁵ No 65 of 1966, published in the supplement to Federal Republic of Nigeria Gazette, No 110, Vol. 53, 6 December, 1966

²⁶ No 45 of 1967

²⁷ No 22 of 1971

²⁸ See Arogundade J.A. pp 12-14, Ola C.S. p.63

Petroleum Profit Tax of 1959 had been amended by *Petroleum Profits Tax (Amendment) Decree* 1973.²⁹ The report of the 1978 task force was an overture to the 1979 reform which produced *Companies Income Tax Decree* (No. 28 of 1979). The major aspects of the reform were: the introduction of withholding tax (WHT) - (which is the deductions from salaries and wages for income taxes to be remitted by the employer, in the employee's name to the taxing authority);³⁰ Tax Clearance Certificate (TCC) and change in accounting year.³¹ Thus, the *Petroleum Profits Tax Act* of 1959 with sundry amendment thereto, the *Companies Income Tax Act* 1961 including various amendments thereto and the *Income Tax Management Act* 1961 formed the enactments that governed income taxation which were embodied in the Laws of Federation of Nigeria, 1990.³² It is noteworthy that none of these enactments recognized tax education as an essential component that can ease the problem associated with the hitherto combative tax enforcement instruments.

d) Era of Tax as Instrument of Social Reform

The period between 1992 till date marks the era when agitations were rife on the need for Nigerian income tax system to assume a progressive outlook. In the humble view of this paper, during this era, tax is meant to serve the public welfare and emphasize the fiscal objectives of taxation namely: raising revenue and effecting a general distribution of wealth. This is so in order to achieve some improvements in the social conditions of the people within the society.

Thus, in 1992 the Federal Government commissioned the study group on the Nigerian tax system and administration. The terms of reference of the study group were limited to a review of direct taxes

²⁹ Published in the Federal Republic of Nigeria Gazette, No 12, Vol. 60 of 1 March 1973 otherwise known as Decree No 15.

³⁰ Garner B.A - *Black's Law Dictionary*, (8th edition, West Publishing Co), p 1632

³¹ Arogundade J.A. p15

³² While *PPTA* was CAP 354 in the edition, *CITA* was CAP 60 and *ITMA* was CAP 173 thereof.

under the jurisdiction of the federal and state revenue services.³³ It is noteworthy that the period between 1992-1998 characterized the throes of military governance in Nigeria. The military rulers during this era adopted the annual practice of using a single omnibus Decree to amend several tax laws simultaneously as part of their annual government budgetary process. The omnibus Decrees were given the standardized title 'Finance (Miscellaneous Taxation Provisions) Decree' every time they were enacted.³⁴ This standardized title erroneously implied that issues of taxation are the same thing as issue of finance. Also, that omnibus nature has made it unnecessarily laborious and complex to ascertain the complete legal position of a tax law at any given time. Eventual codification of tax laws also becomes an unduly difficult and lengthy process.³⁵ These on themselves constituted hindrances to comprehension of tax laws for compliance.

On return to democratic rule in 1999, another Study Group on the Review of Nigerian Tax System was inaugurated by the then Federal Minister of Finance, Mallam Adamu Ciroma, on August 6, 2002 under the chairmanship of Professor Dotun Philips, to review all aspects of the Nigerian Tax System and recommend improvements therein. The study group identified some grey areas which had hitherto constituted obstacles to the Nigerian tax system as lack of articulate tax policy in Nigeria; taxation and Nigerian Federation; tax Incentives and Disincentives regimes; administrative ineptitude and lopsidedness; and issues on oil and gas taxation etc³⁶

The Report of the study group was a prelude to the current tax reform which had brought about the preparation of nine draft bills

³³ See the Report of the Study Group on the Nigerian Tax System and Administration 1992 p.1

³⁴ Such as Finance, (Miscellaneous Taxation Provisions) Decrees Nos 21&63 of 1991; 3 of 1993; 30, 31 & 32 of 1996; 18, 19, 21 & 40 of 1998; 30 of 1999. See *The Nigerian Tax Reform in 2003 & Beyond, The Main Report of the Study Group on Nigerian Tax System*, July, 2003 pp 8-9.

³⁵ See the Nigerian Tax Reform in 2003 & Beyond, p. 9

³⁶ Ibid pp 1-288

on tax reforms to the National Assembly in 2005.³⁷ The outcome of it produced, among others *Federal Inland Revenue Service (Establishment) Act 2007*;³⁸ *Companies Income Tax (Amendment) Act 2007*³⁹ (which enacted all the 49 proposed amendments to CITA); *Value Added Tax (Amendment) Act 2007*.⁴⁰ Some of the noticeable significant developments introduced by the current tax reform are administrative and institutional restructuring of Federal Inland Revenue Service; introduction of taxpayers' identification number; consistent public enlightenment for motivating compliance with tax laws, rules and regulations.

It is obvious from the above enumerated developments that it is during this era that tax education is introduced into the Nigerian tax system as an essential component which can aid compliance and revenue generation.

Tax Education and Mobilization as a Means to Sustainable Development in Nigeria

Good tax education and mobilization will encourage compliance. Therefore, through education, the taxpayers will appreciate the necessity for voluntary payment of their tax and this will also enhance and optimize the generation of revenue for government in her effort to sustainable development.

Not only that, education and enlightenment on payment of tax will reduce the incidence of tax offences. Since voluntariness will be the basis and benefit of tax education, the majority of people

³⁷ Nine Draft Bills on Tax Reforms Approved by the Federal Executive Council for the consideration of the National Assembly were: A Bill for an Act to establish FIRS as an autonomous service; A Bill for an Act to amend Companies Income Tax Act; A Bill for an Act to amend Petroleum Profits Tax Act; A Bill to amend Personal Income Tax Act; A Bill for an Act to amend Value Added Tax Act; A Bill for an Act to amend Education Tax Act; A Bill for an Act to amend the Customs, Excise, Tariff etc (Consolidation) Act A Bill for an Act to amend the National Sugar Development Council. Act; A Bill for an Act to amend the National Automotive Act

³⁸ No 11 of 2007

³⁹ No 11 of 2007

⁴⁰ No 12 of 2007

will certainly strive for the success of the programme and the resultant effect will be the reduction in tax offences of evasion or illegal avoidance, which means, people will readily abide by the law and pay their tax as at when due.

Further still, the introduction of tax education and mobilization into the corpus of the Nigerian tax system is a democratic virtue which will reduce ignorance on the part of tax payers and enhance the practicability of the Nigerian tax laws. A development in the Nigerian law is a pointer to stability and development in the Nigerian polity and a ginger to a practical sustainable development in Nigeria.

In a society where development is sustained, there is likelihood of the practicability of rule of law, equity and justice in such society. Invariably therefore, what is Caesar shall be given unto Caesar and what is due to every other people shall be given to them. Society shall develop, people shall develop, development shall be accelerated, and law and development shall practically be sustained.

The establishment of culture of voluntary compliance is a booster to a good tax system and also an accelerator of sustainable development. This can be pursued through intensive tax education and public enlightenment which will build into the people a culture of public awareness of legal taxes. Being conscious of this fact, section 8 (r), *FIRS (Establishment) Act* mandates the FIRS to carry out and sustain rigorous public awareness and enlightenment campaign on the benefits of tax compliance within and outside Nigeria. Thus, the FIRS can use radio,⁴¹ television jingles,⁴² including tax pamphlets and newsletters to educate and enlighten the public.⁴³ Through these means, taxpayers would be made to know their rights of objection and appeal and the need to resist paying illegal taxes. By this, the pervading ignorance of taxpayers would be

⁴¹ Such as tax enlightenment programme on radios

⁴² Such as tax enlightenment campaign by FIRS occasionally during Nigerian Television Authority network news

⁴³ Nigerian Tax Reform in 2003 & Beyond; The Main Report of the Study Group on Nigerian Tax System, July 2003, p255

Law and Sustainable Development in Africa

obliterated. Voluntary compliance will be engendered and revenue yield would be enhanced. These are the importance of tax education and mobilization.

As seen by this paper, the *FIRS (Establishment) Act*, 2007 is an enactment that prescribes administrative guidance to Federal Inland Revenue Service (FIRS) which is an agency of the Federal Government. The FIRS administers the CITA, PPTA & PITA.⁴⁴ In other material aspect of PITA, it is the State Internal Revenue Board (SIRB) that administers it.⁴⁵ The SIRB is not bound by the provisions of *FIRS (Establishment) Act* which is a Federal enactment. The legal implication of this is that, tax education and mobilization is only effective on federal taxes (CITA, PPTA & PITA). There is no legal machinery for its operation at all at the state and local government levels. This is despite the fact that a larger part of PITA cuts across all spheres of people particularly the grassroots dwellers.

In other words, there is no legal framework at all provided in any tax statutes for rigorous tax education and mobilization at the state and local government levels in Nigeria. There is a total absence of tax education and public enlightenment for tax payers at grass root level. The result is prevailing ignorance about what taxes are, the legality of the taxes imposed by the various local governments, the procedure for the assessment, objection, appeal and tax payers right.⁴⁶ The effect of this, in the humble view of this paper, is that, the revenue generation at both the state and local government levels may not considerably improve, and this may hinder any effort at sustainable development.

⁴⁴ The FIRS by virtue of section 2 (b) (i-iv) administers personal income tax on persons employed in the Nigerian Army, Nigerian Navy, Nigerian Air Force, Nigerian Police Force other than in a civilian capacity; officers of Nigerian Foreign Service; every residence of the FCT, Abuja; and person resident outside Nigeria who derives income from Nigeria. See also *Shitu v. NACB & 1or* (2001) 10 NWLR (Pt 721) 298

⁴⁵ Section 87 (1), PITA, 2004

⁴⁶ The Nigerian Tax Reform in 2003 & Beyond, p249

Even at the federal level where there is legal basis for embarking on tax education and mobilization, this paper observes that the law is silent on the language of impacting tax education on the citizens. The legal effect of this is that it is left to the discretion of the relevant tax authority. But the FIRS particularly is not carrying out the tax education and mobilization in the language understood by the majority of the citizenry (which is the indigenous language of the target audience). Rather, it is carried out in English Language alone thereby creating a wrong impression that majority of the tax-paying populace speaks and understands English language. This may not be right after all. Therefore, it is opined by the writers that, for development to be sustained, our tax laws need to be couched in simpler language, preferably in Nigerian languages.

As laudable as the recognition of tax education in the FIRS Act is, the entire statute is also assailable on ground that it contains legal incorrectness. The tenor and spirit of Section 18 of the Act call for reconsideration as it may put two professions (*Law & Accounting*) at loggerheads. The sub-head to section 18 read: '*Right to Legal Representation*'. However, section 18 (2) provides that a company before the Tax Appeal Tribunal shall be entitled to be represented at the hearing of an appeal by a solicitor or chartered accountant or adviser. But section 18 (3) recognizes any proceedings before the Tribunal to be a judicial proceeding and the tribunal shall be deemed to be a civil court for all purposes. By the combined effect of sections 2 (1) and 24 of *Legal Practitioners' Act*,⁴⁷ chartered accountant has no business in legal representation in a judicial proceeding before a court. It is only a person that is called to the Nigerian Bar that is authorized to put up a legal appearance for a person in a court of law. The Supreme Court emphasized this fact in *Okafor v Nweke*⁴⁸ that:

The combined effect of sections 2 (1) and 24 of LPA is that for a person to be qualified to practice as a legal practitioner,

⁴⁷ CAP L11, Laws of Federation of Nigeria, 2004

⁴⁸ (2007) 10 NWLR (Pt 1043) 521 @ 531-532 paras C-A

he must have his name in the roll otherwise he cannot engage in any form of legal practice in Nigeria⁴⁹

The net effect of the above dictum is that a chartered accountant cannot put up legal representation for a company in the judicial proceedings before the Tax Appeal Tribunal. The best an accountant can be at the tax appeal tribunal is a witness. This is more so that the purport of establishing Tax Appeal Tribunal is to settle disputes arising from the operations of the *FIRS (Establishment) Act*. In the opinion of this paper, settlement of tax dispute at the tribunal is on its own a spice that invigorates tax education and mobilization provided the proceedings at the tribunal are not unnecessarily delayed. Therefore, an Act that establishes the Tribunal and saddled it with a laudable function of tax dispute resolution cannot afford to accommodate a provision that can engender serious crisis among the stakeholders. This incorrectness and conflicting interpretation of the role of accountant in the issue of taxation is also a clog in the wheel of achieving development through tax in Nigeria. A vigorous tax education that will educate different stakeholders on their different roles in achieving optimum revenue generation will surely contribute to the practicability of law as well as sustained any development in whatever form in Nigeria.

Conclusion and Recommendation

■ Conclusion

Enforcement is the hall mark of a good tax system; so also is tax education and mobilization. This will reduce the stress of draconian enforcement and enhance revenue generation in Nigeria. This paper finds that in the annals of tax reform in Nigeria, the efforts of the government were on tax enforcement only thereby neglecting the key component of tax mobilization and education. It equally finds that tax education and mobilization does not cut across the three tiers of government. It is restricted to federal taxes alone neglecting substantial numbers of

⁴⁹ See also *Oketade v. Adewumi* (2010) All FWLR (Pt 526) 511 @ 516.

grass root dwellers to benefit from it. The paper further finds that the law is silent on the language to be employed in impacting tax education. This is a serious lacuna that can hinder law and sustainable development in Nigeria.

■ Recommendations

In order to ensure an achievement of good law and sustainable development in Nigeria, the paper recommends:

- That all the existing substantive tax laws be amended to inculcate tax education in their provisions, and that, tax law should be couched in the indigenous languages of the targeted audience for it to be more effective;
- That tax authorities should constantly enlighten and orientate Nigerians on the need for them to pay their tax promptly. Tax payers should, in addition, be constantly educated on the relevant aspects of the Nigerian tax system in order to stimulate and mobilize them to discharge their civic obligations;
- That tax education and mobilization should cut across the three tiers of government because if it is restricted to federal taxes alone substantial numbers of grassroots dwellers may not appreciate what is being advocated; and
- That rigorous public awareness and enlightenment campaign should be mounted both on radio, television, pamphlets etc to educate and enlighten the public on the benefits of tax compliance.

With all the above done, there is no doubt about it that taxation will be a springboard to sustainable development in Nigeria.