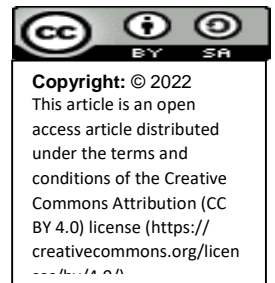


The Impact of the Covid-19 Pandemic on Environmental Law Enforcement in Nigeria

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Abstract

This paper examines the effect of the Covid-19 epidemic on the enforcement of environmental laws in Nigeria. The paper approaches this by evaluating the role of the Nigerian Laws regulating the environment and examines the challenges faced by the enforcement of environmental laws in the post Covid-19 Nigeria. The paper reveals that environmental threat of communicable diseases that are capable of causing global pandemics like SARS, meningitis, Polio and the Covid-19 viruses remain insufficiently unchecked. The paper also reveals that while there has undoubtedly been significant progress in the enactment of environmental legislations like the recently enacted Petroleum Industry Act of 2021 and the Solid Waste Management Policy of 2020, enforcement of environmental legislations remains a significant problem. The paper concludes that the limited enforcement mechanisms for the spread of communicable diseases like Covid-19 should be addressed urgently before another outbreak or Nigeria faces an even bigger environmental threat than the unfortunate Oil pollution of the Niger Delta region. The paper recommends that the 2018-2022 National Action Plan for Health Security of the Federal Republic of Nigeria should be considered as a priority by every environmental enforcement agency and implemented accordingly.

Keywords: COVID-19, Environmental law, Enforcement, Pollution

Rethinking Environmental Law Enforcement in Nigeria

The Covid-19 epidemic has drawn attention to the lack of connection between humans and modern societies' environment.¹ It has long been clear that human health is inextricably linked to animal life and the environment, but this situation has been made worse by the increasing environmental degradation, industrialization, and urbanization.² The Covid-19 epidemic can be directly linked to the poor environmental law enforcement particularly regarding the protection of forests, wildlife, and land use, leading to the destruction of traditional buffer zones that have previously been used to separate humans from animals, habitats, and agents.³ This paper examines the effect of the epidemic on the enforcement of environmental laws in Nigeria. The paper will achieve this goal by drawing a nexus between the economic and social impact of Covid-19 in Nigeria and the enforcement on environmental law.

Impact of the Epidemic on the Nigerian Economy

In Nigeria, the impact of the epidemic on the economy has been catastrophic.⁴ As at October 2021, there have been at least 2700 confirmed Covid-19 related deaths and over 200,000 Covid-19 related cases.⁵ What began as a health crisis with grave impact on populations has become an economic and fiscal crisis with a high risk of negative social implications.⁶ The decline in oil prices by 55% between the end of 2019 to March 2020, is one of the most serious economic shocks that Nigeria has faced in its memory, especially as the oil sector contributes 65% and 90% to government and total export revenues, respectively. As of 18 March, 2020, the price of crude oil dipped to US\$29.62/barrel.⁷ Given that the Federal budget estimates for 2020 have pegged oil prices at US\$57/ barrel and production at 2.18 million barrels per day, if prices continue to remain at this level, it would translate to a decline in 48% of expected revenue from oil sales per month.⁸ This alone could reduce fiscal revenue by close to \$10B and export earnings by \$19B. The decline in export revenues is projected to have a combined effect of 0.55 percentage points drop in GDP.⁹ As the outbreak intensified over the few years, Nigeria's services, trade and financial sectors have suffered significant disruptions (Together, the three sectors contribute over 30% to

¹ Norouzi N and Ataei E, 'Covid-19 Crisis and Environmental Law: Opportunities and Challenges' Volume 7 Issue 1, April 2021 P-ISSN: 2442-9880, E-ISSN: 2442-9899 at 46.

² Jared Diamond, *Guns, Germs and Steel: The Fates of Human Societies* (New York: W. W. Norton & Company, 1997) at 45.

³ Ibid.

⁴ Nigerian Center for Disease Control "Covid-19 Nigeria" <https://covid19.ncdc.gov.ng/> Last assessed on the 4th of October, 2021

⁵ Ibid.

⁶ UNDP 'The Impact of the Covid-19 Pandemic in Nigeria: A socio-economic analysis' <https://www.greengrowthknowledge.org/sites/default/files/downloads/resource/Socio-Economic-Impact-COVID-19-Nigeria-Policy-Brief-1-UNDP-Nigeria-April-2020.pdf> Last assessed on the 3rd of October 2021

⁷ Ibid.

⁸ Revenue contribution from EITI Nigeria country report, 2017 and export percentages calculated from UNCTAD Stats databased, 2019.

⁹ Ibid

GDP).¹⁰ Contraction in these sectors has resulted in significant job losses both in the formal and informal job markets and this has been a severe blow and could be a threat to instability as youth unemployment/underemployment is already high at 55%.¹¹

Resultant Effect of the Epidemic on Environmental Law Enforcement

In its current state, environmental law, which is limited to some traditional legal structures, has failed to adopt an exosystemic approach that provides an interrelationship between land health, humans, and biodiversity.¹² More specifically, if the hypothesis that Covid-19 is released from a live animal market in Wuhan, China, is confirmed, it is a painful demonstration of the inability of existing environmental rights to protect wildlife.¹³

It is therefore pertinent to examine the role of the Nigerian Laws regulating the environment particular the relationship with wildlife such as the Endangered Species (Control of International Trade and Traffic) Act¹⁴ and the Sea Fisheries Act. It is also necessary to examine the regulations on the disease outbreaks and other environmental health disasters such as the Nigeria Centre for Disease Control and Prevention Establishment Act 2018.

Statement of the Problem

While there has undoubtedly been significant progress in the enactment of environmental legislations like the recently enacted Petroleum Industry Act of 2021 and the Solid Waste Management Policy of 2020, enforcement of environmental legislations remains a key issue. The ecological disaster in the Niger Delta remains relatively unresolved despite the many legislations put in place to help prevent further oil spillages. Professor H. O. Ijaiya and O.T Joseph have identified the major environmental problems in Nigeria -arising out of insufficient enforcement- to include oil spillage, deforestation and associated soil erosion, ozone layer depletion, desertification, acid deposition, global warming and oil pollution.¹⁵ They also pointed out the consequences of inadequate legal enforcement in environmental law to be the cause of increase in pollution of surface and ground water, inadequate water supply, coastal water erosion, marine pollution, electronic waste, air pollution, urban industrial pollution, oil pollution, indiscriminate dumping of refuse sewage and industrial wastes in the nation's streams.¹⁶

¹⁰UNDP 'The Impact of the Covid-19 Pandemic in Nigeria: A socio-economic analysis' <https://www.greengrowthknowledge.org/sites/default/files/downloads/resource/Socio-Economic-Impact-COVID-19-Nigeria-Policy-Brief-1-UNDP-Nigeria-April-2020.pdf> Last assessed on the 3rd of October 2021

¹¹ Ibid.

¹² Ibid.

¹³ Norouzi, N and Ataei E, 'Covid-19 Crisis and Environmental Law: Opportunities and Challenges' Volume 7 Issue 1, April 2021 P-ISSN: 2442-9880, E-ISSN: 2442-9899 at 49.

¹⁴ Cap. E9 Laws of the Federation of Nigeria, 2004

¹⁵ Ijaiya H and Joseph O. T, 'Rethinking Environmental Law Enforcement in Nigeria' Beijing Law Review, 2014, p. 307

¹⁶ Ibid

This paper picks up from the analyses of Professor H. O. Ijaiya and O.T Joseph and it examines the challenges faced by the enforcement of environmental laws in the post Covid-19 Nigeria. This paper seeks to explain the environmental opportunities and challenges posed by the Covid-19 pandemic and examines the effects that the disease can have on environmental behaviors and values. It is necessary to reevaluate the shortcoming of the enforcement of the laws in reaction to the epidemic in Nigeria so as to better address future outbreaks that can lead to environmental disaster.

The History of the Enforcement of Environmental Laws in Nigeria

While Nigeria has existed before the colonization by the British for centuries as Kingdoms and Empires, the discovery of Petroleum products in 1956 marked a significant downturn in environmental regulation.¹⁷ There have been numerous ecological disasters directly linked to the mining of oil products such as water/marine pollution, severe health problems from industrial waste disposal suffered by inhabitants of the Niger delta, aquatic life (animals and plants) destruction etc.

This paper will examine the history of the enforcement of environmental laws in Nigeria before and after the discovery of Petroleum products.

Environmental Laws in Nigeria: Pre-Petroleum Era

The British occupied Nigeria in the 19th Century and by 1900, the entire country was a British colony and remained occupied until Nigeria's independence in 1960. During this period, the British concentrated on trading activities. Historical accounts indicate that early European settlers found Lagos to be particularly convenient for trade because of its strategic location on the only permanent break on the eastern West African coastline; in particular, the Lagos Island's frontage was ideal for piers and wharves that received ships.¹⁸ Although the epidemic known as "the plague" had occurred, similar to the Covid-19 epidemic, there remained an overall disinterest in, or lack of awareness about, environmental issues. The colonial administrators who were involved in national governance between 1861 and 1960 did not pursue or prioritize environmental protection. Rather, they were preoccupied with their political and economic interests. A major motivation driving colonialism was the desire to secure access to the natural resources of the colonies.¹⁹ Since the exploitations focused on the colonialists rather than the welfare of the local inhabitants, there was little attention paid to the environmental costs that the activities imposed.²⁰

The administrators of the British Empire held environmental meetings that were ostensibly aimed at natural resource protection, but were in fact meant to promote

¹⁷ Ogunba A, 'An Appraisal of the Evolution of Environmental Legislation in Nigeria', (2016) Vol. 40,673 Vermont Law Review p.676

¹⁸ Mabogunje, A. L, 'The Evolution and Analysis of the Retail Structure of Lagos, Nigeria' (1964) 40 Econ. Geography 304, 305

¹⁹ Rebecca Bratspies, R, 'Do We Need a Human Right to a Healthy Environment?' (2015) 13 Santa Clara J. INT'L L. 31, 46

²⁰ Ibid.

trade and enhance the economic growth of their countries.²¹ Colonial regions functioned primarily to supply imperial powers with raw materials and cheap labor. Therefore, the structures of imperial and colonial power, which dominated the world in the 19th and early 20th centuries, made little provision for either economic or social advancement of the developing world.²² The priority of the British was making commercial profit thus, any laws that might have restricted economic activities in the form of environmental requirements would have been considered counterproductive.²³ Thus, there were no laws directed at either protecting the environment or the natives from the polluting effects of the government's economic activities.²⁴ During this period, local legislation and public health laws had only a minimal bearing on the environment. These include the Criminal Code Law of 1916 and the Public Health Act of 1917.²⁵ The 1916 Criminal Code, which is still in force, briefly addresses some aspects of public health violations.²⁶ The law prohibits the selling of noxious food or drink and the adulteration or poisoning of any article of food or drink meant for sale.²⁷ It also criminalizes the carrying of dead animals into slaughter houses, and the corrupting or fouling of water from any source that makes it unfit for use.²⁸ Other provisions prohibit the burying of corpses in houses, premises, or within a hundred yards of such structures, or in any open space situated within a township.²⁹

Furthermore, the vitiation of atmosphere in any place that makes it noxious to the health of persons in the neighborhood, or the carrying out of any act likely to spread infectious diseases, are also prohibited.³⁰ Finally, the use of white (yellow) phosphorus in the manufacture of matches was disallowed. These provisions are focused on public health, not environmental issues, and can hardly be regarded as serious environmental legislation.³¹ Because of the absence of specific environmental laws, and the subjugation of Nigeria under the British protectorate, remedies for environmental violations were sought within the English common law torts of negligence, strict liability, public nuisance, and trespass.³²

²¹ Ibid.

²² Harris, J. M, 'Basic Principles of Sustainable Development' 1 (Glob. Dev. & Env't Inst., Tufts Univ., Working Paper No. 00-04, 2000), http://www.ase.tufts.edu/gdae/publications/working_papers/Sustainable%20Development.PDF. Last accessed on the 6/10/ 2021

²³ Ibid.

²⁴ Ibid.

²⁵ Ogunba A, 'An Appraisal of the Evolution of Environmental Legislation in Nigeria', (2016) Vol. 40, 673 Vermont Law Review p.677

²⁶ Criminal Code Act (1916) Cap. (C38), ch. 23. The Criminal Code has remained the federal criminal law that applies in all of Nigeria, except Northern Nigeria, where the Penal Code applies.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Fagbohun, O, 'Mournful Remedies, Endless Conflicts, and Inconsistencies in Nigeria's quest for Environmental Governance: Rethinking the Legal Possibilities for Sustainability' 45, 59 (2012).

Typically, claimants relied on negligence and strict liability to redress personal injury resulting from environmental pollution, while resorting to actions in trespass and nuisance to redress environmental harm to property interests.³³ To illustrate, the renowned 1868 English case *Rylands v. Fletcher* established the doctrine of *strict liability*, a no-fault liability where responsibility is imposed for damage caused by a defendant's actions regardless of intent.³⁴ This principle has provided an important precedent in subsequent Nigerian cases, including *Umudje v. Shell British Petroleum*. Here, the plaintiffs successfully relied on the strict liability doctrine to hold the defendants liable for their crude oil waste that escaped onto the plaintiff's land, polluting their ponds, and killing their fish.³⁵ Similarly, the 1932 English case *Donoghue v. Stevenson* provided a major precedent in *negligence* that is premised on a duty of care.³⁶ This case has been adopted as a binding precedent in subsequent Nigerian cases.³⁷ These common law principles were not designed for environmental cases however, and do not address any particular natural resources or the intricacies thereof. Likewise, other laws made at the time were not meant for natural resource protection. Any environmental protection in the enactments seems entirely accidental. This "accidental" nature of environmental legislation was the status quo until the discovery of petroleum in later years.³⁸

Environmental Laws in Nigeria: Post-Petroleum Era

In 2021, the National Assembly passed the much anticipated Petroleum Industry Act 2021 (PIA), repealing the Petroleum Act of 1969. Prior to the PIA, since the discovery of petroleum products, Nigeria has enacted a number of oil-related laws which include the Oil Pipelines Act (1990) Cap. (338) (later complemented by Oil and Gas Pipelines Regulations No. 14 (1995); Oil in Navigable Waters Act (1968) Cap. (337), Petroleum Act (1969) Cap. (P10); Nigerian Mining Corporation Act (1972) Cap. (317); Hydrocarbon Oil Refineries Act (1965) Cap. (H5); Exclusive Economic Zone Act (1978) Cap. (116); Territorial Waters Act (1967) Cap. (T5). In 1956, Nigeria discovered petroleum (crude oil) in commercial quantities within the Niger Delta region of Nigeria at Oloibiri. The country's economy, which had previously been based on agriculture, switched its focus to petroleum exploration. The discovery resulted in a national fixation on petroleum exploitation as oil exports became the major source of foreign exchange earnings.³⁹ This period was characterized by a pervasive national engagement with "the newly industrializing" economy, and with the new wealth that

³³ Ibid.

³⁴ *Rylands v. Fletcher* [1868] LRE & I. App. 330 (HL) 340.

³⁵ *M. Umudje & Anor v. Shell-BP Petroleum Dev. of Nigeria Ltd.* [1975] NSCC

³⁶ *Donoghue v. Stevenson* [1932] AC 562 (HL) 564 (appeal taken from Scot.)

³⁷ *Osemobor v. Niger Biscuit* [1973] 7 CCHCJ 71 (Nigeria)

³⁸ Mabogunje, A. L, 'The Evolution and Analysis of the Retail Structure of Lagos, Nigeria' (1964) 40 ECON. GEOGRAPHY 304, 305

³⁹ Odularu, G. O, 'Crude Oil and The Nigerian Economic Performance' 1 (2008) http://ogbus.ru/eng/authors/Odularo/Odularo_1.pdf last assessed on 6/10/2021

the foreign exchange earnings translated into.⁴⁰ The National Assembly focused primarily of the commercial production of petroleum rather than the environmental impact it could bring. Thus, the laws at this time focused on the many facets of petroleum exploration activities and aimed at reducing the pollution that resulted from them.⁴¹ Naturally, this created a very limited “sectorial” legislative framework centered solely on “economically important natural resources.”⁴²

There was a shift in approach by 1964, when the legislators started to consider the environmental impact of the spread of diseases that can result in epidemics. In 1964, the regulation of agricultural imports was passed into law in an effort to control the spread of plant diseases and pests.⁴³ Among other provisions, the law required that an authorized officer destroy any imported sand, seeds, soil, containers, and straw suspected to be infected with any disease or pest. This officer may also direct that they should not be imported until treated to a satisfactory standard.⁴⁴ Before the Agricultural Act and the petroleum enactments, the other remaining laws bearing on the environment were peripheral, disunited, and extremely varied in subject matter.⁴⁵ These laws covered such disparate subjects as sanitation, national parks, domestic personal hygiene, and wild animals.⁴⁶

Although environmental legislation commenced after the discovery of petroleum, public awareness of the areas of the environment that required development remained limited. Neither the general public nor the government understood technical issues like effluent limitations, pollution abatement, and the overall modalities for the sustainable development of Nigeria’s environmental resources. Most laws that were not petroleum related had only a minor bearing on the environment.⁴⁷In other words, they were accidental or incidental environmental legislation. These fragmented enactments provided, at best, rudimentary environmental regulations. Notable amongst these was the Factories Act. By 1987, there were more laws targeted at regulating specific industries such as the Factories Act.⁴⁸ The Factories Act which included specified environmental regulations was enacted to provide for the registration of factories, and for the safety of workers

⁴⁰ Ogbodo, S.G, ‘Environmental Protection in Nigeria: Two Decades After the Koko Incident’ (2010) 1, 15 ANN. SURV. INT’L & COMP. L. 1

⁴¹Ogunba O. A, ‘EIA Systems in Nigeria: Evolution, Current Practice and Shortcomings’, 24 ENVTL. IMPACT ASSESSMENT REV. 643, 647 (2004)

⁴² Ibid.

⁴³ Agricultural (Control of Importation) Act (1964) Cap. (A13).

⁴⁴ Ibid.

⁴⁵ Okafor O, Environmental Laws and Factors Affecting them in Nigeria: Case Study of Gas Flaring Laws in Niger Delta 14 (Sept. 2011) (Being a dissertation submitted for the award of Msc at the Wageningen University of Environmental Policy)

⁴⁶Ibid.

⁴⁷ Bees (Import Control and Management) Act (1970) Cap. (B6) (regulating the control of and spread of disease among bees).

⁴⁸ Factories Act (1987) Cap. (F1) 2004.

exposed to occupational hazards.⁴⁹ Its provisions cover: cleanliness, overcrowding, ventilation, lighting, drainage of floors, and sanitary conveniences. Other provisions relate to staff welfare, first aid, and the supply of drinking water. Penalties are also provided in case of breach of these provisions.⁵⁰ By 1970 several other sector-specific regulations had begun to spring up with environmental regulations that were unique to them. These laws include: the 1978 Land Use Act; the 1979 Energy Commission of Nigeria Act; the 1985 Endangered Species (Control of International Trade and Traffic) Act; the Sea Fisheries Act (later repealed by Sea Fisheries Decree 1992); and the 1986 River Basins Development Authorities Act.

In 1979, the Energy Commission of Nigeria Act established the Energy Commission to strategically plan and coordinate national policies and to systematically develop the various energy resources in all of their ramifications in Nigeria.⁵¹ The Commission's membership includes ministers from the following departments: Mines, Power and Steel, Petroleum Resources, Agriculture, and Water Resources and Rural Energy, amongst others.⁵² In 1986, the River Basins Development Authorities Act established 11 River Basin Development Authorities across Nigeria to undertake comprehensive development of surface and groundwater resources. These Authorities focused particularly on providing irrigation infrastructure and the control of floods and erosion.⁵³ Each Authority is required to supply water to all users and to identify all water resource requirements within the Authority's area of operation.⁵⁴

Environmental Regulation on the Spread of Diseases (Like Covid-19): Nigeria's Journey So Far

Nigeria has been plagued with communicable diseases as has the rest of the world. Until recently, there has not been a specified law focused on control and spread of communicable disease but inferences can be drawn from regulations such as the Bees (Import Control and Management) Act (1970) Cap. (B6) (regulating the control of and spread of disease among bees); Agricultural (Control of Importation) Act (1964) Cap. (A13); The Sea Fisheries Act and the Endangered Species (Control of International Trade and Traffic) Act and National Health Act 2014. These regulations created some regulations of the spread and control of specific environmental hazards such as Meningitis, Polio and SARS. The Sea Fisheries Act, which was later replaced by the 1992 Sea Fisheries Decree, provides for the regulation and protection of Nigeria's sea fisheries and the licensing of motor fishing boats.⁵⁵ In 1985, the Endangered Species (Control of International Trade and Traffic) Act was enacted for the purpose of

⁴⁹ Ibid

⁵⁰ Ibid.

⁵¹ Energy Commission of Nigeria Act, 1979, Cap. (E10).

⁵² Ibid.

⁵³ River Basins Development Authorities Act, 1986 Cap. (R9)

⁵⁴ Ibid.

⁵⁵ Sea Fisheries Act (1992) Cap

prohibiting the hunting of, or trade in, wild animals, and to regulate, via permits and certificates, the export and import of specified animals.⁵⁶

The Nigeria Centre for Disease Control (NCDC) was created in 2011 to respond to the challenges of public health emergencies and enhance Nigeria's preparedness and response to epidemics through prevention, detection and control of communicable diseases. During this period, the agency has led responses to diseases outbreaks such as cholera, yellow fever and Meningitis among others in the country. In 2018, President Muhammadu Buhari signed the bill establishing the NCDC into law. Prior to its passage on 21st November 2018, the agency had operated without a legal enactment since 2011.

The Objectives and Functions of the Key Environmental Laws in Nigeria and Their Agencies

1. National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007

A primary Environmental regulation in Nigeria is the NESREA Act. It is pertinent to note that in 2018, responding to the need for stronger enforcement mechanisms, the NESREA, 2007 was amended by the National Environmental Standards and Regulations Enforcement Agency (Establishment) (Amendment) Act, 2018.⁵⁷ The purpose of the amendment includes the increase of penalties in the cases of violations of the Act's provisions and giving NESREA unfettered powers of search and seizures of violating premises without the need for a duly issued and signed warrant.⁵⁸ The NESREA Act replaced the Federal Environmental Protection Agency Act (FEPA), 1988. It is administered by the Federal Ministry of Environment to protect and promote the sustainable development of the environment and its natural resources. The National Environmental Standards and Regulations Enforcement Agency is the major federal body charged with the protection of Nigeria's environment. It is an embodiment of laws and regulations focused on the protection and development of the environment, conservation and sustainable development of Nigeria's natural resources as well as environmental technology.

It provides authority to ensure compliance with environmental laws, local and international, on environmental sanitation and pollution prevention and control through monitory and regulatory measures.⁵⁹ The agency makes and reviews

⁵⁶ Endangered Species (Control of International Trade and Traffic) Act (1985) Cap. (E9).

⁵⁷ The National Environmental Standards and Regulations Enforcement Agency (Establishment) (Amendment) Act, 2018

⁵⁸ Sections 7 and 13 of the NESREA Act, 2018, See also, Olaniwun Ajayi, 'Key Amendments to the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act', March 2019 Newsletter, <https://www.olaniwunajayi.net/blog/wp-content/uploads/2019/03/KEY-AMENDMENTS-TO-THE-NATIONAL-ENVIRONMENTAL-STANDARDS-AND-REGULATIONS-ENFORCEMENT-AGENCY-ESTABLISHMENT-ACT.pdf> last accessed on 6/10/21

⁵⁹ Section 7 of NESREA Act, 2007

regulations on air and water quality, effluent limitations, control of harmful substances and other forms of environmental pollution and sanitation.⁶⁰ The agency also prohibits, without lawful authority, the discharge of hazardous substances into the environment.⁶¹ There are different regulations under NESREA:

A) National Effluent Limitation Regulation- It requires industry facilities to have anti-pollution equipment for the treatment of effluent. The regulation requires that every industry shall install anti-pollution equipment for the detoxification of effluent and chemical discharges emanating from the industry and that installation made under this regulation shall be based on the best available technology and the best practical technology available.⁶² The regulation also states that any industry which discharges effluent shall treat the effluent to a uniform level in order to ensure assimilation by the receiving water into which the effluent is discharged.⁶³

B) National Environment Protection (Pollution Abatement in Industries and Facilities Producing Waste) Regulations (1991) - It prevents the release of hazardous substances into the air, land or water of Nigeria beyond approved limits set by the Agency. This regulation also requires that every industry or facility shall have a pollution monitoring unit within its premises, a pollution control, or assign the responsibility for pollution control to a person or body corporate accredited by the Agency.⁶⁴ It also requires that every industry or facility should discharge monitoring reports and that solid, gaseous and liquid waste from any industry or facility should be analyzed and reported to the nearest office of the Agency every month to the nearest office of the Agency not later than 24 hours of the discharge.⁶⁵

C) Federal Solid and Hazardous Waste Management Regulations (1991)- This regulation compels industries to identify solid hazardous wastes which are dangerous to public health and the environment and to research into the possibility of recycling them. The Federal Solid and Hazardous Waste Management Regulations of 1991 make it an obligation for industries to identify solid hazardous wastes which are dangerous to public health and the environment and to research into possibility of their recycling.⁶⁶

2. The Petroleum Industry Act 2021 (PIA)

⁶⁰ Section 8 of NESREA Act, 2007

⁶¹ Section 27 of NESREA Act, 2007

⁶² Rules 1 and 2 of the National Effluent Limitation Regulation, 1991

⁶³ Ibid at Rule 3.

⁶⁴ Rules 2 and 3 of the National Environment Protection (Pollution Abatement in Industries and Facilities Producing Waste) Regulations, 1991.

⁶⁵ Ibid.

⁶⁶ Rule 1 of the Federal Solid and Hazardous Waste Management Regulations, 1991.

The PIA repealed the Petroleum Act of 1969 which until now has been the primary regulation for the Oil and Gas Industry. The main objectives of the PIA 2021 are the creation of efficient governing institutions with clear and separate roles for the petroleum industry and the establishment of a framework for the creation of a commercially oriented and profit-driven national petroleum company.⁶⁷ The PIA is also responsible for the promotion of transparency, good governance and accountability in the administration of the petroleum resources of Nigeria, the fostering of business environment conducive for the petroleum operations and the deepening of local content practice in the Nigeria oil and gas industry.⁶⁸

The PIA, will also retain the environmental responsibilities of the repealed Petroleum Act which include Petroleum drilling and production regulations which places restrictions on licensees from using land within fifty yards of any building, prohibits the cut down of trees in forest reserves and establishes that reasonable measures be taken to prevent water pollution and to end it, if it occurs.⁶⁹ It shall also be responsible for Petroleum Refining Regulation which requires the manager of a refinery to take measures to prevent and control pollution of the environment.⁷⁰ Lastly, it shall be responsible for Mineral Oil Safety Regulations and Crude Oil Transportation and Shipment Regulations which provide that precautions should be taken in the production, loading, transfer and storage of petroleum products to prevent environmental pollution.⁷¹

3. The Nigeria Centre for Disease Control (NCDC) Act 2018

As stated earlier, the Nigeria Centre for Disease Control (NCDC) was created in 2011 to respond to the challenges of public health emergencies and enhance Nigeria's preparedness and response to epidemics through prevention, detection and control of communicable diseases.⁷² The main objectives of the NCDC Act are the protection of Nigerians from the impact of communicable diseases and the maintenance of alertness in the detection and response to disease outbreaks due to pathogenic, chemical or biological agents.⁷³ The NCDC is the key agency responsible for the development of guidelines and standards for relevant public health activities at all levels in the country.⁷⁴ It has the duty to provide support and coordinate the control of national and trans-border responses to mass public health emergencies, such as mass casualties, flood, nuclear, biological and chemical terrorism, disease outbreaks and heavy metal poisoning.⁷⁵ The agency also has the responsibility of providing technical support to government institutions on environmental health activities as it

⁶⁷ Section 2 of the Petroleum Industry Act, 2021

⁶⁸ Ibid.

⁶⁹ Petroleum Industry Act, 2021.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² The Nigeria Centre for Disease Control (NCDC) Act, 2018.

⁷³ Section 1 items A and B of the NCDC Act, 2018.

⁷⁴ Section 1 items E of the NCDC Act, 2018.

⁷⁵ Section 3 item J of the NCDC Act, 2018.

relates to disease prevention, control and emergency disaster response.⁷⁶ The implementation of international health regulations and coordination in international diseases prevention and control activities are also objectives under the jurisdiction of the NCDC.⁷⁷ In 2018, as part of the National Action Plan for Health Security of the Federal Republic of Nigeria, the Antimicrobial Resistance Technical Working Group was inaugurated at the NCDC to conduct situation analysis and develop a National Action Plan for Antimicrobial Resistance. One of its goals is to train human and animal health workers on how to detect antibiotic resistant pathogens, use antibiotics rationally and improve environmental biosecurity.⁷⁸ In carrying out its goals, the Group engaged key members representing animal health, food and animal production, human health and environmental sector.⁷⁹

4. The 1999 Constitution of the Federal Republic of Nigeria

The Constitution which is the supreme law of Nigeria recognizes the importance of improving and protecting the environment and makes provision for it. Section 20 of the Constitution makes it an objective of the Nigerian state to improve and protect the air, land, water, forest and wild life of Nigeria. Section 12 of the Constitution establishes impliedly that international treaties (including environmental treaties) ratified by the National Assembly should be implemented as law in Nigeria. Sections 33 and 34 which guarantee fundamental human rights to life and human dignity respectively have also been argued to be linked to the need for a healthy environment to give these rights effects.⁸⁰

5. Environmental Impact Assessment Act 1992

This Act assesses the potential negative impacts public or private projects are likely to have on the environment.⁸¹ However, it ensures written applications are submitted to the agency before embarking on projects for their environmental assessment to determine approval.⁸² It also creates a legal liability for contravention of any provision.⁸³

6. Harmful Waste (Special Criminal Provisions) Act 1988

Since the Koko incident, the dumping of harmful wastes in Nigeria has been prohibited.⁸⁴ This Act prohibits, without lawful authority, the carrying, dumping or

⁷⁶ Section 3 item O of the NCDC Act, 2018.

⁷⁷ Section 1 items G of the NCDC Act, 2018.

⁷⁸ National Action Plan for Health Security of the Federal Republic of Nigeria (2018-2022) <https://ncdc.gov.ng/themes/common/files/establishment/5e88f9e22d2b4e4563b527005c8a0c43.pdf> last accessed on 6/10/21

⁷⁹ Ibid.

⁸⁰ Constitution of the Federal Republic of Nigeria, 1999.

⁸¹ Environmental Impact Assessment Act, 1992

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ogbodo, S.G, 'Environmental Protection in Nigeria: Two Decades After the Koko Incident' (2010) 1, 15 ANN. SURV. INT'L & COMP. L. 1

depositing of harmful wastes in the air, land or waters of Nigeria.⁸⁵ It also makes provisions for punishment of life imprisonment for offenders as well as the forfeiture of land or anything used to commit the offence. Offenders are also liable to persons who have suffered injury as a result of his offending act.⁸⁶

7. Oil Pipelines Act 1956

This Act creates a civil liability on the person who owns or is in charge of an oil pipeline.⁸⁷ Such a person would be held liable to pay compensation to anyone who suffers physical or economic injury as a result of a break or leak in his pipelines.⁸⁸

8. Niger-Delta Development Commission (NDDC) Act

This Act is concerned with using allocated fund to tackle ecological problems arising from the exploration of oil minerals in the Niger-Delta.⁸⁹ The Act empowers the commission to plan and to implement projects for the sustainable development of the Delta in the field of transportation, health, agriculture, fisheries, urban and housing development, etc.⁹⁰

States Environmental Legislations

This paper focuses on the environmental regulations in Kwara state as most states have identical regulations. It is pertinent to point out that Kwara state is not chosen in this paper for any unique difference from the other states and the Federal capital territory but for the avoidance of repetition of similar sections in other states.

The primary environmental regulatory agencies in Kwara state include, the Kwara Waste and Environment Protection Agency (KWEPA) under the Ministry of Environment and Tourism and the Kwara Waste Management Company (KWMC) also under the Ministry of Environment and Tourism.

9. Kwara State Environmental Protection Agency Law

The Kwara State Environmental Protection Agency Law was enacted in 1992.⁹¹ The Act created the Kwara State Environmental Protection Agency (KWEPA) to promote a safe and healthy environment for the people of Kwara state to live in, and to ensure sustainable development for the purposes of the use of the environment. The Agency is shadowed with the powers to carry on all environmental protection activities, to carryout research and development activities for environmental protection and to educate the general public on the types of disposal methods acceptable by the State Government for domestic and industrial wastes among others. For the purpose of achieving its set goals, the law created a governing council whose function is to

⁸⁵ Harmful Waste (Special Criminal Provisions) Act, 1988.

⁸⁶ Ibid.

⁸⁷ Oil Pipelines Act 1956

⁸⁸ Ibid.

⁸⁹ Niger-Delta Development Commission (NDDC) Act, Cap N68 LFN 2004.

⁹⁰ Ibid.

⁹¹ Ijaiya H.O, 'The Legal Framework for Solid Waste Disposal and Management in Kwara State, Nigeria' (2013) Vol. 4, No. 11 Journal of Environmental Protection

formulate policies and programmes aimed at enhancing the position and improvement of the protection of the environment in the state, formulate policies, rules and regulations on solid waste collection and disposal, co-ordinate the activities of all the agencies in the state connected with environmental matters; conduct public enlightenment campaigns and disseminate vital information on environmental matters, render advisory services and support to all Local Government in the state in areas of solid waste management matters; take measures to guarantee consistent effectiveness of environmental structures throughout the state for solid waste collection and disposal, formulate master plans for solid wastes management for development of environmental standard mobilize the inhabitants of all areas in the state for the effective observance of environmental rules and guidelines for the promotion of a healthy and safe environment; monitor and control disposal of solid waste generated by both Government and private facilities in the state and implement applicable laws and standards on activities related to the environment among others. At the Local Government level, the law established the Local Government Committee on environmental protection for the purpose of maintaining good environment quality in their jurisdiction.⁹²

For the effective control and management of solid wastes in the state, the law authorized the agency, local government council or private collector to assist in the disposal of refuse waste within the state. The law also provided that vehicle or container used in transporting or conveying refuse or waste within the state should be covered in such a way that the content thereof does not litter the street.

Furthermore, the law also makes it an offence for any person to throw or deposit on any street, open space, gutter, drain or drainage system or tenement whether occupied or not obnoxious, toxic or poisonous waste except at such places authorized by the Agency. In addition, the law prohibits the burning of the contents of any dustbin or receptacle of the Agency. The law also provided that any person who contravenes any of the offences mentioned above commits nuisance and would be tried by either a Magistrate Special Environmental Court or Area Court within the jurisdiction and upon conviction shall be liable to a maximum fine of N5000.00 (five thousand naira) or imprisonment for six months.⁹³

10. Environmental Sanitation Law

The Environmental Sanitation Law of 2004 was enacted to ensure sanitary conditions in residential and public places in Kwara State.⁹⁴ In order to promote clean environment in the state, the law provided that every owner, occupier or tenant of a tenement should clean and keep the streets, side-walks at the front, back or either sides of such tenement and the drains, gutters or channels by such streets, free of all filth, rubbish and refuse; not to litter, sweep out or throw ashes, refuse, paper, nylon and rubbish into any street, public place or vacant plot; not to use dustbins which

⁹² Ibid.

⁹³ Ibid.

⁹⁴ The Environmental Sanitation Law, 2004

may be leaking or permitting litter to escape out which may injure people handling them and to ensure the cleanliness of their premises, particularly the background and the courtyard. The law also makes it mandatory for producers, sellers and consumers of pure water, ice cream and related products to ensure that the nylon of the product are properly disposed of after consumption.⁹⁵ In order to ensure compliance, the law makes it mandatory for every owner or occupier of a tenement to provide dustbin with cover for the tenement to be used for depositing refuse. The law also makes it mandatory for them to remove daily, all refuse from dustbin to a public refuse depot such as those provided by the Kwara State Environmental Protection Agency.⁹⁶

The law prohibits indiscriminate dumping of wastes along the highways, roads, channels, gorges, vacant lands except at designated refuse disposal sites as approved by the Kwara State Environmental Protection Agency. The law also provided that all waste from markets, restaurants, schools, shops, religious premises and other commercial institutions should be packed in plastic waste bags or tightly covered dustbins before disposal.⁹⁷ The law provided that any person who contravenes or fail to comply with the provision of the law shall be guilty of an offence and shall upon conviction be liable to the fines ranging between N500.00 (Five hundred naira) and N10000.00 (Ten thousand naira). There is no doubt, the Environmental Sanitation Law of 2004 complement the Kwara State Environmental Protection Agency Law of 1992 on the management and control of solid wastes in Kwara State.⁹⁸

11.Special Environmental Sanitation Court Law

In order to give the force of law to the existing laws on waste management and control in Kwara State, the State Government enacted the Environmental Sanitation Court with divisions in each of the three Senatorial Districts of the state to be manned by a Magistrate. The court is empowered to try offences on environmental matters in respect of cases arising out of the provisions of the Environmental Sanitation Law, Kwara State Environmental Protection Agency Law, its Regulations or any other laws on environmental protection and other related enactments. The court is also empowered to try offenders summarily in accordance with the provision of the Criminal Procedure Code Law. However, the jurisdiction of the court is limited to N5000000.00 (Five million naira). Appeals from the decision of the court lie in the High Court.⁹⁹

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ijaiya H.O, 'The Legal Framework for Solid Waste Disposal and Management in Kwara State, Nigeria' (2013) Vol. 4, No. 11 Journal of Environmental Protection

⁹⁸ Ibid.

⁹⁹ Ibid.

Enforcement Mechanisms under the Environmental Laws of Nigeria

Nigerian environmental protection agencies are empowered to enforce environmental laws and ensure the protection of the environment. The Nigerian environmental laws specify some mechanisms to be used in achieving the enforcement of the laws. These mechanisms include issuance of permits, licenses, certificates, inspection, search, seizure, arrest, sealing, notice of violation, notice of revocation of permit, revocation order, recourse to courts for civil penalties for violation, injunctive relief to require compliance, criminal prosecution, and citizen's suits to enforce the statutes in the absence of effective government enforcement.¹⁰⁰

A) The Issuance of Permits, Licenses and Certificates

Environmental legislations make provisions for the issuance of permits, licenses and certificates through the existing regulatory bodies. Without the authorizing document (license, permit or certificate), an organization cannot legally carry out its activities. The permits are used to regulate and oversee the activities of organizations and businesses that could contribute to environmental pollution. In furtherance of this, the regulatory bodies attach conditions to the issuance of licenses to the applicants. Sections 113 of the Petroleum Industry Act empowers the Nigerian Midstream and Downstream petroleum regulatory authority to issue permits and licenses to applicants.¹⁰¹ The authority is also required to include certain conditions in the permits or licenses regulating the activities of the license holder; compliance with the directions of the authority, securing the approval of the authority on certain issues, compliance with relevant industry codes, standards and market rules etc.¹⁰² Therefore, the permit, license or certificate is issued on the condition that the regulatory body is empowered to monitor and regulate the activities of the license holder. Any breach of the conditions may amount to suspension or revocation of the permit, license or certificate.¹⁰³

B) Inspection and Searches

Environmental laws are enforced through inspections and search of premises. The search or inspection allows the authorities fish out persons or organizations violating environmental laws. In 2018, the NESREA Act, 2007 was amended by the NESREA (Amendment) Act, 2018. The amendment Act made further provisions on searches and inspections by permitting an authorized officer to enter and search any premises without a search warrant or a court order when there is environmental pollution causing immediate or imminent threat to life or property.¹⁰⁴ Although the court order or search warrant must have been applied for, this provision is only applicable when obtaining the warrant will cause delay or it may be prejudicial to the public safety or

¹⁰⁰ Ijaiya H and Joseph O. T, 'Rethinking Environmental Law Enforcement in Nigeria' Beijing Law Review, 2014, p. 307

¹⁰¹ Section 113 of the Petroleum Industry Act, 2021

¹⁰² Section 114 (1) (a-m) of the Petroleum Industry Act

¹⁰³ Section 118 and 120 of the Petroleum Industry Act

¹⁰⁴ Section 13 of the NESREA (amendment) Act, 2018

order. The principal Act authorizes officials to enter into a premises with a court order for the purpose of carrying out an inspection or search where there is a suspicion of a violation of the law.¹⁰⁵ By virtue of section 37 of the Act, an authorized officer includes any police officer not below the rank of inspector of police.¹⁰⁶ As a result, the Nigerian police assist the NESREA in enforcing environmental laws.¹⁰⁷ In addition, the Harmful Waste Act¹⁰⁸ also authorizes the Nigerian Police conduct searches with or without a warrant on any premises (building, land, carrier, aircraft etc.) which they have reasons to believe is related to the commission of a crime under the Act.

C) Arrest

Authorized government agents can arrest any person or vessel who has committed any crime under the existing Nigerian environmental laws. The Nigerian Police is empowered under the Harmful Waste Act to arrest without warrant in the enforcement of the provisions of the Act.¹⁰⁹ The Sea Fisheries Act provides that for the purpose of the enforcement of the Act, a person authorized by the Minister (with the responsibility for fisheries) shall have power to arrest the master or chief engineer of a vessel for prosecution.¹¹⁰

D) Sealing and Seizure

Any authorized law enforcement agent is empowered to seize any item or substance which he has any reason to believe has been used in the commission of crime under the particular law.¹¹¹ Seizure could also be made to forestall further pollution by putting the offending “item or substance” out of circulation.¹¹² The NESREA Act, the Harmful Waste Act, the Sea Fisheries Act and other environmental laws permit the seizure of any item in relation to contravention of the particular Act.¹¹³

E) Judicial Mechanisms

The Nigerian judiciary has the responsibility of interpreting the law to ensure utmost compliance and the enjoyment of constitutional rights. In the case of *Jonah Gbemre v Shell PDC Ltd and ors*,¹¹⁴ the court ordered the respondents to take immediate steps to stop the further flaring of gas in the community as it is constitutionally guaranteed

¹⁰⁵ Section 30 of the NESREA Act, 2007

¹⁰⁶ Section 37 of the NESREA Act, 2007

¹⁰⁷ The Guardian Newspaper (11 July 2016) ‘NESREA partners police on combating environmental crimes’, <https://guardian.ng/property/nesrea-partners-police-on-combating-environmental-crimes> last accessed on 10/10/21

¹⁰⁸ See Section 10 of the Harmful Waste (Special Criminal Provisions) Act, 1990

¹⁰⁹ See Section 10 (1) (c) of the Harmful Waste (Special Criminal Provisions) Act, 1990

¹¹⁰ Section 17 (e) of the Sea Fisheries Act, 1992

¹¹¹ Ijaiya H. and Joseph O. T, ‘Rethinking Environmental Law Enforcement in Nigeria’ Beijing Law Review, 2014, p. 307

¹¹² Okorodudu-Fubara, M. T. (1998). Law of Environmental Protection. Caltop Publications Nigeria Limited

¹¹³ Section 30 (1) (f) of the NESREA Act, 2007, Section 10(1) (d) of the Harmful Waste (special criminal provisions) Act, 1990, Section 14 (1) (f) of the Sea Fisheries Act, 1992

¹¹⁴ (2005) Suit No. FHC/B/CS/53/05.

to have a right to clean, poison and pollution-free healthy environment.¹¹⁵ Nigerian courts have awarded special and general damages in actions for damages arising from violation of environmental protection laws. Under the NESREA Act, 2007 where an owner or operator of any vessel responsible for the discharge of hazardous substance, he will be liable for cost of removal of the hazardous substances and cost of third parties and other penalties prescribed by the Act.¹¹⁶ The NESREA (amendment) Act increased the penalties to be paid by a corporation in contravention of the law to payment of a fine not less than #2,000,000 and an additional fine of #50,000 for every day the offence subsists.¹¹⁷ Environmental laws can also be enforced through criminal prosecution. Violators are charged to court and are convicted if found guilty. The National Environmental Standards and Regulation Enforcement Agency has the power to convict violators of the various categories of law. For instance, there are multiple provisions of the NESREA Act, 2007 that state that upon conviction, a violator of the Act may be imprisoned.¹¹⁸ The combined reading of sections 6, 8 and 11 of the Harmful Wastes Act show that any persons that engage in any of the prohibited activities (without lawful authority) shall be guilty of a crime and on conviction be sentenced to imprisonment.¹¹⁹

An Evaluation of the Recent Improvements on the Regulation of Environmental Laws in Nigeria

On the 12th of February 2021 a significant victory for the enforcement of environmental regulation in Nigeria saw an Appellate Court in the United Kingdom allow a group of 42,500 Nigerian farmers and fishermen to sue Royal Dutch Shell (RDS) in English courts after years of oil spills in the Niger Delta contaminated land and groundwater.¹²⁰ Okpabi and others argued that the parent company Shell owed them a duty of care because it either had significant control of, and was responsible for, its subsidiary SPDC. Shell countered that the court had no jurisdiction to try the claims.¹²¹ Nigeria's Ogale and Bille communities allege their lives and health have suffered because repeated oil spills have contaminated the land, swamps, groundwater and waterways and that there has been no adequate cleaning or remediation.¹²² The decision opens up multiple avenues for seeking redress from oil companies which are the biggest oil pollutant in Nigeria. In June 2021, the Royal Dutch Shell Plc's Nigerian subsidiary, Shell Petroleum Development Company (SPDC) lost the right to operate an oil field after a court ruled the company wasn't

¹¹⁵ Ladan, M. T. (2007). Judicial Approach to Environmental Litigation in Nigeria. Paper Presented at a 4-Day Workshop on Environmental Law, Nigeria.

¹¹⁶ See Section 27 NESREA Act, 2007. See also, Ijaiya, H and Joseph, O. T, 'Rethinking Environmental Law Enforcement in Nigeria' Beijing Law Review, 2014, p.314

¹¹⁷ Section 7 of the NESREA (Amendment) Act, 2018

¹¹⁸ Section 22 and 27 of the NESREA Act, 2007.

¹¹⁹ See also Section 24 of the NOSDRA Act, 2006

¹²⁰ Okpabi and others v Royal Dutch Shell Plc and another (2021) UKSC 3

¹²¹ Ibid at page 3 of the Judgement.

¹²² Ibid.

entitled to renew a lease first granted in 1989.¹²³ This follows the judgement by the Court of Appeal in Abuja on Monday, which upturned a 2019 ruling that granted SPDC the right to renew its operating license for the Oil Mineral Lease 11 (OML 11) field and transferred those rights to the state-owned Nigerian National Petroleum Corporation (NNPC).¹²⁴ OML 11 remains one of the most important oil blocks in Nigeria. Located in a swampy terrain, it has Port Harcourt in the northwest of the block, while the major yard and logistics base at Onne is sited by the Bonny River.¹²⁵ Also, in 2015 it accepted responsibility for two spills and agreed to pay £55m (\$76M) to the Bodo community and assist in the clean-up.¹²⁶

In 2018, responding to the need for stronger enforcement mechanisms, the NESREA, 2007 was amended by the National Environmental Standards and Regulations Enforcement Agency (Establishment) (Amendment) Act, 2018.¹²⁷ The purpose of the amendment includes the increase of penalties in the cases of violations of the Act's provisions and giving NESREA unfettered powers of search and seizures of violating premises without the need for a duly issued and signed warrant.¹²⁸ The PIA 2021 was also recently enacted with the main objectives being the creation of efficient governing institutions with clear and separate roles for the petroleum industry and the establishment of a framework for the creation of a commercially oriented and profit-driven national petroleum company.¹²⁹ The NCDC Act, 2018 was also established to develop and coordinate measures and activities to control outbreaks and mitigate health impact as well as the information networking for the reporting and notification of communicable diseases.¹³⁰

An Evaluation of the Current Challenges on the Regulation of Environmental Laws in Nigeria

Despite the laudable efforts to amend and improve the implementation of environmental laws in recent years, certain issues still contribute to the poor level of enforcement of environmental laws in Nigeria.

A) The Inadequacy of funds

The regulatory agencies established to monitor and regulate the enforcement of environmental laws are not adequately funded. There is the need for financial

¹²³ Naira metrics "Shell loses oil license to NNPC in court ruling" <https://nairametrics.com/2021/08/21/shell-loses-oil-license-to-nnpc-in-court-ruling-as-state-oil-giant-warns-against-lawsuit-2/> last accessed on the 10th of October 2021

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ BBC News "Shell in Nigeria" <https://www.bbc.com/news/world-africa-56041189> last accessed on the 10th of October 2021.

¹²⁷ Section 13 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) (Amendment) Act, 2018

¹²⁸ Ibid.

¹²⁹ Section 2 of the Petroleum Industry Act 2021

¹³⁰ NCDC Act 2018

liberation of these agencies so as to carry out their functions.¹³¹ The lack of financial resources results in the agencies being under staffed and being unable to afford the necessary modern technology.¹³² In Kwara State, the environmental protection agency is constantly struggling to enforce the laws as the shortage in manpower and efficient machinery makes the task almost impossible.¹³³ Although the laws provide for payment of fines/penalties, the revenue generated goes to the general government in most cases and not the agencies.¹³⁴ The lack of adequate funding gives little to no incentive for the enforcement of environmental laws.

B) Ineffective Monitoring Bodies

One of the prevalent problems in the enforcement of environmental laws is the lack of political will of the enforcement agencies in carrying out their functions. In some cases, there is no technical knowledge of the prevalent issues. This leads to poor enforcement strategies and inadequate policies to coordinate and monitor the relationship between environmental management and sustainable development.

C) Political Influence

Influence from powerful individuals and groups challenge effective environmental law enforcement.¹³⁵ Bribery and corruption are some of the ways political figures use in preventing enforcement bodies from taking actions when necessary.

The Impact of Covid-19 on the Enforcement of Environmental Regulations

It is safe to say that the Covid-19 epidemic provided a golden opportunity to review many environmental behaviors and, consequently, to review many environmental rules. Accurate identification of these opportunities providing a deeper analysis of the effects of these opportunities on environmental law requires time and a holistic view of the situation, but here are some of the most important ones. In Nigeria particularly, the Covid-19 raises questions on the enforcement of legislations involving wildlife such as the Endangered Species (Control of International Trade and Traffic) Act¹³⁶ and the Sea Fisheries Act. The need for the protection of humans and animals from diseases that can be transferred by eating wild animals (bush meat) is now more imminent. As stated earlier, if the hypothesis that Covid-19 is released from a live animal market in Wuhan, China, is confirmed, it is a painful demonstration of the inability of existing environmental rights to protect wildlife.

¹³¹ Okorodudu-Fubara, M. T. (1998). Law of Environmental Protection. Caltop Publications Nigeria Limited.

¹³² Ijaiya H.O, 'The Legal Framework for Solid Waste Disposal and Management in Kwara State, Nigeria' (2013) Vol. 4, No. 11 Journal of Environmental Protection

¹³³ Ibid.

¹³⁴ Ijaiya H and Joseph O. T, 'Rethinking Environmental Law Enforcement in Nigeria' Beijing Law Review, 2014, p. 314

¹³⁵ Ibid.

¹³⁶ Cap. E9 Laws of the Federation of Nigeria, 2004

A) Reduction of Greenhouse Gas Emissions

Another major environmental impact of Covid-19 disease has been a significant reduction in air pollution and reduced greenhouse gas emissions due to quarantine and closure policies. According to statistics, air quality in major cities around the world improved significantly when the lockdown was newly imposed in March and April 2020.¹³⁷ Air quality has improved by factories and vehicles due to reduced emissions of carbon dioxide (CO₂), nitrogen oxides (NO_x), ozone (O₃), and particulate matter (PM).¹³⁸ During the same period, global air traffic fell by 60 percent. Overall, this reduction in the emission of various pollutants has led to a temporary decline in carbon dioxide emissions compared to pre-crisis levels, and this has raised hopes that the international community can, in practice, find ways to reduce it in the long run significantly to prevent the impending and more severe consequences of climate change.¹³⁹

B) Sustainable Development of Environmental Resources

Another opportunity that the economic crisis and the economy's closure provide for the environment is to review the economic model with a sustainable development approach.¹⁴⁰ The current model, which is based on the high export of anti-environmental raw materials and leads to the analysis and destruction of countries' capital and natural resources and various environmental pollution, should be reconsidered.¹⁴¹ In oil-rich countries like Nigeria, the sharp drop in oil prices in March 2020 clearly showed that a model based on the export of natural raw materials, in addition to environmental effects, can have many welfare effects on the population and the economy in times of crisis. Writers have long spoken of quitting oil addiction, but a lack of political will in many countries has prevented a shift in attitudes toward non-oil economies.¹⁴²

C) Reduction In Waste In Recycle

The volume of non-recyclable waste has increased with the outbreak of Covid-19 disease.¹⁴³ Recycle of local waste such as masks, plastic bags, disposable gloves, and hospital waste in many cities have been stopped for fear of spreading the virus in

¹³⁷ Norouzi N and Ataei E, 'Covid-19 Crisis and Environmental Law: Opportunities and Challenges' Volume 7 Issue 1, April 2021 P-ISSN: 2442-9880, E-ISSN: 2442-9899 at 50.

¹³⁸ Robert Hamwey, 'Environmental Impacts of Coronavirus Crisis, Challenges Ahead', UNCTAD <https://unctad.org/en/pages/newsdetails> last accessed on the 10th of October 2021

¹³⁹ Rilwan F. Mahmoud & O. B. Olawunmi "The Management and Control of Ozone-depleting Substances Unkinder the International Treaties: A Re-analysis" University of Ilorin Law Journal (UILJ) Vol. 10 ISSN: 0794-4349 94-111 at 99.

¹⁴⁰ Norouzi N and Ataei E, 'Covid-19 Crisis and Environmental Law: Opportunities and Challenges' Volume 7 Issue 1, April 2021 P-ISSN: 2442-9880, E-ISSN: 2442-9899 at 50.

¹⁴¹ David Andelman and Guy Deutcher, "Kicking the Oil Addiction: Facts and Fiction", World Policy Journal, No. 32 (2), 2015, at 53-61.

¹⁴² Ibid.

¹⁴³ Ibid.

recycling centers. This has created acute challenges for the waste management industry, especially as it operates at a limited capacity due to the Covid-19 crisis.¹⁴⁴

D) Ecosystem Hazard

Natural ecosystems and protected species are endangered during the outbreak of Covid-19. Due to public closures and the implementation of quarantine policies, the conservation and monitoring of natural ecosystems have been temporarily suspended. In many countries, rangers in national parks and land and sea conservation areas must stay home on public holidays and leave these areas unattended.¹⁴⁵ Their absence has led to an illegal increase in deforestation, wildlife hunting, and hunting.

Conclusion and Recommendations

A review of the efforts to improve the enforcement of environmental regulations in Nigeria shows there has been significant achievements over the past few years. However, it is necessary to point out that most of the improvement have been centered around Oil pollution which still remains a significant threat to the Nigerian ecosystem including the land and marine life, source of livelihood for the people directly affected and the Nigerian economy as a whole. This paper reveals a relatively unchecked environmental threat which are biohazards and communicable diseases that are capable of causing global pandemics like SARS, meningitis, Polio and the Covid-19 virus. While the NCDC has stepped up to the challenge in the fight against global pandemic, the last few years have revealed that there are still substantial lacunae that makes Nigeria vulnerable to the environmental threat of communicable disease that can affect humans, plants and other animals alike. It is therefore necessary that these challenges should be addressed before another outbreak or Nigeria faces an even bigger environmental threat than the unfortunate Oil pollution of the Niger Delta region.

It is therefore recommended as follows:

1. The 2018-2022 National Action Plan for Health Security of the Federal Republic of Nigeria should be considered as a priority by every environmental enforcement agency and implemented accordingly. The action plan requires that stakeholder agencies should train human and animal health workers on how to detect antibiotic resistant pathogens, use antibiotics rationally and improve environmental biosecurity.¹⁴⁶
2. That environmental enforcement agencies should intensify their efforts to stop the consumption of untreated animals and endangered wildlife which can cause the dangerous and communicable diseases to be passed to humans.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ National Action Plan for Health Security of the Federal Republic of Nigeria (2018-2022) <https://ncdc.gov.ng/themes/common/files/establishment/5e88f9e22d2b4e4563b527005c8a0c43.pdf> last accessed on 6/10/21

3. The Federal Ministry of Health should create a long-term specified policy for gatherings in the workplace, social events and all government agencies on the prevention and management of communicable diseases even after the Covid-19 pandemic is over.