

## THE DILEMMA OF IMPLEMENTING EFFECTIVE ENVIRONMENTAL POLICIES IN NIGERIA

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### Abstract

*Environmental problems in Nigeria are of different kinds and dimension, ranging from erosions, deforestation, water, land and air pollutions from the oil industries, industrial effluents up to dumping of refuse and toxic wastes. These problems are classified as natural, developmental, and socio-economic. In reaction to these, different administrations enacted some environmental policies like Oil Pipeline Act of 1958, Federal Protection Decree of 1989, the Endangered Species Decree of 1985, among others. This paper examined the purpose and impact of some of these environmental policies and the findings show that, these policies are cosmetic in conception with no objective structure for implementation to achieve the desired goals.*

**Keywords:** Dilemma, implementation and environmental policies

### Introduction

The environment in the normal sense simply refers to the physical and social conditions where people live. It could also be referred to the natural conditions such as the air, water and land in which people, animals of various types and plants exist. Jain (1977) considers that, the environment is made up of both the biophysical and socio-economic elements which does not only include areas of land, air, water, plants and animals, but also other natural and man-modified features which constitute the totality of our surroundings.

In another perspective, environment refers to the aggregate of all external conditions and influences affecting the life and development of organisms (Fadamiro, 1995). It consists of abiotic and biotic components (including man) that interact with one another (Ero, 1997). The interactions also include the dominance of some species of organisms over others (Enahoro & Ehi-Ebewele, 2007).

Environmental problems cannot be considered as nothing new in the world. It exists in both the developing world and the developed world as well. It is stated that environmental problems existed in human societies as early as the first century B.C when the drinking waters of Rome were reported to be polluted (Ruff, 1993).

Environmental problems can be classified here into two-fold characteristics, substantive and procedural which he asserts influences the range of solutions as well as planning and management strategies (Olokesusi, 1987). Substantive environmental problems according to this scholar, (Olokesusi, *ibid*) relate to the intrinsic nature of the environmental system which have linkages with land, the intensity of its usage, demographic characteristics and socio-economic variables, which each have impacts on the environment. Consequently, these impacts determined the nature and intensity of environmental degradation.

A number of factors could be summarized here as the characteristics of the Nigerian environmental problems. These mostly include the consequences of rapid urbanization and industrialization which led to increased demand for variety of goods and services, resulting to construction of roads, houses and industrial buildings (which in one way or the other) has led to environmental problems. It is not uncommon to notice that many industries in the industrial areas of Lagos such as Apapa, Ilupeju, Ikeja and some other industrial areas in Nigeria, discharge their chemical wastes without the standard pre-treatment which could negate their effects in the environment.

As part of the characteristics of environmental problem, Cointreau, (1982) observed that, in most Nigerian cities, collection and disposal of refuse is usually more frequent and efficient in Government Reservation Areas (GRAs) and in other affluent neighbourhoods than in poor neighbourhoods. This observation cannot be far from the truth. The residents of this neighbourhoods like those in Victoria Island, Lekki Peninsula, Ikoyi and so forth in Lagos State of Nigeria for instance, are inhabited by very wealthy and with heavy weights political connections in the government and as such they use their influences to ensure that, their environments are kept as free as possible from refuses.

Most Nigerians who worked in petroleum industries and other similar hazardous industries are unaware of the environmental effects the chemicals that they are subjected to. Even when they are aware, they hardly have the thought of leaving these places because of fear of unemployment, while they are not really knowledgeable of the extent of the hazards they suffer due to their nature of illiteracy as well.

Olokesusi (1987) considers procedural environmental characteristics as the ways and means which environmental problems are tackled, planned and managed. We are again going to summarize the major lapses involved in the management of environmental problems.

The three levels of government in Nigeria lack an integrated approach to deal with environmental problems within its environment. Part of these lapses could be due to the difficulty in predicting (with some level of precision) the environmental impacts in different areas. Olokesusi (1987) once pointed out that, too many agencies are involved in environmental management. For instance, in Ibadan, the Oyo State capital, Solid Waste disposal is handled by State Waste Disposal Board, the Sanitary Inspection Division of the Ministry of Health, the Oyo State Environmental Task-Force, and not less than ten (10) certified waste disposal contractors as well as numerous uncertified contractors. Obviously, considering this type of complex situation, it will be difficult to have an effective, integrated and efficient environmental management.

At another level, the use of inappropriate technological measures also constitutes environmental problems. For instance, as Cointreau (1982) made observation in Onitsha, one of the metropolitan cities in Nigeria, that apart from the irregular collection of solid waste and refuse particularly from the poor neighbourhoods, the trucks meant for evacuating these wastes are inadequate and epileptic in nature. Although, some efforts have been made in the passage of few legislations to control environmental pollution in all areas of life, but unfortunately many if not all the passed legislations are either not enforced or are poorly enforced.

In view of the Nigerian government's recognition of the damaging effects of the environment through floods, droughts, forest fires, technological accidents such as oil spills, industrial chemical effluents, dumping of toxic wastes and contamination of rivers, lakes, soil, air and other forms of pollutions of the

environment. Consequently, the Nigerian government enacted various environmental policies between the 1930s and the 1990s. The table below shows the various enactments of the Nigerian government concerning its environment within the stated periods.

Table 1: Environmental Policies Enacted between 1930s and 1990s.

S/N	Policy	Year of enactment
1	The Forestry Ordinance	1937
2	The Eastern Region Forest Law	1955
3	The Oil Pipeline Act	1958
4	The Wild Animals Preservation Law (Western Region)	1959
5	The Forestry Ordinance with Amendment (Northern Nigeria)	1960
6	The Wild Animals Law (Northern Region)	1963
7	The Wild Animals Law (Eastern Region)	1965
8	The Forestry Amendment Edict (Western State)	1969
9	The Petroleum Drilling and Production Act	1969
10	The Sea Fisheries Decree	1971
11	The Sea Fisheries Regulation	1972
12	The Wild Animals Preservation (Law, Lagos State)	1972
13	The Forestry Amendment Edict (Western State)	1973
14	The Wild Animals Law Amendment Edict(North-Eastern State)	1975
15	The Wild Animals Law Amendment Edict (Kano State)	1978
16	Exclusive Economic Zone Decree	1978
17	The Kanji Lake National Park Decree	1979
18	The Endangered Species Decree	1985
18	National Conservation Strategy for Nigeria	1986
20	The Natural Resources Conservation Council Decree	1989
21	Federal Environmental Protection Decree	1989
22	National Parks Decree	1991

Source: Cited from Robert Dibia (2000) Understanding Public Policy in Nigeria: A Twenty-First Century Approach. Lagos: Nigeria, Mbeyi and Associates (Nig) Ltd. P. 133

There is no doubt that the Nigerian government during the pre and post independence era, have attempted to enact various environmental policies geared towards the regulation and control of the activities of both the public and private sectors, such as

pollution disposal of hazardous and toxic wastes which affects the health of the people directly and indirectly. The passage of these laws clearly show that, the government has been serious in the protection, conservation and safety of important natural resources

including plants, animals and other living things in the river, seas and oceans.

Again, the seriousness in the enactment of these laws has been clearly demonstrated by the passage of many other laws such as the Minerals Act of 1958, Mineral Oil (Safety) Regulations 1963, Oil in Navigable waters act of 1968, Endangered Species Act 1990, Quarries Act 1990, Sea Fisheries Act Cap of 1990. The creation of the Environmental Protection Agency (EPA) by Decree 58 of 1988 as an overall agency with the responsibility of protecting the Nigerian environment, further demonstrate the seriousness of the Nigerian government. However, it is clear that effectiveness of all these laws is in doubt due to poor implementation strategies and other logistic problems which may be numerous.

### **Consequences of environmental degradation in Nigeria**

Environmental degradation connotes the deterioration of the physical environment through the activities of man by the displacement of natural landmarks and the introduction of pollutants, which in turn foul

the air, water and land; thereby endangering the life of organisms including human lives.

Much literature have emanated on the consequences of environmental problems particularly as they affect the Niger Delta region of Nigeria due to the activities of oil exploration and exploitation. Odogbor (2005) enumerated the effects of oil spillages and industrial wastages on the cultural, religious, economic and political live of the people. He then pointed out the serious negative implications these effects have had on the people on all the spheres of lives of the people in the affected communities in Nigeria.

On the other hand, another scholar (Maduka, 1998) catalogued major environmental problems affecting the Niger Delta region in particular. See Table 2 where a compendium of major environmental problems cut across the entire natural environment, livelihood, aspiration and the entire socio-economic spectrum of the Niger Delta region of Nigeria. These damages can hardly be quantified in Naira and kobo and the impacts are of very serious consequences. The situation as of today may likely remain the same or even worse.

Table 2: Ranking of Major Environmental Problems, Social Issues and Priorities.

Problem Type	Problem Subset	Priority Ranking
Natural Environment	Coastal/River bank erosion	Moderately High
	Flooding	Moderate
	Sedimentation/Silt	Low
	Substance	Low
	Exotic (Water Hyacinth)	High
Development Related	Land Degradation/Soil Fertility Loss	High
	Agricultural Decline/Shortened Fallow	High
	Delta Forest (Mangroves)	High
	Bio-diversity Depletion	High
	Fisheries Decline	High
	Oil Spillage	Moderate
	Gas Flaring	Moderate
	Sewage and Waste Water	High
	Other Chemicals	Moderate
Socio-Economic Problems	Poverty	High
	Unemployment	High
	Communities-Oil Company Conflict	High
	Inter-Community Conflicts	High
	Intra-Community Conflicts	Moderate
	Conflicts over Land	High
	Inadequate Compensation	High
	Displacements	Moderate
	Decay in Societal Values	High
	Poor Transportation/High cost of Fuel	High
	Housing Pressure/Infrastructure Decay/Crime	High

Source: W.O.Maduka (1998) "Evolving Vibrant Communities for Development". In the Proceeding of International Seminar on the Petroleum Industry, Abuja, Pp907-925

To further strengthen the fact that the Nigerian government had made enormous progress in enacting environmental laws to protect the general environment of the Nigerian State, we

provide herewith on our table 3 such laws as it relate to environmental issues as enacted particularly in the ninety nine tees (1990s).

Table 3: Listed Laws Relevant to Environmental Issues in Nigeria.

S/No	Environmental Laws	Year Enacted
1	Oil in Navigable Waters Act CAP 337 LFN	1990
2	Harmful Wastes (Special Criminal Provisions) Act CAP 165 LFN	1990
3	Oil Pipelines Act CAP 338 LFN	1990
4	Minerals Act CAP 226 LFN	1990
5	Hides and Skin Act CAP 167 LFN	1990
6	Hydrocarbon Oil Refineries Act CAP 170 LFN	1990
7	Builders Registration etc Act	-
8	Federal Environmental Protection Agency Act CAP 131 LFN	1990
9	Federal Environmental Protection Agency (FEPA) Amendment Act CAP 86 LFN	1990
10	Rivers State Governmental Protection Agency (RISEPA) Edict	1994
11	Agricultural (Control of Importation Act CAP 12 LFN	1990
12	River Basin Development Authorities Act CAP 353 LFN	1990
13	Petroleum Act (and its Registration) CAP 353 LFN	1990
14	Public Health Act	-
15	Territorial Waters Act CAP 428 LFN	1990
16	Explosive Act CAP 117 LFN	1990
17	Forestry Law of Lagos State	-
18	Civil Aviation (Fire and Security Measures) Act CAP 78 LFN	1990
19	Associated Gas Re-injection Act CAP 12 LFN	1990
20	Criminal Code Provisions CAP 77	1990
21	Criminal Justice (Miscellaneous Provision Act CAP 78 LFN	1990
22	Wild Animals Preservation Act	-
23	Kainji Lake National Park Act CAP 197 LFN	1990
24	Factories Act CAP- LFN	1990
25	National Atomic Energy Commission Act	-
26	Energy Commission of Nigeria Act	-
27	Land Use Act CAP 226 LFN	1990
28	Mines and Quarries (Control of Building) Act CAP 227 LFN	1990
29	Natural Resources Conservation Act	-
30	Navigable Waterways (Declaration) Act CAP 287 LFN	1990
31	Penal Code Provisions	-
32	Quarantine Acts CAP 384 LFN	1990
33	Quarries Act CAP 385 LFN	1990
34	Tin (Miscellaneous Provision Act CAP 229 LFN	1990
35	Town and Country Planning Law of Lagos State	-
36	Nigerian Urban Regional Planning Decree No. 86	1992
37	Territorial Sea Fisheries Act CAP 426 LFN	1990
38	Sea Fisheries Act CAP 404 LFN	1990
39	Environmental Sanitation Law of Lagos State	-
40	Environmental Sanitation Enforcement Agency Law of Lagos State	-

41	National Parks Decree	1991
42	Endangered Species (Control of International Trade and Traffic Act CAP 108 LFN	1990
43	Building Lines Federal Trunk Roads Act	-
44	Meat Inspection and Sales Act CAP 396 LFN	1990
45	Forestry Law of Rivers State	-

Source: Environmental Rights Action (ERA) Eds. Godwin Uyi Ojo & Jayeoba Gaskiya (2003) Environmental Laws of Nigeria: A Critical Review, Pp. 24-25

A reflection of our table one (1) and three (3) obviously should convince many that, Nigeria's efforts at controlling the environment through all these laws and regulation are commendable indeed. Our next task is to examine what various impacts all these legislations have had on the Nigerian State.

#### **Impact of environmental policies on the Nigerian State**

Sequel to the dumping of toxic wastes in Koko in the former Bendel State in 1987, the Nigerian government promulgated the Harmful Wastes Decree which was meant to provide the legal framework for the effective control of the disposal of toxic hazardous waste into any environment within the confines of Nigeria. This was immediately followed by the creation of a regulatory body – the Federal Environmental Protection Agency (FEPA) in 1988, charged with the overall responsibility of protecting and developing the Nigerian environment. States and local government councils were also encouraged to establish their own environmental regulatory bodies for the purpose of maintaining good environmental quality as it applied to their particular areas of jurisdiction.

FEPA Decree 58 of 1988 authorizes this agency among other things to establish and prescribe national guidelines, criteria and standards for water quality, air quality and atmospheric protection, noise levels, gaseous emissions and effluent limits etc, to monitor and control hazardous substance, supervise

and enforce compliance. This Decree also gave the Agency broad enforcement powers, even without warrants, to gain entry, inspect, seize and arrest with stiff penalties of a fine or jail term on whosoever obstructs the enforcement in the discharge of their duties or makes false declarations of compliances (Gaiya, 2008).

Apart from the FEPA Decree of 1988, the Federal government through Decree 86 of 1992 promulgated another law on Environmental Impact Assessment (EIA) which aimed at protecting the Nigerian environment by making it compulsory for any project that may have an adverse effects on the environment. It sought to assess the likely or potential environmental impacts of proposed activities, including their direct or indirect cumulative, short-term and long-term effects on the environment (Nwilo & Badejo, 2008).

In addition, the EIA Decree had the responsibility of identifying the measures available to mitigate adverse environmental impacts of proposed activities and assessment of the identified measures. The activities of the EIA are meant to be policed by the Federal Environmental Protection Agencies and by the State environmental protection Agency respectively (ibid).

The pertinent issue or question to ask at this juncture is to assess the extent to which these laws and the relevant agencies have implemented them and to point out some

observable constraints which may hinder their being effectively functional.

Despite the elaborate and comprehensive laws and regulations passed by the government over the years, it is uncertain whether much has been done in terms of implementation and enforcements of these laws by the appropriate agencies. This observation should not be surprising as the Nigerian government is usually good at formulating public policies but grossly fall short when it comes to implementation of such policies.

First and foremost, we consider that it is relevant to examine the goals and principles on which EIA anchors its assessment. In addition, there are procedural framework which has been provided for EIA as follows:

The EIA processes start from the proposal to approval for implementation, resulting in the issuing of an Environmental Impact Statement (EIS) and then the certificate.

It is pertinent to add here that, apart from the aforementioned provisions meant to guard against the pollution and degradation of the Nigerian environment, the Federal Republic of Nigeria's 1999 Constitution - Section 20 clearly states that, "the state shall protect and improve the environment and safeguard the water, air and land forest and wild life of Nigeria" (Federal Republic of Nigeria Constitution 1999).

It is unfortunate to state that the paternalistic attitude of some of the Nigerian Judges towards matters relating to environmental hazards created by the companies have rendered the enforcement of environmental laws ineffective. Some members of the judiciary as noted by Ebeku (2003) have been reluctant to give orders compelling companies whose operations are damaging to the environment to ease the action complained of.

Perhaps, these judges consider the potential loss of income and their investments at the expense of the environmental protection. In addition to this could be the fact that Nigeria's economy depends largely on the sales of crude oil. Whichever is the case, such actions retards the implementation of environmental laws and thereby encouraging relegating these laws to mere "paper tigers".

Between 1990 and 2004 (Osho, 2008) asserted that there have been several oil related cases filed in the Nigerian Courts by affected Nigerians ranging from pollution from oil exploration, loss of incomes, loss of properties, contamination of drinking water leading to water borne diseases etc. few cases need to be mentioned here; Shell Vs. Tiebo Vii, Shell Vs. Isaiah, Seismograph Services Vs. Mark, Ogiale Vs. Shell, Shell Vs. Ambah. In most of these cases and similar ones, the courts are said to have refrained from making on how to remedy the situation of the oil spillage claims, loss of income from fishing and farming, pollution of drinking water and crops, damage to health as a result of water-borne diseases (Ibid). Instead of making orders to address the complaints in terms of damages due to the physical environment of these communities, they settled for compensation of the affected complainants. In this wise, the environmental laws that were meant to protect human beings and other living things are thrown to the dogs. However, hope is not completely lost as it is hoped in some circles that, the judiciary may in future begin to base cases of environmental problems brought to the courts not merely to award monetary compensations without addressing the preservation of a healthy environment (Okorodudu, 1998). This type of thinking could be regarded as a mere speculation of things that may likely or not likely to be. The multinational oil companies who are normally being complained against by oil communities on gas flaring more likely will always win

cases against them on legal grounds as they have a lot of financial capacity to fight their cases instead of obeying environmental laws meant to sanitize the environment.

Given the attitude of the judiciary as discussed above, FEPA (now called Federal Ministry of Environment) has a challenge of translating the laudable provisions of the various environmental acts into effective management of the environment. Experience has shown so far that, infrastructural projects suffers from environmental impact assessment because, approval for such projects are often given before the Environmental Impact Assessment take place (if at all) it takes place (Anago, 2001).

The key defaulters in this exercise are the various levels of government: Federal, State and Local. These levels of government are said to be involved in routinely approving of projects within the mandatory study list before any kind of Impact Assessment is made. The Niger Delta Development Commission (NDDC) decided to dredge Ayetoro Canal prior to any EIA as required by law. In fact, according to our source, it is stated that any EIA reports are actually “post mortem just to fulfill all righteousness” and fence off resistance and complaints from Non-governmental Organizations (NGOs), and the affected communities (Anago, 2001).

Based on this type of attitude, it could safely and certainly be deduced that, EIA reports merely serve to satisfy the needed paper work requirement. To further point out that EIA reports may merely serve to “fulfill all righteousness”, our source further referred us to a particular case where the Federal government awarded a contract for the dredging of Imo River to improve vehicular access to the nation’s only aluminum smelting company at Ikot Abasi in Akwa Ibom State, but some of the affected coastal communities

resisted the projects on the grounds that EIA draft report was unfavourable to them. Unknown to these communities, the final report of EIA got the approval of the Ministry of Environment and so the dredging project commenced despite the resistance of these communities. Worse of all, it is stated the Federal government reused to pay the communities the requested compensation on the grounds that the dredging exercise has the potential economic benefits to the communities (Ibid). Where then does justice, fairness and most importantly the ability of the EIA to be in control of the environment which it is statutorily supposed to be in charge? It simply demonstrates the impotency of EIA on Nigeria’s environment.

#### **Conclusion and recommendations**

We obviously acknowledge that the Nigerian State has taken serious steps to develop effective environmental strategies by enacting various laws and decrees, as well as the necessary procedural guidelines and strategies to ensure that sanity in the Nigerian environment prevails in all aspects of life. Unfortunately, there are many flaws that render the EIA impotent. Ashford (2000:68) in the same vein questioned the effectiveness of environmental policy alone as a stimulus to green innovation, and underlined the importance of other factors needed to generate firm-level technological change. He listed among these factors regulatory requirements including environmental policy, possible cost savings or additions to profits, public demand for a less polluting and safer industry and worker demands and pressures arising from industrial relation concerns. On the other hand, it has been observed that most developing nations including Nigeria rarely focus on the impact of environmental policy on technology responses of firms but rather, the focus is usually on the impact of policy on emission, reduction or pollution abatement.

We believe that it will not be out of place to state that, there are so many regulations with similar responsibilities. There is perhaps the need for a harmonization and clear cut responsibilities among different regulators while of course, FEPA remains the apex regulator. In addition, the administration of all these environmental regulations should be better supported financially and otherwise for effective monitoring and enforcements of environmental laws. Where compliance with the laws is neglected by any of the stakeholders, appropriate sanctions should be meted to such offenders.

Finally, there should be a periodic environmental audits to ensure that there is compliance with environmentally sound practices by way of objective evaluation of how well environmental organization, its management, relevant equipment and related logistics are fairing in their various tasks. Perhaps, by so doing, environmental enactments could be meaningful and effective and not merely existing mostly in theory.

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