

# Environmental Regulations in Nigeria: A Mini Review



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## Introduction

The Report of the Vision 2020 Committee set up to provide a roadmap that will propel Nigeria among the top 20 world economies by 2020 acknowledged that the country is faced with many environmental problems such as the continuous exploitation of marginal lands, drought and desertification in the north, severe gully erosion in eastern and northern states, uncontrolled logging with inherent problems of the destruction of bio-diversity, inappropriate agricultural practices, destruction of watershed, destruction of vast agricultural lands, creation of burrow pits due to bad mining practices and road works, oil pollution from spillage and gas flaring, urban decay and squatter settlements, industrial pollution and municipal waste generation, climate change and ozone depletion among others. The same report noted that these problems have existed for years and have continued to escalate due to rapid expansion of population and continued exploitation of the environment as well as climate change. In response, Nigeria has enacted many rules and regulations; and created many agencies to ensure mitigation of the problem. Yet, the problems still persist. This paper is a short review that examines the reasons for the failure of environmental regulatory agencies in Nigeria.

## Evolution of Environmental Regulations in Nigeria

In response to the environmental problems, Nigeria's government has enacted the following regulations, which are aimed at mitigating impact of these problems: Forestry Act 1958, Antiquities Act 1958, Territorial Waters Decree 1967, Oil in Navigable Waters Decree 1968, Petroleum Decree 1969, Quarries Decree 1969; Sea Fisheries Decree 1971, Land Use Decree 1978, National Environmental Protection (Management of Solid and Hazardous Waste) Regulations 1991, Guidelines and Standards for Environmental Pollution Control in Nigeria 1991, Environmental Impact Assessment Decree 1992, Water Resources Act 101 of 1993, and Minerals and Mining Act 1999. In addition, Nigeria is a signatory to a number of international multilateral conventions, which are related to the environment. Some of these include the following: Convention on Biological

Diversity 1992; Montreal Protocol on Substances that Deplete the Ozone layer; United National Framework Convention on Climate Change (Climate Change Convention) (1992) Stockholm Convention on Persistent Organic Pollutants (POPs) among others Aina [1]. However, environmental regulations in Nigeria came to the forefront following national public outcry as result of illegal dumping of toxic waste in Koko, South west Nigeria by an Italian vessel in 1987. This necessitates the Federal government to create the Federal Environmental Protection Agency (FEPA) in 1988, and subsequently, each of the 36 states of Nigeria was encouraged by FEPA to establish its own environmental protection agency known as State Environmental Protection Agency (SEPA). Each of the state's environmental protection agency enacted their own laws and regulations Adekunle [2].

Since the return of democracy to Nigeria in 1998, there has been a renewed interest in environmental management and protection, which culminated in the establishment of the Federal Ministry of Environment and State Ministries of Environment at the state levels in 1999. The Federal Ministry of Environment is the apex policy organ for all environmental policies in Nigeria. It ensures that all Local, States and Federal agencies as well companies that operate in Nigeria, comply with all extant regulations. The regulations that govern various human activities on the environment are vested on many agencies under the ministry Agabi [3]. The main agencies for the enforcement of environmental regulations are the National Environmental Standards and Regulations Enforcement Agency (NESREA), which was established in 2007 to replace FEPA; and the National Oil Spill Detection and Response Agency (NOSDRA) established in 2009 as a response to heightened agitation to remedy and stop the environmental damage of oil production in the Niger Delta Mabogunje [4].

## Challenges to Environmental Regulations in Nigeria

A significant issue affecting regulation enforcement in Nigeria is the lack of a National database on environmental quality Solomon et al. [5]. The dearth of environmental data

meant that ambient values and minimum acceptable standards as established in the NESREA regulation are mere contraption without any empirical base. Furthermore, even if the values obtained are within permissible limits, it does not translate into measurable impact on human health or the environment. Also, it is impractical in Nigeria to assess the contributions from multiple sources Nerry and Akpofure [6]. The overall consequence of lack of reliable national data on environmental variables is limited understanding as to what policy options are available to lower the direct cost of pollution as indeed the costs from the unintended and foreseen consequences of governmental intervention.

Secondly, there is lack of technical capacity among the staff responsible for the enforcement of the regulations as well as inadequate institutional framework; both legal and administrative, which has made regulatory enforcement in Nigeria inefficient and ineffective Geomatics International Inc. [7]. Furthermore, the inherent nature of the government bureaucracy means that, the staff lacks the incentives to be efficient or effective Federal Ministry of Environment (FME) [8,9]. The regulatory failure associated with lack of capacity is exacerbated by other factors such as inadequate funding. Thirdly, there are as many agencies as there are regulations; and the functions and jurisdictions of the agencies often overlap, leading to conflict between them and confusion in the public as to which agency to respond to, leading ultimately to regulatory failure Nwoko [10]. A further consequence of the overlap is that often some agencies may under-regulate or condone polluting activities to attract more subscribers Prepra [11].

Fourth, the weakness in the institutional set up of environmental regulations leads to corruption and special interest groups often try to use the regulatory process to advance their own economic position. For example, since 1984, the Federal Government continues to exert both regulatory and administrative pressure on oil companies operating in the Niger Delta region to stop the flaring of gas, yet gas flaring continues and polluters appear content to pay the penalty as it is found to be economically viable to do so Hay et al. [12].

In some other cases, "revenue-driven" economic interest may intervene in the political process to structure regulation in ways that deliver benefit to them. For example, most state environmental and public health legislations are more revenue driven than regulating pollution. For example, in the northern state of Kano, where there is a large concentration of tanneries, the State Ministry of Environment allows the tanneries to pollute once they pay the polluter fee Prepra [11].

A major challenge to environmental regulation enforcement in Nigeria is that under the Federal system, the 1999 constitution put environmental issues under the exclusive, concurrent and residual list, which implies that all three tiers of government Federal, State and Local can legislate on pollution in their

domain. The result of this arrangement is that it has never been clear as to what level of inter-governmental relationship exist in environmental matters. Also, it is not clear which tier of government has the responsibility to regulate one aspect of environmental pollution within the constitutional framework of Nigeria. Furthermore, it is not clear what happen where there are conflicts or how it should be resolved. Clearly, to achieve effective and efficient environmental management, a clear and cohesive inter-governmental relationship is required, which is currently vague in Nigeria Nerry and Akpofure [6]. In addition to the structural conflict arising from the vertical structure of the different tiers of government, conflict also arises from horizontal structure of governance, which is more often apparent among ministries charged with responsibilities in the management of Nigeria's environment [13].

### Conclusion

From this narration, it was obvious that environmental benefits arising from existing legal and institutional frameworks for enforcement of regulations are minimal in Nigeria resulting in social and environmental welfare losses. The reasons for such regulatory failure are many as highlighted earlier. However, the foremost among these reasons are the lack of data, capacity of staff and ineffective framework for National enforcement among others. While the acquisition of data if paramount in an environmental management planning, it is also the position of this paper that the various frameworks for environmental monitoring policies in Nigeria needs to be re-assessed; and conflicting policies harmonized and re-strategized in order to have an effective environmental monitoring regulators in the country.

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