

The Role of Nesrea Act 2007 in Ensuring Environmental Awareness and Compliance in Nigeria

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Abstract:*In Nigeria, various environmental laws have been enacted from pre-independence to date as a direct response to tackling environmental degradation in the country. This degradation in the environment has led to unpleasant challenges to economic development of Nigeria and the well-being of its citizenry. Some of these environmental problems /challenges include, but are not limited to, deforestation, desertification, oil spillage, pollution, global warming. The National Environmental Standard and Regulations Enforcement Agency (NESREA) Act 2007 is one of the most recent and effective laws passed by the government of Nigeria to tackle environmental challenges and create awareness on environmental protection. This paper analyzes the role of the NESREA Act 2007 in ensuring Environmental Awareness and compliance in Nigeria; it examines the Mandate and Power, Functions and the Enforcements of Environmental laws in Nigeria. Also it highlights the place of Effective Enforcement Mechanisms, Public Participation, Environmental Education, Cooperation and Partnership with Other Agencies and how they have helped in promoting environmental awareness and compliance. The paper advocates for the strengthening of regulatory institutions to create the adequate framework and mechanisms for monitoring and enforcement of environmental guidelines, laws, standards and regulations.*

Keywords:Environmental Law, Awareness, Compliance, NESREA

Date of Submission: 11-09-2017

Date of acceptance: 29-09-2017

I. Introduction

Nigeria as a nation is faced with a plethora of environmental issues prominent among which includes ensuring sustainable industrial production; preventing and reversing desertification; managing forest, wildlife and natural resources; combating floods and erosion amongst others (M. T. Ladan, 2012).

Human sustenance and livelihoods is most pungently predicated upon the effective exploitation of the natural environment, a situation which exposes to the environment increased threat stemming from unregulated and unsustainable economic activities of man. The need for environmental control arises from the fact that it brings improved health and better living conditions (Adelagan, 2004). Therefore, the instrumentality of Legal mechanisms cannot be overemphasized if any conscious attempt geared towards salvaging the precarious state of our environment vis-a-vis preventing upcoming generations from suffering for present generation's reckless environmental damaging activities (sustainable development). It is within the ambit of the foregoing concern, that this paper attempts an appraisal of the National Environmental Standards and Regulations Enforcement Agency Act of 2007 being the apex environmental law in Nigeria and its role in ensuring environmental awareness and compliance in Nigeria. It provides a background to the evolution of environmental governance in Nigeria that started from the pre-colonial era to the post 1988 era as a consequence of the illegal dumping of toxic waste at Koko community located in present Delta State, Nigeria from Europe, Italy precisely. It explains the mandate, vision, functions, some key activities and programmes of the Agency.

II. 2.0 Brief Overview Of Environmental Laws In Nigeria

The development of Nigerian environmental laws can be divided into two: The pre 1988 era and the post 1988 era (Hakeem Ijaiya, O. T. Joseph, 2014).

2.1 The Pre 1988 Era (Pre-colonial).

During the colonial era, Nigeria was not concerned about the protection of the environment; it was not a priority. Accordingly, there was no policy aimed at preserving and protecting it (Ladan, 2009). The tort of nuisance was more prominent because disputes in environmental law were not viewed as public matters warranting state intervention. The few environmentally related laws that were applicable criminalized activities that could degrade the environment.

One of the laws was the Criminal Code Act of 1916, which prohibited water pollution and air pollution. In 1917, the Public Health Act was enacted. Although, somewhat broad in scope, this Act did not contain provisions of relevance to the regulation of land, air and water pollution. At this time, matters relating to the environment were dealt with in a rudimentary manner, from the view point of environmental sanitation (Otu, 2010).

Following Nigeria's independence in 1960 and the discovery of oil in commercial quantities, laws dealing with the environment obviously became grossly inadequate. This was owing to the fact that most of the provisions on environmental protection were scattered throughout different laws, resulting in ad-hoc response to different needs in different situations. During the decade following independence, the Government criminalized polluting activities, particularly those relating to the discharge of oil in navigable waters and environmental degradation as a result of petroleum activities. The 1970s saw the further development of the Nigeria's environmental regime in response to the individual growth associated with the oil boom. River basin authorities were created and environmental units were established in some government ministries. The laws were, however, typically "knee-jerk" responses to emergency situations.

2.2 Post 1988 Era.

It is pertinent to note that the incidence of dumping toxic and hazardous wastes in Nigeria woke the Federal Government up to confront the problem of environmental abuse. This happened on the 19th September 1987 when Sunday Oyemire Nana, a farmer in Koko, a small village five kilometers from the coast in the former Bendel State of Nigeria, was approached by Gian Franco Raffaelli, an Italian business man who had resided in Nigeria for some 20 years, to dump about 3880 tons of toxic and hazardous waste on behalf of an Italian company. The Italian ship was discovered in May 1988. It was made up principally of polychlorobiphenyls (PCBS).

However, the hostile media reaction that accompanied the discovery propelled the Federal Government of Nigeria to reassess the general state of its environmental regulation. This hastened the creation of Harmful Waste (Special Criminal Provision etc) Decree⁴ and the then Federal Environmental Protection Agency (FEPA). Hence, in December 1988, as part of the emerging coordinated approach to environmental issues, FEPA was established by decree.

The Harmful Waste Act prohibits without lawful authority, the carrying, dumping or depositing of harmful wastes in the air, land or waters of Nigeria. The Federal Environmental Protection Agency (FEPA) protects, restores and preserves the ecosystem of the Federal Republic of Nigeria. The decree 58 of 1988 requires FEPA to establish environmental guidelines and standards for the abatement and control of all forms of pollution (Adelagan, 2004). FEPA also had the power to initiate policy in relation to environmental research and technology and in formulating and implementing policies related to environmental management. In addition, FEPA was given some enforcement powers including the right to inspect facilities and premises, search locations, seize items and arrest people contravening any laws on environmental standards and prosecuting them. The agency was also empowered to initiate specific programmes of environmental protection and establish monitoring stations or networks to locate sources of and dangers associated with pollution. It also has powers to conduct public investigations or enquiries into aspects of pollution.

FEPA (now National Environmental Standards and Regulations Enforcement Agency) is presently the supreme reference authority in environmental matters in Nigeria although state and local government authorities and institutions including their environmental departments are still expected to play their traditional role of maintaining and enforcing standards as well as fixing penalties charges, taxes and incentives to achieve certain environmental goals. With the setting up of FEPA, the State's Environmental Protection Agencies (SEPAS) were set up. These were complemented by the Local Governments (LGAs) Environmental Protection Agencies.

The 1980 and 1990s witnessed the most drastic and systematic development of environmental laws in Nigeria, partly owing to Nigeria's subscription to a number of international conventions and treaties during this period. Legislations on environmental development improved during this period; we had various Nigerian legislations on the environment and some of them are still in operation today.

Other Environmental laws passed in Nigeria include, but are not limited to, the following;

- Environmental Impact Assessment Act. 1992
- Harmful Waste (Special Criminal Provision) Act. 1998
- Oil Pipelines Act. 1956
- Petroleum Act. 1969
- Niger Delta Development Commissions (NDDC) Act.
- Environmental Sanitation Law of Lagos State.

III. National Environmental Standards And Regulations Enforcement Agency (Nesrea) Act 2007

Prior to the Koko incidence in Delta State, in 1987, Nigeria as a nation was not able to manage serious environmental crisis, as there were no institutional arrangements or mechanisms for environmental protection and enforcement of environmental laws and regulations in the country (Benebo, Ngeri, 2011). The Federal Government promulgated the Harmful Waste Decree 42 of 1988 as direct response to the illegal dumping incidence at Koko which facilitated the establishment of the Federal Environmental Protection Agency through Decree 58 of 1988 and 59 (amended) of 1992. The Agency was charged with the overall responsibility for environmental management and protection.

In 1999 the Government wisely decided to merge the Federal Environmental Protection Agency and relevant Departments from other Ministries into a single Federal Ministry of Environment. However, the new Ministry of Environment lacked the necessary laws to enable enforcement. This created a vacuum in the effective oversight of environmental laws, standards and regulations in the country.

To address this gap in line with section 20 of the 1999 Constitution of the Federal Republic of Nigeria, the Federal Government established the National Environmental Standards and Regulations Enforcement Agency, as a parastatal of the Federal Ministry of Environment. The National Environmental Standards and Regulations Enforcement Agency Act 2007 repealed the Federal Environmental Protection Agency Act Cap F 10 LFN 2004.

The Focus of NESREA are:

- To protect the environment
- Enforcement of Laws and Regulations on the Environment.
- Maintaining Environmental Standards.
- To create environmental awareness
- To engage in partnership in the protection of the environment.

3.1 Mandate and Powers of NESREA

Part II of the NESREA Act contains the functions of the Agency. The Agency is authorised to enforce compliance with laws, guidelines, policies and standards of environmental matters. Such standards would include the federal water quality standards and air quality standards. In carrying out its functions, it is to coordinate and liaise with stakeholders within and outside Nigeria on matters of environmental standards, regulations and enforcement. Relevant stakeholders would include the organised private sector, environmental groups at both national and international levels, and other ministries and parastatals. (Muhammed Tawfiq Ladan, 2014)

3.1.1 The Agency has powers to:

- prohibit processes and use of equipment or technology that undermine environmental quality;
- conduct field follow-up of compliance with set standards and take procedures prescribed by law against any violator;
- subject to the provision of the Constitution of the Federal Republic of Nigeria, 1999, and in collaboration with relevant judicial authorities, establish mobile courts to expeditiously dispense
- cases of violation of environmental regulation;

3.2 Functions and Role of NESREA

NESREA has responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology including coordination, and liaison with, relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.

It is empowered to enforce compliance with laws, guidelines, policies and standards on environmental matters, carry out activities necessary for the performance of its functions, prohibits processes and use of equipment or technology that undermine environmental quality, conduct field follow-up of compliance with set standards and take procedures prescribed by law against any violator, conduct public investigations on pollution and the degradation of natural resources, develop environmental monitoring networks and do such other things other than in the oil and gas sector as are necessary for the efficient performance of the functions of the Agency.

3.3 Enforcement Powers of NESREA

NESREA possesses broad enforcement powers for the purpose of enforcing the Act. The Act empowers NESREA to enter and search with a warrant issued by a court any premises including land, vehicle, tent, vessel and floating craft, inland water and other structure which they reasonably believe carries out

activities or stores goods which contravene environmental standards or legislation for the purpose of conducting inspection, searching and taking samples for analysis.

In order to ensure effective compliance, monitoring and enforcement, NESREA has adopted environmental permitting and licensing system; promoting the development of local technologies to aid compliance monitoring and enforcement; pursuing technical assistance to strengthen capacity through exchange of knowledge and experience, and learning of best practices in environmental management from other countries whose policy systems have some similarities with Nigeria.

NESREA is also concerned with the enforcement of the guidelines and legislation on sustainable management of the ecosystem, biodiversity conservation and the development of Nigeria's natural resources.

IV. Role Of Nesrea Act In Ensuring Environmental Awareness And Compliance In Nigeria

The Act setting up NESREA empowers it to come up with modalities on ensuring environmental awareness and compliance in Nigeria. This is achieved through effective enforcement mechanism as championed by NESREA and its sister agencies; some of the techniques and mechanism used in ensuring environmental awareness and compliance includes; effective enforcement mechanism, Public Participation in Environmental Protection and Management, Environmental education, cooperation and Partnership with other inter government Agencies, non-Governmental organization and relevant agencies that are directly or indirectly involved in activities related to the protection of the environment in Nigeria and the global community at large.

4.1 Effective Enforcement Mechanisms

The NESREA Act of 2007 provides for an impressive array of enforcement mechanisms. They include: issuance of permits, licences, certificates for environmental compliance, inspections, searches, seizures, arrests, 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 sanctions for violations, citizen's suits to enforce the statutes in the absence of effective government enforcement.

4.2 Public Participation /Environmental Education

The National Environmental Standards and Regulations Enforcement Agency is involving the Nigerian citizenry in environmental governance, particularly in compliance monitoring and enforcement, by various ways, such as: advisory committees, document reviews, informational meetings, public forums, citizen monitoring, voluntary environmental marshals or corps. (Benebo, Ngeri, 2014)

Provision for public comments on project documents, policy analyses or plans is an important mechanism for soliciting meaningful public input to government decision-making. Seeking public comments on documents and reports promotes ownership and increases the perceived legitimacy of decisions. The Agency invites experts from various sectors to make input during the review of old or preparation of new regulations (Benebo, Ngeri, 2014).

Awareness should be made all around the country, in every state and local government areas about the dangers and the effects of polluting the environment. The Government through the National Orientation Agency should educate people on the importance of keeping a sane environment and the positive effects on the development of the Nigerian economy.

Advertisements should be made via the media to inform people all over the country of the environmental problems prevalent in the country and the ways to mitigate most of the problems. Individuals and communities should also be encouraged to participate in environmental improvements efforts.

Acceptable standards of operation and compliance should be established and published online for the interest of the public and for easy access (Hakeem Ijaiya, O. T. Joseph, 2014).

NESREA should embark on effective Environmental Education to create Environmental awareness and compliance to the provision of the NESREA Act as a means to achieving environmental sustainability in Nigeria. Most environmental degradation is as result of ignorance of the public to the harmful nature of the activities to the environment. Just as ignorance of the use of a product leads to misuse, disuse and abuse, so also ignorance of the environment and all its elements leads to misuse of the delicate elements, disuse of the very beneficial ones and abuse of their intended purpose.

Green Corps Initiative: Use of a voluntary environment corps or "green corps" provides a positive opportunity to involve the citizens in environmental compliance monitoring and enforcement. These are citizens who have volunteered to support the work of government environmental officers. The overall goal of the NESREA Green Corps Initiative is to actively involve the citizenry in environmental governance through volunteers under the guidance of NESREA. The specific objectives of the initiative are to;

- promote environmental volunteerism amongst the citizenry;
- Mobilize the citizenry in solving environmental problems;

- Create environmental awareness at all levels;
- Build partnerships up to the community and grass root levels;
- inculcate environmental discipline and consciousness;
- Empower the citizenry in effective environmental stewardship.

(Benebo, Ngeri, 2014).

4.3 Cooperation and Partnership with Other Agencies

In accordance with the provision of the law setting up NESREA, the agency cooperates with various other organisations, agencies or bodies that in one way or the other share similar goals and aspiration with it.

The Agency in collaboration with state government, has established offices in 17 states of the federation and has zonal offices in all the six (6) geo-political zone of the country. The aim of this collaboration is to help ensure effective implementation of compliance and enforcement programs of the agency.

The Agency, with the support of UNDP came up with the Federal-State Regulatory Dialogue on compliance monitoring and enforcement. This platform provides a forum for participant from the various regulatory agencies at both Federal and State levels to share experience and work in harmony in the implementation of various regulation of the Agency (Benebo JP, Ngeri, 2014). This initiative has gone a long way in promoting compliance and awareness of Environmental protection in Nigeria.

Nigeria via NESREA is cooperating with the international community for effective networking and timely exchange of information and experience on environmental compliance and enforcement issues. Positive results have come from networking with organizations such as the International Network for Environmental Compliance and Enforcement (INECE), Seaport Environmental Security Network (SESN), and the International Criminal Police Organisation (INTERPOL); national agencies such as the United States Environmental Protection Agency (USEPA), United Kingdom Environmental Agency (UK EA), and the Netherlands' Inspectorate of Housing, Spatial Planning and the Environment (VROM); and the European Union's Implementation and Enforcement of Environmental Laws Trans-Frontier (IMPEL TFS). (Benebo, Ngeri, 2014).

V. Conclusion And Recommendations

The National Environmental Standards and Regulations Enforcement Agency is the new institutional mechanism created by the Federal Government of Nigeria to ensure effective environmental governance through compliance monitoring and enforcement of environmental laws, standards and regulations. The Agency ensures that all relevant stakeholders are involved in the implementation of its programmes and activities. Environmental awareness must be comprehensive and encompassing, involving all sectors and stakeholders. Identifying and building synergies amongst agencies/ institutions of the government is necessary. Building partnerships creates and promotes synergies for environmental governance and would, among other things, build capacity among partners, in particular for citizen groups, and improve transparency by providing access to or new information about a particular environmental issue.

Strengthening regulatory institutions is indispensable towards effective monitoring and enforcement of environmental guidelines, laws, standards and regulations consequent upon which the promotion of environmental awareness and compliance and ensuring sustainable development in all sectors is hinged. Lastly, there is also need to strengthen regional and global cooperation in order to share timely experience and information, and to transfer best technology and practices, on environmental compliance monitoring and enforcement.

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Agbazue. "The Role of Nesrea Act 2007 in Ensuring Environmental Awareness and Compliance in Nigeria." *IOSR Journal of Applied Chemistry (IOSR-JAC)* , vol. 10, no. 9, 2017, pp. 32–37.