

APPRAISAL OF THE LEGAL CHALLENGES OF PLASTIC POLLUTION MANAGEMENT IN NIGERIA

BY

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Abstract

Plastic is ubiquitous and its use cannot be overemphasized. It is very useful in packaging, construction, medical and electronic industries. The reason for its prevalence is due to the fact that it possesses very unique characteristics, such as: it is light weight, cheap and durable. Plastic waste has significantly increased due to the increase in production and use and because these wastes are not properly managed, the environment is faced with the problem of pollution from plastics. Nigeria so much depends on plastic for so many things but these wastes are not properly managed after use, they are seen littered everywhere. This has however resulted in serious negative consequences on the environment. The research examined the existing laws regulating plastic waste management and the research addressed the legal challenges of plastic pollution management in Nigeria. The research adopted the doctrinal method of research. The research relied on two major sources of information; the primary and secondary sources of information. The research revealed that Nigeria does not have any national legal framework that addresses the entire lifecycle of plastic in order to tackle the menace of plastic pollution and that the existing laws are inadequate in addressing the plastic waste problem. The study finally concluded that an effective and formidable national legislation is required to tackle the menace of plastic pollution. The researcher therefore recommended the enactment of a legislation for the regulation of plastic pollution and its management in Nigeria as well as the protection of rights of citizens in the process of plastic pollution management in Nigeria.

Keywords: Legal, Challenges, Plastic, Pollution, Management, Nigeria

1.0 Introduction

Plastic pollution management or plastic waste management is very important in solving the global problem of plastic wastes. Proper management of plastic wastes is highly lucrative; it saves the earth and conserves energy, reduces environmental pollution and creates job opportunities.¹ However, the management of plastic pollution is one herculean task that nations including Nigeria have been making efforts to tackle. According to Onwuka and Onyebueke², effective plastic waste management can be achieved through implementing the 3Ps; Policy formulation, Political will and enforcement and putting up a working structure for plastic waste management. There are several challenges that hinders the effective management of plastic pollution in Nigeria. This article aims to unravel these challenges while proffering useful recommendations to tackle the challenges.

2.0 Legal Framework for plastic pollution management in Nigeria

2.1 Constitution of the Federal Republic of Nigeria, 1999³

The Constitution of Federal Republic of Nigeria is the supreme law of the land. Tobi JSC in the case of *AG Federation v AG Abia State*⁴, succinctly described the constitution thus;

“The Constitution of a Nation is the *Fons et origo*, not only of the jurisprudence but also of the legal system of the nation. It is the beginning and the end of the legal system. In Greek

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¹ M Kesri, ‘Study on the Importance of Waste Management to Environment’ [2021] (7) (1) *JARIE*, 636.

² SU Onwuka and OO Onyebueke, ‘Development of Framework for Plastic Waste Management in Enugu Metropolis, Enugu State, Nigeria’ [2020] (VII) (IX) *International Journal of Research and Scientific Innovation (IJRSI)*, 321

³ Hereinafter cited as CFRN 1999.

⁴ [2007] 1 CCLR 104, 170-171

language it is the Alpha and Omega. It is the barometer with which all statutes are measured”.

The Constitution of the Federal Republic of Nigeria 1999 accommodates an important provision that establishes the right to a healthy environment⁵. According to the provision: “state shall protect and improve the environment and safeguard the water, air, land, forest and wildlife of Nigeria”. The state is by this provision under obligation to protect the Nigerian environment. The said Constitution embodies the basis of environmental policy. In construing the meaning of a state according to its usage in the constitution, the interpretation section of the constitution stated thus; ‘State’ when used otherwise than in relation to one of the component parts of the federation, includes government.”⁶ Government by that same section is described to include government of the Federation, or any state, or of Local Government council, or any person who exercises power or authority on its behalf.⁷ This position was reiterated by the Supreme Court Per Uwais, C.J.N.⁸

The import of section 20 is to the effect that environment is seen as a concern which the government must protect. This mandatory obligation placed on the government cannot be enforced by citizen because there is no corresponding legal right on them to enforce such provision in the event of failure to fulfil this obligation. In other words, that provision is deemed not justiciable.⁹ This is because this section which guarantees the protection of the rights of citizens of Nigeria to a healthy and clean environment falls under the fundamental objectives and directive principles of state policy in Chapter 2 of the Nigerian Constitution. The courts have also made pronouncement on this, where it held that courts lack the jurisdiction to enforce any provisions of Chapter II of the constitution.¹⁰ But in other climes like India, environmental issues are treated as constitutional rights.¹¹

Arguments have emerged portraying that the said provision creates room for confusion as to the proper tier of government which the power devolves on to make laws regarding environmental protection and waste management in Nigeria.¹² It has been also interpreted that according to the provisions of section 20, state means the federal government, that is only the Federal government can legislate on issues of the environment.¹³ Differing from this interpretation, Oloworaron¹⁴ argued that the preferred interpretation is the three tiers of the Government.

The Constitution provides for the implementation of treaties to which Nigeria is a party.¹⁵ It however provides that for such treaty to be applicable and enforceable in Nigeria, they must undergo domestication by the legislative arm of the Nigerian government. In other words, international treaties cannot apply directly in Nigeria unless they are ratified and enacted by the National Assembly.¹⁶

Also, according to the fourth schedule to the Constitution of the Federal Republic of Nigeria 1999, the local government is saddled with the responsibility of disposing waste.¹⁷ Thus, in the

⁵ CFRN 1999, Cap C23 LFN 2004, S 20

⁶ CFRN (1999), S 318

⁷ *Ibid.*

⁸ *AG Lagos State v AG Federation & Ors* [2003] 7 MJSC 1, [2003] 1 FWLR (Pt 168) 909.

⁹ S 6(6)(c) CFRN, 1999 (as amended).

¹⁰ *AG Ondo State v AG Federation* [2009] 9 NWLR (Pt 772) 1.

¹¹ Article 48 Indian Constitution 52nd Amendment Act, 1985 in LI Nwokike, ‘Waste Management and the Issue of Sustainable Legal and Institutional Framework Strategies in Nigeria’ [2020] (2) (1) *IJOCLLEP*, 93.

¹² MKC Sridhar *et al*, ‘Waste Management Policy and Implementation in Nigeria’ [2017] (3) (3) *National Journal of Advanced Research*, 31.

¹³ I Ehieghelua, *Environmental Protection Law* (Efunrun/Warri: New Pages Publishing Co 2007).

¹⁴ BA Oloworaron, ‘The Extent of Federal and State Legislative Competence on Environmental Issues in Nigeria’ [2009] (2) *NJPNREL*, 1-31.

¹⁵ 1999 Constitution, S 12.

¹⁶ *Abacha v Fawehinmi* [2000] 6 NWLR (Pt 660) 229.

¹⁷ Paragraph h of the fourth schedule to the CFRN 1999.

*Registered Trustees of Centre for Reform and Public Advocacy v Minister of the FCT*¹⁸, His Lordship, Hon. Justice Bello Kawu reiterated this when he held that by virtue of S.7 (1) and (5) and paragraph 1 (H) of the Fourth schedule of the Constitution of the Federal Republic of Nigeria, the disposal of refuse and the receipt of payments for same in the FCT, Abuja is vested upon the Abuja Municipal Area Council. The court went further to state that the defendant lacks the vires to engage in municipal refuse disposal award of contracts for refuse disposal and payment of same to any company, individual or organization or entity by whatsoever name within the said FCT, Abuja. The court therefore restrained the defendants from awarding contracts for refuse disposal and making payments for same to any company, individual or organization.

The constitution is the basis under which other laws emerged on the protection of the environment and waste management in Nigeria.

2.2 National Environmental Standards and Regulation Enforcement Agency (Establishment) Act 2007

This is a principal legislation on environmental protection enacted in 2007. It repealed the Federal Environmental Protection Agency (FEPA) Act.¹⁹ Section 1 of the Act established the National Environmental Standards and Regulation Enforcement Agency (NESREA). The Act empowers the Agency to make regulations for the purpose of protecting public health and promotion of sound environmental sanitation.²⁰ This Act further provides that “ [a] person who violates the provisions of the regulation made pursuant to subsection (1) of this section shall be guilty of an offence and punished under the penalties imposed in the regulations made pursuant thereto”²¹. The law did not make provision for penalties that would be meted out to defaulters rather it simply left it to the regulations.

Section 7 of the Act provides for the functions of the Agency which includes; Enforce compliance with environmental matters, laws, guidelines, policies and standards²²; Coordinate and partner with relevant stakeholders, within and outside Nigeria, on matters of environmental standards, regulations and implementation²³ and ensure compliance with the provisions of International agreements, protocols, conventions and treaties on the environment, which includes among other things, pollution and sanitation.²⁴ The Act empowers the Agency to ensure proper enforcement and compliance of waste management and environmental sanitation laws, guidelines, policies and standards in Nigeria and other international treaties to which Nigeria has ratified. For instance, the Basel Convention on Transboundary Movement of Hazardous wastes and other wastes²⁵ and its amendments.

2.3 National Environmental (Sanitation and Wastes Control) Regulations 2009

This regulation applies to issues of environmental sanitation and all categories of wastes including plastic wastes as provided in the regulation.²⁶ The primary aim of the regulation is to minimise pollution through the adoption or use of sustainable and environmental-friendly policies in environmental sanitation and waste management.²⁷ In order to improve environmental standard, the regulation proscribes or bans any person from littering refuse or wastes indiscriminately. The only

¹⁸ (Unreported) Suit No. FCT/HC/CV/593/2019

¹⁹ NESREA Act 2007, S 36.

²⁰ NESREA Act 2007, S 25(1).

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ 1989

²⁶ Regulation 1.

²⁷ Regulation 2.

place legalised for such litters or refuse is designated litter bins.²⁸ In addition, those who own, operate, occupy a property or those who have been vested with the responsibility to care, manage or control premises are under obligation not to allow litters to be released into the environment.²⁹ Car owners or occupant of vehicles are also prohibited from littering on the streets, roads, high ways, public spaces and other undesignated places.³⁰ The aim of the provisions above is to eliminate littering of wastes including plastic wastes.

The regulation prevents unregulated dumping by stating that those who generate waste should engage the services of those licensed to transport and dispose waste in designated waste management facility.³¹ Food vendors are also required to ensure adequate compliance with environmental standard by refraining from littering the premises and are required to collect and dispose all wastes in course of business to a designated collection point.³² Industries are to provide receptacles for recyclable materials in appropriate locations accessible to people.³³ They are also to ensure sorting and segregation of solid wastes such as papers, plastics and so on.³⁴ House owners, vehicle owners, tenants should have adequate waste collection bins or receptacle for use, ensure wastes are collected and disposed of and ensure the wastes are properly and neatly packed before disposal.³⁵

The need to ensure proper management of plastic waste prompted the draft of the regulation (minister) in Regulation 18 to ban certain specification of plastic bags in Nigeria like the Plastic bags made of plastic films with a wall thickness of less than 80 micro metres. This regulation makes it criminal and an offence for any person to litter the environment and dispose waste in an unsanitary manner³⁶ and prescribed a fine of ₦20, 000- or six-months imprisonment or both.³⁷

2.4 National environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, S. I. No. 17 of 2011

The aim of this regulation is to prevent and minimise environmental and industrial activities of the domestic and industrial sectors of plastics, rubber and foams. It is aimed at minimising both primary and secondary activities of the domestic and industrial plastic, rubber and foam sector to the environment.³⁸ It is the requirement of this regulation for an environmental impact assessment for new projects or modifications including expansion of an existing one before activities are commenced.³⁹ The regulation further provides that up to date, cost effective, efficient and cleaner production technologies shall be applied by new facilities in the sector for effective environmental protection measures from pollution.⁴⁰

The regulation incorporates the polluter pays principle.⁴¹ It provides that it shall be the responsibility of every facility to collect, treat, transport and dispose of wastes arising from its operations. The facility is also responsible for pollution that arises from its operations and shall be required to indemnify for whatever damages it caused. As a way of achieving this, the regulation

²⁸ Regulation 3.

²⁹ Regulation 3(2).

³⁰ Regulation 3(3).

³¹ Regulation 3(4).

³² Regulation 6 And 7.

³³ Regulation 8.

³⁴ *Ibid.*

³⁵ Regulation 13.

³⁶ Regulation 71.

³⁷ Regulation 94.

³⁸ Regulation 2.

³⁹ Regulation (3) (1) (a).

⁴⁰ Regulation (3) (2).

⁴¹ Regulation 6(2).

provides four ⁴²restitution measures that the facility shall be responsible for, such as; the cost of damage assessment control and clean up, remediation, reclamation, restoration, compensation to affected parties. Recycling of plastic wastes are encouraged.⁴³ This is aimed at managing plastic wastes to prevent environmental pollution. Waste management strategies are encouraged, such as reduce, repair, re-use, recycle and recover. These 5 Rs are measures encouraged to manage wastes and ameliorate the harmful impacts of mismanaged wastes.⁴⁴

Regulation 11 advocates for Extended Producer Responsibility. EPR means the practice in which producers take responsibility for management of the disposal of waste arising from the products. They are required to collect, sort and treat the wastes arising from their products for purposes of recycling and recovery.⁴⁵ Violators of the provision of this regulation are to be faced with the following punishment, such as pecuniary penalty that is a fine which shall not exceed the sum of ₦200, 000 (Two hundred thousand naira) or to six months imprisonment or lesser. Companies that violate are to pay the sum of ₦1, 000,000 (one million naira) and additional ₦50, 000 (Fifty thousand naira) every day the offence subsists.⁴⁶ In 2015, NESREA joined other countries to implement EPR in beverage sector. The EPR was enacted under the Producer Responsibility Organization which aims at promoting clean environment.⁴⁷

2.5 National Environmental (Food, Beverages and Tobacco Sector) Regulation 2009)

The aim of this regulation is to prevent pollution from activities of industries who are into food, beverages and tobacco. It provides thus; “the purpose of these regulations is to prevent and minimise pollution from all operations and ancillary activities of food, beverages and tobacco companies to the Nigerian environment.”⁴⁸ The reason for the adoption of this regulation is the fact that most food are packaged in plastics and other materials. Environmental impact assessment was made compulsory for industries involved in food, beverages, tobacco. The aim is to minimise or prevent impeding or likely negative impact of its operation or to provide measures to arrest such.⁴⁹ The regulation adopts waste management measures such as reuse, recover and recycle and states that they must be ‘strictly enforced’.⁵⁰

As a way of promoting waste management practices, companies are enjoined to collect, treat, transport and dispose of wastes. The regulation incorporates the polluter pays principle stating that companies by way of remedial measures are expected to do the following; bear the cost of damage, assessment, control and clean up, remediation, reclamation or restoration and compensation to affected parties.⁵¹ Plastic wastes are to be recycled according to the regulation.

2.6 National Environmental (Construction sector) Regulations 2010.

The purpose of this regulation is to prevent and minimise pollution from construction, decommissioning and demolition activities to the Nigerian environment.

This regulation mandates operators or facility to submit a site waste management plan for all new construction projects that will require mandatory EIA or such projects that may generate significant waste.⁵² The responsibility to collect, treat, transport and dispose off wastes is vested on

⁴² Regulation 6(3) (a) & (d).

⁴³ Regulation 7.

⁴⁴ *Ibid.*

⁴⁵ Expra, ‘Extended Producer Responsibility at a Glance’ <https://www.expra.eu/uploads/downloads/Expra%20EPR%20paper_march_2016.pdf> accessed 11 September 2021.

⁴⁶ Regulation 55.

⁴⁷ NESREA (2018) World Environmental Conservation Conference 2019.

⁴⁸ Regulation 1.

⁴⁹ Regulation 2(a).

⁵⁰ Regulation 2(5).

⁵¹ Regulation 5.

⁵² Regulation 6.

the operators.⁵³ Punishment is only provided in relation to effluent according to this regulation.⁵⁴ Nothing in those offences stated what happens if solid wastes which encompasses plastic wastes pollutes the environment, whether the operator has committed an offence or what penalty shall be meted out to them.

2.7 National Environmental (Chemicals, Pharmaceuticals, Soap and Detergent Manufacturing Industries) Regulations S.I No. 36 2009

Plastic is relevant in this regulation. The purpose of this regulation is to prevent and minimise pollution from all operations and ancillary activities from the sector in the Nigerian Environment. Regulation 6 (3) states that all recyclable, damaged and disused packaging material such as glass, plastics, metals, paper, wood, nylon and so on shall be recycled.

2.8 National Environmental (Electrical/Electronic Sector) Regulations 2011

The main objective of this regulation is to prevent and minimise pollution from all operations and ancillary activities of the electrical/electronic sector to the Nigerian environment.⁵⁵ The regulations are based on life cycle approach and shall cover all the aspects of the electrical/electronic sector from cradle to grave.⁵⁶ Regulation 8 4 approving best practices states that all damaged and disused equipment including wires, cathode Ray Tubes (CRTs), metals, motors, transformers, plastics etc., shall be amenable for recovery under Extended Producer Responsibility program by NESREA accredited Recyclers in an Environmentally Sound Manner (ESM) and 8 (5) further states that all waste from Electrical Electronic product assembly or manufacturing with hazardous properties shall be clearly labelled and stored separately from the general waste and contained in storage areas that are chemically resistant before disposal in an environmentally sound manner.

2.9 Harmful waste (Special Criminal Provisions etc.) Act⁵⁷

This law prohibits the carrying, depositing and dumping of harmful wastes on land and in territorial waters and matters relating thereto. The enactment of this law originates from the Koko saga; where in June 1988, a dump site for toxic waste originating from Italian industries was discovered at Koko, a village in Nigeria. This is one of the incidences that led to the adoption of Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Other Wastes 1989. The law defines harmful wastes as “any injurious, poisonous, toxic or noxious substances as to subject any person to the risk of death, fatal injury or incurable impairment of physical and mental health.”⁵⁸ From the definition, plastics can be described as harmful wastes because of its negative impact in the environment and human health. Plastics have several toxic constituents among which are phthalates, polyfluorinated chemicals, biphenyl, brominated flare retardants and antimony trioxide which can reach out to have adverse effect to the environment and public health. Reports from China, Nigeria and India indicated that plastic hazardous substances from e-wastes can migrate beyond the processing sites and into the environment.⁵⁹

In describing what depositing or dumping harmful wastes means, the law states as follows;

⁵³ *Ibid*

⁵⁴ Regulation 27.

⁵⁵ Reg 2.

⁵⁶ Reg 3.

⁵⁷ Cap H1 LFN 2004.

⁵⁸ S 15.

⁵⁹ OA Alabi *et al*, ‘Comparative Evaluation of Environmental Contamination and D.N.A Damage Induced by Electronic Wastes in Nigeria and China’ [2012] *Science Total Environ* 423, 62-72 in OA Alabi *et al*, ‘Public and Environmental Health Effects of Plastic Wastes Disposal: A Review’ [2019] (5) (1) *Journal of Toxicology and Risk Assessment*, 2.

“A person shall be deemed to deposit or dump harmful waste under this Act if he deposits or dumps the harmful waste, whether solid, semi-solid or liquid, in such circumstances, or for such period that he may be deemed-

(a) To have abandoned it where it is deposited or dumped; or

(b) To have brought it to the place where it is so deposited or dumped for the purpose of its being disposed or abandoned whether by him or any other person.”⁶⁰

Section 2 of the law outlines the parties to the crime of dumping of toxic or harmful wastes. They are the actual offenders or doers, the one who aids, one who counsels or procures and offenders with common intention. It further states that they are all liable to the same extent.⁶¹

The punishment for the crime under this Act is life imprisonment.⁶² Diplomatic personalities are not exempted from offences committed contrary to the provisions of this Act.

2.10 Environmental Impact Assessment Act⁶³

Environmental Impact Assessment (EIA) is one of the proven tools of facilitation to achieve the goal of environmentally and socially sound and sustainable development. EIA is defined as the assessment of the environmental effects of a project.⁶⁴ This law was enacted as a demonstration of Nigeria’s commitment to Rio Declaration on Environment and Development.⁶⁵ and is aimed at regulating industrialization process having regards to the environment. With this Act, no industrial activity or plan can be executed without prior consideration of the environmental consequences of such a proposed plan /action in form of EIA. It therefore makes it compulsory for an EIA, to be conducted where the project is likely to cause negative impact to the environment. The regulatory body for the EIA administration in Nigeria is the Federal Ministry of Environment. It is also important to state that the Agency referred to in the Act is the National Environmental Standards and Regulations Enforcement Agency since the Federal Environmental Protection Agency is now defunct.

The law clearly states the objectives/goals of the EIA⁶⁶ as follows;

- i. To ascertain the environmental effects of the activities/project to be carried out before embarking on the activity or project
- ii. To promote the implementation of appropriate policy in Federal lands (however acquired) states and local government Areas, consistent with all laws and decision-making processes
- iii. To encourage development procedures for information exchange, notification and consultation.

For a project to be embarked on environmental issues that may arise have to be identified and studied.⁶⁷ This applies to industries when producing plastics or in the recycling of plastics; precautions and preventive measures have to be taken in order not to negatively impact or pollute the environment. In the schedule to the Act, waste treatment and disposal is one of the mandatory study activities. The mandatory study list specified in the schedule to the EIA Act specifies the type of projects which fall within the requirements of the Act. Waste treatment and disposal is for toxic and hazardous wastes, municipal solid waste and municipal sewage. The processes which it listed

⁶⁰ S 1(3).

⁶¹ S 2.

⁶² S 8.

⁶³ Cap E 12 LFN 2004.

⁶⁴ EIA Act Cap E 12 LFN 2004, S 61.

⁶⁵ Principle 17. Rio Declaration on environment and Development is a document that defines principles that regulates the relationship between states and also the relationship between states and their citizens in the area of environment and development.

⁶⁶ EIA Act Cap E 12 LFN 2004, S 1.

⁶⁷ EIA Act Cap E 12 LFN 2004, S 3.

includes construction of wastes treatment and/or disposal facilities, incineration process, engineering sanitary landfilling and construction of recovery/recycling plant.

The law requires a mandatory study to be conducted and mandatory report prepared and submitted to the Agency in accordance with the provisions of the Act.⁶⁸ There is also a requirement of public notice. This is so that the public can also be given the opportunity of commenting on the implication of embarking on the project, that is, the environmental effects⁶⁹. It is displayed for a specific period of time. It is after members of the public have made comments on the proposed project having seen the report that the agency can make their decision. Succinctly put, EIA Act encourages public participation. This was demonstrated by Etche community in Rivers State in the Niger Delta taking a proactive approach towards the protection of their environment in respect of the ill-planned waste management facility for non-hazardous and hazardous wastes tagged integrated waste management facility proposed to be built and operated by Shell Petroleum Development Company in the community between the period of 1999-2006.⁷⁰

The Assessment process before the project is commenced includes⁷¹:

- i. A screening or mandatory study and preparation of screening report. The purpose of the report is to provide information to decision makers which will assist them in putting environmental protection into their decision-making process.
- ii. A mandatory study or assessment by a review panel
- iii. The design and implementation of a follow up program.

The EIA in Nigeria has been criticised due to the fact that reports are not published in other indigenous languages other than English language contrary to what is obtainable in developed countries.⁷²

3.0 Challenges and prospects of Plastic Waste Management

Proper plastic waste management has been a challenge in Nigeria in spite of the efforts by successive governments and private organizations. This is reflected in the common sight of heaps or piles of waste or waste dumps in almost all corners of the nation. This is the current state of things as a result of the following challenges;

3.1 Corruption and lack of proper Governance: Corruption is one of the challenges of waste management in developing countries. Small bribe from an apprehended illegal trash dumper will trump enforcement of official regulations.⁷³

⁶⁸ EIA Act Cap E 12 LFN 2004, S 22.

⁶⁹ EIA Act Cap E 12 LFN 2004, S 7.

⁷⁰ TA Yusuf, 'The Environmental Impact Assessment Practice in Nigeria: The Journey So Far' <<https://www.nigerian.com/the-environmental-impact-assessment-practice-in-nigeria-the-journey-so-far-944/>> accessed 11 November 2021.

⁷¹ EIA Act Cap E 12 LFN 2004, s 15.

⁷² AO Akinsulore and OM Akinsulore, 'Sustainable Development and the Exploitation of Bitumen in Nigeria: Assessing the Environmental Laws Faultline' [2021] (12) (1) *Beijing Law Review* <<https://www.scirp.org/journal/paperinformation.aspx?paperid=107714>> accessed 12 September 2022.

⁷³ Climate Policy Watcher, 'Garbage Challenges in Developing Countries' (23 August 2021) <<https://www.climate-policy-watcher.org/waste-management/garbage-challenges-in-developingcountries.html/>> accessed 21 May 2022.

3.2 Population: The amount of waste generated does not commiserate with the manner of management and proper disposal. Collection of waste is behind the amount of waste generated, hence resulting in waste accumulation. This happens because of the population increase or growth.⁷⁴

3.3 Lack of comprehensive legal framework and effective policy Framework: The laws are lax and incomprehensive as they fail to address the plastic waste crisis. Nigeria has no anti littering law or specific regulation on plastic waste management, though some laws prohibit littering, they are unenforced and appropriate structures are deficient. Waste management legislation where available are scattered, scanty, obsolete and ineffective. It is grossly inefficient and non-enforceable; does not serve as deterrence to the indiscriminate dumping of refuse⁷⁵ Lack of effective policy framework is a challenging issue in managing plastic waste. Nigeria recently adopted National Policy on Plastic Waste Management 2020 and on solid waste management. There are lapses in these policy documents. The National Policy on Plastic Waste Management failed cover international trade (import and export) of plastic waste. The Nigerian Custom Service was not listed as a key stakeholder in the management of plastic waste particularly with respect to the control of the transboundary movement of plastics. Furthermore, Nigerian Maritime and safety Administration Agency was not mentioned as a stakeholder in the fight against the marine plastic litter.

3.4 Lack of political will on the part of the leaders to confront plastic waste management problems: There is no seriousness on the part of the leaders in ensuring proper plastic waste management. A look at the bill prohibiting plastic bag is an example of the unseriousness of the government. The bill is yet to become law

3.5 Funding: The inability of the government to bear cost of waste management in terms of purchasing new waste collection trucks, the limited number of staff, poor vehicle maintenance and limited waste storage containers. Poor funding is detrimental in the fight against improper plastic waste management.

3.6 Dysfunctional and uncoordinated waste management authorities/institutions: This has made cities in Nigeria to be overtaken by open dumps. Overlapping functions and uncoordinated functions of the existing institution.

3.7 Lack of scientific research and formal recycling: The Lack of numeric data on the manufacture, and import of plastic wastes in Nigeria⁷⁶ is a challenge of plastic waste management. However, where a report of data is made, there are inconsistencies in the report about the data on the use of plastic materials in relation to city population, their disposal, collection and recycling methods. The reason for this is because there is lack of proper scientific research.

3.8 Implementation/Enforcement problems: There is weak enforcement of the available enabling laws and regulations. The difficulty in getting police cooperation in terms of arrest for defaulters is a problem that affects proper waste management. The EPR system introduced by NESREA Act has not been strictly enforced.

3.9 Public Apathy/Absence of voluntary compliance: This is a major drawback in the implementation of the plastic waste management laws in Nigeria. The level of public participation in decision making is low. This makes it impossible for citizens to internalize the principle and policies of the laws, there is lack of interest in waste management practices because they lack proper awareness of the impacts of improper plastic waste management. Another reason for citizens being disinterested in proper waste management is due to the fact that the locations of the legal

⁷⁴ RA Alabi and K Wohlmuth, 'The Case of Sustainable Management of Waste in Germany and (Bremen) and practical Lessons for Nigeria and (Lagos)' (A 2019 Policy Report on Sustainable Waste Management by the Institute for World Economics and International Management) 6.

⁷⁵ T Okonkwo, *Environmental Law: Multidisciplinary Approach* (Afrique Environmental Development and Education 2014) 271.

⁷⁶ R Duru et al, 'Challenges and Prospects of Plastic Waste Management in Nigeria' [2019] *Waste Disposal and Sustainable Energy* <https://www.researchgate.net/publication/334810551_challenges_and_prospects_of_plastic_waste_mamgement_in_nigeria> accessed 23 July 2022.

dumpsites/collection centers are distant from their locations. The result of this is dumping of wastes on the streets and in rivers.

3.10 Lack of clear roles and responsibilities among the three tiers of government: there is currently a tussle between the states and the local governments as to which tier is empowered to dispose waste. The Constitution⁷⁷ is clear as to the tier of government with the function to dispose waste but the states have usurped the obligation of the local government and are now awarding contracts to private establishments or political allies to dispose waste.⁷⁸

4.0 Conclusion

Plastic waste provokes environmental crisis threatening human life, marine environment and life in it, wildlife, land and air. This negative impact can be mitigated if there is proper plastic waste management. Plastic waste management therefore ensures that all plastic wastes are collected, transported and disposed in an environmentally safe and sound manner. Plastic waste management requires strict implementation and enforcement of the laws and active institutional frameworks to get its desired results. Nigeria as a country has made efforts to tackle the plastic waste menace, however there is still more to do to attain an enviable height in environmental protection. The study finally concludes one of the hinderance of proper plastic pollution management is the fact that the extant laws do not specifically address plastic pollution management and are fragmented and there is no legal framework that addresses the entire lifecycle of plastics in Nigeria.

8.0 Recommendations

In view of the challenges, Nigeria can adopt the recent plastic waste management strategies in other countries known for actively combating the plastic waste management problems. These countries should be used as a model and circular economy practices can be implemented.

The law is a veritable tool in the fight against this menace of plastic waste. Nigeria can develop a formidable regulatory or legal framework to protect the environment from plastic pollution. In addition, the government can finance projects that encourage environmental sustainability with respect to plastic waste management. Taxes and ban strategies can equally be adopted in the curbing the plastic waste menace.

⁷⁷ Fourth Schedule to the CFRN 1999.

⁷⁸ *Registered Trustees of Centre for Reform and Public Advocacy v Minister of the FCT* (Unreported) Suit No. FCT/HC/CV/593/2019.