

ANAMBRA STATE WASTE MANAGEMENT AUTHORITY LAW: AN ENVIRONMENTAL PROTECTION LAW BEGGING FOR PROPER ENFORCEMENT*

Abstract

This paper critically reviewed the Anambra State Waste Management Authority Law 2015, the extant legislation on waste management in Anambra State, Nigeria, to ascertain its effectiveness or otherwise in driving efficient waste management praxis in the State. This is necessary given the poor state of waste management in the State and the opinion of some scholars that the extant legislation is incompetent. Wastes are littered indiscriminately in the cities, towns and villages. Where there are waste receptacles, they are not evenly distributed amongst the people. Filled receptacles are not regularly evacuated. The problem the paper found is not with the extant legislation as it has provisions geared to securing an efficient waste management practice but rather with weak enforcement, traditional misconceptions about the environment, judicial corruption etc. These obstacles need to be addressed for things to turn around for the better.

Keywords: Enforcement, Wastes, Waste management law, Environmental protection, Anambra State, Nigeria

1. Introduction

Sound waste management is key to securing the environment from pollution and its attendant health and ecological problems. In spite of efforts in this regard in Anambra State, what is on ground does not speak good of the State. Wastes are littered indiscriminately in the cities, towns and villages. Where there are waste receptacles, they are not evenly distributed amongst the people. Filled receptacles are not regularly evacuated. Collected wastes are merely dumped in poorly maintained dump sites. Summarising the situation Okoye wrote that poor municipal waste management is a major environmental problem in Anambra State.¹ He stated further, ‘For several years now, government has been making ineffectual attempt to solve waste management problems in the state....’² In the same vein Okonkwo wrote: ‘Awka, the capital of Anambra State of Nigeria is presently experiencing various forms of waste management problems and is more or less already in a state of visual devastation.’³ Scholars like *Ndubuisi-Okolo, Anekwe and Attah* blamed the shoddy state of waste management in the State on the absence of a robust waste management legislation. They recommended that ‘government should establish stringent legal and regulatory framework that will enhance efficient and appropriate collection and disposal of waste by Anambra State Waste Management Agency.’⁴ These negative comments interrogate the effectiveness of the extant waste management legislation in the State, the Anambra State Waste Management Authority (ASWAMA) Law 2015. This paper is a response to this interrogation. It reviewed the extant legislation, with a view to ascertaining its effectiveness or otherwise for driving an efficient waste management practice in the State. The finding of the paper is that the problem is not with the extant legislation but with extraneous factors such as weak law enforcement, traditional misconceptions about the environment, etc. which must be addressed before the positive effects of the law can be well felt. The paper is composed of six parts. The *Introduction* is the first. The second is *Clarification of Terms*. This part clarifies the key concepts in order to confine the discourse along delineated conceptual confines. The third, *Types of Wastes*, distinguishes the various classes of wastes with their peculiarities as a rationale for adopting waste management systems that are adapted to the different classes of wastes. The fourth reviews the extant legislation with a view to establishing that it sufficiently provides for an efficient waste management regime for the State. The fifth presents the major challenges to the effective implementation of this law, and the sixth is the

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¹ Anthony Okoye, ‘Role of Legal Practitioners in the Environmental Protection of Anambra State: A Wake-up Call’ [2017] (13) (20) *European Scientific Journal*, 251-263.

² *Ibid*, at 253.

³ AU Okonkwo, ‘An effective solid waste management system in Awka, Anambra State, Nigeria: A Proffered Solution of a Well-Articulated Plan of Attributes’ in CA Brebbia and G Passerini and H Itoh, (eds), *Waste Management and the Environment VI*, (Witpress,2014) 293-301 at 293.

⁴ PU *Ndubuisi-Okolo and RI Anekwe and EY Attah*, ‘Waste Management and Sustainable Development in Nigeria: A Study of Anambra State Waste Management Agency’ [2016] (8)(17) *European Journal of Business and Management*, 132-144 at 132

Conclusion and Recommendations. The methodology is doctrinal. Personal interview with the staff of Anambra State Waste Management Authority (ASWAMA) was also engaged by the author.

2. Clarification of Terms

‘Waste’ is defined by the Cambridge Dictionary, as ‘unwanted matter or material of any type, especially what is left after useful substances or parts have been removed.’⁵ It is implied in this definition that the person who left this matter should communicate by some action explicit or implicit that he does not any longer want it before it can be regarded as a waste. Or else it would be difficult to consider any left over a waste since the owner did not communicate that fact. This fact of communication is also implied in the definition given by the First Framework Directive on Waste of the European Union. It defines waste as ‘any substance or object which the holder disposes or is required to dispose of pursuant to the provisions of national law in force’.⁶ By disposing of the unwanted matter the owner declares publicly that the matter is now a waste. This definition brings out another nuance in the definition of waste; the legal dimension by which wasteness of a substance is so declared by law, that is, where a provision of national law requires a person to dispose of something as a waste regardless of his intention. So, in all, a matter can be a waste either by personal discretion or by force of law. This distinction is important in determining the moment a substance becomes a waste. In situations where the law defines when a substance becomes a waste, it becomes so immediately the conditions set by law are met. On the other hand, in the situation where there is no such law, the wasteness of the substance depends solely on the wish of the owner or holder. In the end, whether by law or personal discretion the wasteness of a substance is a relative concept. Something is a waste only in relation to the owner or holder or in relation to the law making it so. The relativity of waste echoes the cliché; waste to one person is treasure to another. This in part underpins the principle of waste treatment, processing and recycling in sustainable development. Section 2 of the ASWAMA law defines ‘waste’ to mean ‘any scrap material, or any effluent or other unwanted surplus substance arising from any process and includes any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spent.’

The phrase ‘requires to be disposed of’ implies that the waste substance could be disposed of by the discretion of the holder or by the prescription of law. This brings the ASWAMA definition in tandem with the foregoing understanding of the term. Suffixing the word ‘management’ to ‘waste’ creates a whole new concept that needs explanation. For Bodog waste management entails a succession of actions involving collecting, transporting, processing, recycling and final elimination of wastes.⁷ Waste management according to Adewole is the collection, keeping, treatment and disposal of wastes in such a way as to render it harmless to human and animal life, the ecology and the environment generally.⁸ *Waste Management Resources Inc* sees waste management as ‘the collection, transportation, disposal or recycling and monitoring of waste.’⁹ Contemporary understanding of waste management, thus, does not consist in merely collecting refuse, transporting and dumping it because doing just that is not consistent with the particular characteristics of different kinds of waste. This could turn to be harmful to humans and the environment. It thus seeks to dispose of wastes in a manner that is not harmful to either human life or environment. It seeks also to turn wastes to beneficial uses. Waste is an inherent part of human existence and development. Anything human beings produce sooner or later becomes waste. It cannot be eliminated from human life. This makes its management a necessity for a healthy environment.

3. Types of Waste

⁵ <<https://dictionary.cambridge.org/dictionary/english/waste>>, accessed 3 February 2019.

⁶ (75/442/EEC) in 1975, <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.468.7274&rep=rep1&type=pdf>> accessed 25 January 2019

⁷ Marinella Bodog, ‘The Concept of Waste Management’, <https://www.researchgate.net/publication/266457080_THE_CONCEPT_OF_WASTE_MANAGEMENT>, accessed 25 January 2019.

⁸ AT Adewole, Waste management towards sustainable development in Nigeria: A Case Study of Lagos State. [2009] (4) (4) *International NGO Journal*, 173-179, at 174.

⁹ ‘Waste Management Resources’, <<http://www.wrfound.org.uk/>> accessed 29 January 2019.

There are no generally accepted types of waste because wastes types vary depending on the basis of the classification. Waste for instance can be classified based on its origin or its chemical composition etc. Classification of waste in this paper is considered from the perspective of environmental protection. Even under this perspective, classifications could vary based on sub-perspectives. Major types of waste include liquid, solid, organic, recyclable and hazardous waste. It must be noted that the distinction of these classes is not water-tight because some of them overlap. For instance, some liquid and solid wastes are also recyclable and hazardous.

Liquid Wastes

Liquid waste is a waste that is in liquid form. It includes sewage, sullage, wastewater, fats, oils or grease (FOG), used oil, and sludge.¹⁰

Solid wastes

This embraces different kinds of solid refuse found in homes, industries and commercial locations. This is further sub-classified into (a) Plastic Wastes. This comprises of plastic bags, containers, chairs, plates, jars, bottles, buckets, etc. Plastic is not biodegradable. Many types of plastics can be recycled; (b) Paper/card. This includes packaging materials, newspapers, cardboards. Papers can easily be recycled; (c) Tins/metals. This class of wastes is composed of metal scraps. Metals can be recycled and reused; (d) Ceramics/glass: This kind of wastes is made up of glass bottles and products. They can also be recycled.

Organic wastes

These are wastes that originate from living organisms. They consist of food waste, yard waste, manure and dead animals. Organic wastes are biodegradable and they produce the gas, methane, as they decompose.

Recyclable waste

Cambridge English Dictionary defines 'to recycle' as 'to sort and collect rubbish in order to treat it and produce useful materials that can be used again' from it.¹¹ A recyclable waste is a kind of waste that can be treated and converted to another use. Such wastes include plastics, metals and glass. Recycling is one of the internationally recognized strategies in waste management for sustainable development.¹²

Hazardous waste

The Basel Convention on the Control of Transboundary Movement of Hazardous Waste and their Disposal defines hazardous waste as: (a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and (b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit. Categories of waste in Annex I include waste streams composed of *inter alia* substances like clinical wastes from medical care in hospitals and medical centers and clinics. The other category of waste in Annex I is wastes having *inter alia* as constituents compounds of zinc, arsenic, selenium, cadmium, mercury and lead. Other such constituents include asbestos (dust and fibres) and inorganic cyanides. Hazardous characteristics outlined in Annex III include explosivity, flammability, spontaneous combustibility and toxicity. Nigeria is a signatory to the Basel Convention. The ASWAMA law defines hazardous waste in section 2 to mean any waste possessing the following qualities: (a) a liquid waste which has a flash point of less than or equal to 140 degrees F (60 degrees C) as determined by an approved test method; (b) a non-liquid waste which, under standard conditions, is capable of causing a fire through friction, absorption of moisture or a spontaneous chemical change and when ignited, turns vigorously and persistently and causes hazard; (c) an ignitable compressed gas or oxidizer; (d) waste which may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored or disposed of, or otherwise mismanaged; or (e) waste which may cause or contribute to an increase in mortality, or an increase in irreversible or incapacitating illness.

¹⁰ Waste Disposal Inc, 'What is liquid Waste' < <https://www.ewastedisposal.net/liquid-waste/>> accessed 15 February 2019.

¹¹ <<https://dictionary.cambridge.org/dictionary/english/recycle>>, accessed 10 February 2019.

¹²University of Exeter, 'Waste Management Strategy 2016-2021', <https://www.exeter.ac.uk/media/universityofexeter/campuservices/sustainability/Waste_and_Recycling_Strategy_2016_17.pdf> accessed 10 February 2019.

4. Anambra State Waste Management Authority (ASWAMA) Law

The extant legislation on waste management and related matters in Anambra State is the Anambra State Waste Management Authority (ASWAMA) Law 2015, which repeals the ASWAMA law 2011. One reason for repealing the ASWAMA law 2011 was to enact in its stead a law that is in consonance with sustainable development in the field of waste management. This it did by introducing into the extant law ideas of waste treatment, processing and recycling which were absent in the 2011 law. It is a 54- section law, apparently grouped into 8 parts and with three schedules. Actually it has only 6 parts. There are no parts 4 and 5. The 2011 law has only 31 sections and two schedules. It is not divided in parts.

Establishment of Anambra Waste Management Authority (ASWAMA)

The Law creates ASWAMA (hereinafter referred to also as ‘the Authority’) in section 3 as a body corporate charged with enforcement of the law. The law also created offices for the administration of the Authority. These include the Governing Board (hereinafter referred to as Board) and the Managing Director. The Board is made responsible for the day to day administration of the Authority.¹³ It is composed of the Chairman appointed by the Governor and of other members appointed in accordance with the ASWAMA law, amongst whom is the Managing Director.¹⁴ The Managing Director is equally appointed by the Governor and he is the Chief Executive Officer of the Authority.¹⁵ He is responsible for the execution of the policies of the Authorities and for the day to day administration of the affairs of the Authority in accordance with the provision of the ASWAMA law.¹⁶ Incidentally this function of being in charge of the day to day running of the Authority is shared with the Board. It is submitted that making the Board and the Managing Director to be responsible for the day to day administration of the Authority is conflictual as it creates the incongruous situation of two captains manning a ship. Day to day administration of a corporation normally falls on the shoulders of the Chief Executive Officer who, in this case, is the Managing Director.

Functions of ASWAMA

Functions of the Authority are specified in section 6. Section 6(1) gives 26 functions for the authority which are numbered (a) to (z). They include to collect, remove, process, treat and safely dispose of domestic, hospital, commercial, institutional and industrial waste (6(1) (a)). The authority is also to recycle waste (6(1) (b)) and design blueprints for establishment of sewage disposal systems and clearing of sewage ((6(1) (c)). It is also the function of the Authority to advise and make recommendation to the State Ministry of Environment for improvements in collection, removal, processing, treatment and safe disposal of wastes ((6(1) (d)). It belongs to the authority to clean streets ((6(1)(e)); and remove and dispose of carcass of dead animals from public places (6(1)(f)) together with monitoring the clearing, cleaning and maintenance of drainage facilities within the State (6(1)(g)) as well as designing, operating and maintaining waste disposal facilities(6(1)(h)). Also the authority has to prepare and update from time to time master plans for waste collection and disposal in the cities, towns and villages within the State and the control of the resultant waste systems within the State(6(1)(i)). The functions include promoting, encouraging and fostering the maintenance of clean and healthy environment in the State (6(1) (j)) as well as removing and disposing of any vehicles abandoned or cannibalized on any highway (6(1) (k)). The Authority should control and supervise night soil services in respect of places where bucket or pit latrines are in use (6(1) (l)) and establish, maintain and clean public conveniences ((6(1) (m)) together with carrying out inspection of each building and premises for purpose of ensuring that sanitary conditions are maintained in such buildings and premises (6(1) (n)). It is also the duty of the Authority to apprehend any person selling goods or any articles of trade in places not authorized for that purpose and seizing all such good or articles of trade for eventual disposal in such manner as the Authority may deem fit (6(1)(o)). The Authority should equally develop and maintain open spaces (6(1)(p)) and make provisions for waste management services to State agencies, local governments, industries, business entities and private persons within the State by receiving waste at the Authority’s facilities pursuant to agreements between the Authority and such other parties(6(1)(q)). It is also part of the functions of the

¹³ ASWAMAL 2015, s. 4(1)

¹⁴ Ibid., s. 4(2)

¹⁵ Ibid., s. 9(1)

¹⁶ Ibid., s. 9(2)

Authority to control pests (6(1) (r)) and approve and monitor all waste disposal systems in the State (6(1) (s)) as well as issuing, renewing and revoking licenses of Private Waste Collectors (6(1) (t)). The Authority shall prescribe the sizes, shapes and makes of dustbins or refuse bins to be kept in residential buildings, hackney carriages and stage carriages (6(1)(u)) and provide necessary procedure to be followed in refuse disposal (6(1)(v)). The functions embrace providing, subject to such conditions as it deems fit, the location and use of private refuse disposal systems (6(1) (w)). In consultation with the Board, the Authority shall prepare long term plans in relation to its functions and duties (6(1) (x)). It shall also conduct research in relation to refuse collection and disposal systems (6(1) (y)) and do also such acts as appear to it to be required or convenient for the proper discharge of its functions under this law (6(1) (z)). These are very broad functions geared to securing for the State environmentally friendly waste management. Unlike the 2011 ASWAMA law which did not include in the functions of ASWAMA functions related to waste treatment, processing or recycling, the extant legislation includes them. It did this based on its appreciation of the different kinds of wastes and the need to handle them in ways that respond to their characteristic features.

Powers of ASWAMA

The Authority is given a wide range of powers in order to successfully discharge its functions. These powers are provided in section 7 and they are numbered (a) to (x). They include powers to employ such staff as it may consider necessary for the purpose of carrying out its functions under this law (7(1)(a)) as well as the power to determine the fees payable for issuance and renewal of licenses to Private Waste Collectors (7(1)(d)). They include also power to acquire any land for the purpose of planning, designing, transferring, managing, constructing, operating and maintaining waste disposal and processing facilities in accordance with the Land Use Act (7(1)(j)). The Authority can establish advisory bodies composed of administrative, technical or other experts in such environmental areas as the Authority may consider useful and appropriate to assist it in carrying out the purposes of this law (7(1)(t)). It also has the power to make with the approval of the Governor other subsidiary legislations for the purposes of this law (7(1)(v)) and fix the Charges and Tariffs for collection and removal of wastes and refuse which may vary from area to area and make other direct charges on users for services rendered where such circumstances may arise (7(1)(w)).

Obligations, Offences and Penalties under the ASWAMA Law

Part III of the law is titled *Sanitation Obligations, Offences and Penalties* and it runs from section 11 to 29. The heading of this Part is somewhat misleading as it creates the impression that perhaps while the offences are backed up with sanctions, the obligations are not and so are mere moral obligations. But in fact the law attaches sanctions to all the obligations, prohibition or offences in this Part. The only difference is that while some offences have sanctions attached to them particularly, all the others have penalties attached to them collectively. This collective penalty is provided in section 29. Those that have penalties attached to them particularly include having an undeveloped plot in a built up area that is not clean, tidy and free from grown grasses (s.16), and disposing of industrial, commercial, liquid waste, oil, grease and spent oil without first causing it to be treated or purified (s. 17). Amongst those that have their penalty collectively stipulated are burning or causing to be burnt in any premises waste of any description (s. 12), dumping of waste in an unauthorized place (s. 13) and vehicle used for conveying waste not being covered in such a way that its content do not litter the highway or any road in the State (s.14). Section 29(1) states: ‘any person who contravenes any of the provisions of this law or any regulations made under this law for which no penalty is provided shall be liable on summary conviction to a fine of not less than N5,000.00 (five thousand Naira).’ Section 29(2) provides further: ‘where the offender is a company or firm other than a private waste collector, the company or firm shall be liable on summary conviction to a fine of N20,000.00 (Twenty thousand Naira).

Establishment of the Environmental Sanitation Court

The desire and commitment of the State legislature to improving the environment in the State through establishing an effective waste management regime is manifest in the establishment of the Environmental Sanitation Court. This is a special court dedicated to determining offences under the law. It helps in developing environmental jurisprudence and justice, and also guarantees speed in the determination of matters concerning environmental

sanitation in the State. It is a known fact that a major impediment to the enforcement of legislations is the long duration of the judicial process. The Environmental Sanitation Court avoids this problem for the ASWAMA law. The establishment has its constitutional roots in the right of a State pursuant to section 6(5)(k) of the 1999 Constitution of the Federal Republic (as amended) to establish such other courts as may be authorized by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws. Waste management being neither in the Exclusive Legislative List nor in the Concurrent Legislative List is a residual matter over which only the State enjoys legislative competence.¹⁷ With respect to the repealed ASWAMA law 2011, the establishment of the Environmental Sanitation Court is a leap forward. Though the 2011 ASWAMA law provided for special court for handling offences under it, it did not contemplate Environmental Sanitation Court. It only provided for Sanitation Court. This is not surprising because the functions of ASWAMA under the 2011 law was limited to the traditional sanitation services of sweeping the streets, collecting, evacuating and dumping of refuse in designated places. Unlike the 2015 ASWAMA law, the vision of the 2011 law did not cover the environment as a subject for protection. Hence under it ASWAMA had no functions related to activities that holistically secure the environment such as waste treatment, processing and recycling.¹⁸ Due to the fact that the 2015 law covers these wide spheres of environmental protection, the special court established is named Environmental Sanitation Court and not just Sanitation Court like the 2011 law.

The 2015 ASWAMA law in section 30(1) establishes for the State a Court to be known as the Environmental Sanitation Court. The law authorizes the Chief Judge of the State to designate within each senatorial Zone in the State any number of Magistrate Courts as Environmental Sanitation court.¹⁹ The competence of the Court is to hear and determine any charge brought against any person for the commission of any offence created by or under the ASWAMA law²⁰ or to hear and determine other matters pertaining to sanitation in relation to which jurisdiction is conferred on him by this or any other law.²¹ Pursuant to section 31(1) of the law, the Environmental Sanitation Court enjoys exclusive and original jurisdiction over all matters specified under the law. To guarantee speed the law makes all offences under the law quasi-criminal offences and thus shall be summarily prosecuted.²² This is another novelty of the 2015 law in contrast with the 2011 law. Appeal from the decision of the Sanitation Court shall lie to the High Court of the State.²³ In fact the 2011 law did not, *stricto sensu* (strictly speaking), create a Sanitation Court when compared with the 2015 law. What it did was to empower the Chief Judge of the State to designate a Magistrate or Magistrates as the case may be for each magisterial district to hear and determine any charge brought against any person for the commission by that person of an offence created by or under the 2011 law.²⁴ The Magistrate(s) designate was also to hear other matters pertaining to sanitation in relation to which jurisdiction was conferred on him or on a sanitation court by the 2011 law or any other enactment.²⁵ The 2011 law did not create a sanitation court, so the reference to jurisdiction conferred on magistrate(s) designate by a sanitation court created by the 2011 law is misleading. The author did not find any other enactment that created a sanitation court in the State.

The foregoing demonstrates that the extant ASWAMA law is sufficiently robust to midwife an effective waste management practice in Anambra State. The question then is what are the causes of the poor state of waste management in the State? This we look at next.

5. Problems Militating against ASWAMA under the 2015 Law

Many problems confront ASWAMA in administering the extant ASWAMA Law and attention is here paid to the major ones.

¹⁷ Min of Justice & Attr-Gen Fed v Attr Gen Lagos State, SC. 340/201

¹⁸ Cfr. ASWAMAL 2011, s. 6(1).

¹⁹ ASWAMAL 2015, s. 30(2).

²⁰ *Ibid.*, s. 30(2)(a).

²¹ *Ibid.*, s. 30(2)(b).

²² *Ibid.*, s. 33.

²³ *Ibid.*, s. 37.

²⁴ ASWAMAL 2011, s. 21(a).

²⁵ *Ibid.*, s. 21(b).

Illegal Usurpation of the Functions of ASWAMA by the State Ministry of Environment

This is the cause of the poor state of waste management in the State. The State Ministry of Environment has illegally usurped a great chunk of the functions of ASWAMA under the argument that ASWAMA is a child of the Ministry. The Ministry has undertaken the waste management business of ASWAMA by reserving to itself the power to enter into contract with private waste collectors and collect fees from them for their engagement. It does this in the cities such as Onitsha, Nnewi, Ihiala, Ekwuolobia and their environs. The only city left out is the capital city of Awka and its environs which are left for ASWAMA to manage. In this way the Ministry controls waste management in well over 95 per cent of the State. A big problem with this state of affairs is that the Ministry of Environment is not known to law for the purposes of waste management in the State and so it cannot legally enforce any agreement with these contractors for lack of *locus standi*. The contractors know this very well and exploit the situation to the detriment of proper waste management by doing their work without regard to standards. Considering how the present state of affairs has illegally sideline ASWAMA from its statutory functions and competences, Okoye noted that ASWAMA has been turned to AWAMA (Awka Waste Management Authority).²⁶ He wrote further: 'Government in several occasions has restricted Anambra State Waste Management (ASWAMA) to function only in Awka thereby making it Awka Waste Management Authority (AWAMA).'²⁷

The argument of the Ministry of Environment that ASWAMA is its child, meaning that it was created by the Ministry of Environment and by that token it could usurp the functions of the Authority, is legally untenable. In the first place, ASWAMA is a child of law being that it was created by the ASWAMA law as a body corporate,²⁸ which means that it was made to exist and operate independent of any other body or office and with distinct functions and capabilities including the power to sue and be sued in its corporate name.²⁹ It is precisely for this that the ASWAMA law equipped it with its own administration. As a body corporate the law provides that it shall be manned by the Managing Director appointed by the Governor and he shall be the Chief Executive Officer of the Authority.³⁰ The Managing Director shall be responsible for the execution of the policies of the Authority and for the day to day administration of its affairs in accordance with the provision of this Law.³¹

It is usual that a parastatal like the ASWAMA could be assigned to a Ministry of government as its supervising ministry. But such is usually specified by the enabling law. For instance, the Federal Ministry of Environment is made the supervising Ministry for the National Environmental Standards and Regulations Enforcement Agency (NESREA) by the NESREA Act giving the minister in charge of Environment some powers over the NESREA.³² No such powers are given by the ASWAMA law to the State Ministry of Environment. The only statutory relationship between ASWAMA and the State Ministry of Environment is that the Honorable Commissioner for Environment is made a member of the Governing Board of ASWAMA.³³ It would, therefore, be incongruous for the Honourable Commissioner for Environment, as the head of the Ministry of Environment, to turn around and take over the functions and powers of a parastatal whose Governing Board he is a member. Consequently, the usurpation of the functions of ASWAMA by the State Ministry of Environment is illegal. This has greatly crippled the Authority in discharging its statutory functions in the State.

From the letters of the law it can be argued that the Authority is directly under the supervisory oversight of the Governor given the fact that the law assigns to the Governor certain powers that otherwise belong to a supervising Ministry. For instance, under the NESREA Act, the NESREA is to submit its annual report to the Federal

²⁶ Anthony Okoye, 'Role of Legal Practitioners...', at 254.

²⁷ Ibid.

²⁸ ASWAMAL 2015, s. 3(1).

²⁹ Ibid, s. 3(2) (b).

³⁰ Ibid, s. 9(1).

³¹ Ibid, s. 9(2).

³² NESREA Act, s.33 - The power to give directives to NESREA by the Minister; s. 34- power to make regulations for NESREA by the Minister.

³³ ASWAMAL 2015, s. 4(2) (g).

Executive Council through the Minister for Environment.³⁴ Under the extant ASWAMA Law, the ASWAMA is to submit its annual reports to the Governor.³⁵ Under the NESREA Act, the Minister for Environment is empowered to make regulations for the agency³⁶ whereas under the 2015 ASWAMA Law, the ASWAMA Board has to make regulations and other subsidiary legislations with the approval of the Governor.³⁷ Underlying this illegal usurpation is what Okoye referred to as vested interest. According to him, ‘a lot of politicians, civil servants, few senior government officials and other stakeholders are much interested in Solid Waste Management not necessarily to keep the state clean but to make money without solving the problems. Hence, there are too many wolves some of whom are supported by the government to ensure that nothing works in this sector by allowing them to carve their own niche to make money from people for doing nothing, all in the name of sanitation and waste management’.³⁸

Traditional Misconceptions about the Environment

The traditional belief that the environment cannot be polluted militates against the enforcement of the ASWAMA law as it inspires uncooperative environmental behaviours in many people. This belief comes out in clichés in Igbo language like ‘orimiri a tu nnu’ which literally means that the river can never be salted enough. Idiomatically it means that anything can be done in or thrown into a body of water without polluting it. This in part explains why in cities like Awka when it rains people dump their refuse in the drainage erroneously believing that eventually the refuse will be emptied in a body of water. This mentality has become so rooted in people’s unconscious that even when it does not rain people dump refuse in the drainage and gullies. In relation to land there is the Igbo cliché ‘afo eju ani’ that is, land cannot be filled up. Idiomatically again it means that anything can be emptied into or on land without causing any harm to it or to the environment. This thinking makes it difficult for people to appreciate the fact that hazardous effluents are harmful to both surface and ground water, and can also impede agricultural activities. With this mindset they do not appreciate the law calling for treating and processing hazardous effluents before discharging them on land. There is also the traditional belief that the air cannot be polluted and that is why burning was the ready means of refuse disposal for flammable waste.

Limiting the Functions of ASWAMA to Waste Collection and Dumping

Part of the rationale for the repeal of the 2011 ASWAMA Law was to move the concept of waste management under it away from its narrow scope of street sweeping, waste collection, evacuation and dumping to the broad concept under the purview of sustainable development. It is for this that the 2015 law introduced functions like waste processing, treatment and recycling in the functions of ASWAMA. Waste treatment according to Black’s Law dictionary means ‘treating waste to remove pollutants and eliminate potential harm to people and the environment.’³⁹ Waste recycling on its part means processing used materials (waste) into new, useful products.⁴⁰ This is done to reduce the use of raw materials that would have been used. A process according to the Cambridge English Dictionary is a series of actions that one takes in order to achieve a result.⁴¹ Waste processing thus means subjecting waste to a series of actions or measures in order to make it more beneficial or less harmful to humans and the environment. Waste processing, treatment and recycling mark a transformative phase in waste disposal because without this phase, many of the health, ecosystem and environmental hazards associated with wastes remain unattended to. It is when this phase accompanies waste collection and evacuation that waste management properly so called takes place. Unfortunately, this phase of waste management is yet to be assumed by ASWAMA. It is still stuck with its functions under the repealed 2011 Law.

Improperly Maintained Dump-Sites

³⁴ NESREA Act, s. 18.

³⁵ ASWAMAL 2015, s. 52.

³⁶ NESREA Act, s. 34..

³⁷ ASWAMAL 2015, s. 52.

³⁸ Anthony Okoye, ‘Role of Legal Practitioners....’, at 254.

³⁹ ‘What is Waste Treatment?’ <<https://thelawdictionary.org/waste-treatment/>> accessed 13 February 2019.

⁴⁰ ‘Recyclable Waste’, *International Journal of Waste Resources*, <<https://www.omicsonline.org/scholarly/recyclable-waste-journals-articles-ppts-list.php>> accessed 13 February 2019.

⁴¹ <<https://dictionary.cambridge.org/dictionary/english/process>> accessed 13 February 2019

The dump sites are so poorly maintained. They are not readily accessible and for this waste trucks get stuck easily thereby delaying their rounds in waste collection and evacuation.

Bad Roads

Waste can only be collected from the source points like homes, markets and industries if the roads are good. There is yet no good road network in the cities and towns for the ease of house to house waste collection. In the areas that have roads, their usual state of disrepair delays waste collection. Bad road also results to frequent breakdown of waste collection vehicles with the effect that the regularity in waste collection is truncated.

Ignorance of the Environmental Effects of Poor Waste Management

Many people are still ignorant of the harmful environmental effects of poor waste management. So they lack personal conviction and motivation in cooperating with ASWAMA in either paying their waste collection fees/tariffs or dumping their wastes appropriately. Ignorance is responsible for what Okoye observed as ‘a wide spread apathy among Anambrarians on issues pertaining to waste management.’⁴²

Insufficient Trucks and Equipment for Efficient Waste Management

Waste collection trucks are so few that the receptacles always brim over and spill waste all around before the trucks can make another round to them. A corollary to this is that under the heavy pressure of work the few trucks break down frequently. The receptacles on their part are not replaced immediately they get old and need to be changed. It has become usual to see receptacles that are so rusted and worn out that wastes fly off from all their sides as they are carted away.

Poor Funding

Under the 2015 ASWAMA law, the funds of ASWAMA include fees, charges and tariffs for services rendered by the Authority payable by all users including all organs and agencies of the Federal, State and Local Governments respectively.⁴³ The illegal usurpation of the functions of ASWAMA by the State Ministry of Environment means also the usurpation of the funds sources of the Authority. Traditional misconception about the environment and ignorance of the harmful effects of poor waste management all operate to make people indisposed to paying their sanitation fees and tariffs. With poor funding there is a great limit to what the Authority can accomplish in terms of diligent enforcement of the extant ASWAMA law.

Judicial Corruption

The creation of Environmental Sanitation court manifests the desire of the legislature in having a speedy dispensation of environment justice. But this intention is hindered by judicial corruption. The author’s interview with the members of the Authority revealed that many magistrates in the court ask for monetary inducement from the Authority before they can sit. The other flank of the problem is with the Police who drag their feet in making arrests for offences under the law. This has led the Authority to sometimes resort to self-help in recovering debts owed to it.

6. Conclusion and Recommendations

The ASWAMA law 2015 is a robust legislation enacted with the intention of creating for Anambra State an efficient waste management practice. However, a legislation remains a dead work if its provisions are not effectively enforced on account of factors extraneous to the legislation. What have hindered the actualization of the informed vision of the legislature include weak enforcement of the legislation, usurpation of the functions of ASWAMA by the State Ministry of Environment, traditional misconceptions about the environment, infrastructure deficits like bad roads, judicial corruption and ignorance of the harmful effects of poor waste management. The State Governor is called upon to see to the liberation of ASWAMA from the illegal clutches of the State Ministry

⁴² Anthony Okoye, ‘Role of Legal Practitioners...’, at 253-4.

⁴³ ASWAMAL 2015, s. 46(1) (a).

of Environment as this will make ASWAMA regain its independence as a body corporate. Under this condition it will be better equipped financially and otherwise to discharge its functions particularly establishing facilities for waste treatment, processing and recycling. Government should also endeavour to build more roads in residential, commercial and industrial areas as well as repair existing ones that are dilapidated in order to improve the waste collection ability of ASWAMA.