

NON-OIL RESOURCES MANAGEMENT IN NIGERIA: EFFECTIVENESS OF ENVIRONMENTAL REGULATORY LAWS

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Abstract

Nigeria is a country that is richly endowed with natural resources including non-oil resources. These non-oil resources are in large deposits, capable of bringing the desired development to Nigeria and her citizens, more than any other resource in the country, if used in a sustainable manner. However, the management of these non-oil resources has not been environmentally friendly. These have resulted in infracting activities that have deleterious effects on the environment, thereby polluting it and making it unfit for human habitation. To curb these infracting activities, environmental laws are enacted to regulate the activities of man in the management of these non-oil resources so as to conserve the environment by keeping it free from pollution. These laws have not been effective as a result of challenges such as ad hoc approach to enactment and inability to enforce them. This paper focuses on management of non-oil resources; regulatory framework for environmental sustainability; and challenges to their effectiveness.

1. Introduction

Nigeria is richly endowed with abundant human and natural resources. The natural endowments comprise oil and non-oil resources. The non-oil resources include forests, wildlife, arable land, vast water and its resources, agriculture and its products, clean air, and solid minerals. The focus of this paper shall be on non-oil resources in Nigeria.¹The management of these resources has not been in a sustainable manner² as a result of the infracting

¹ RMRDC, *RMRDC Profile* (Abuja: RMRDC,2010): 65 (A Publication of Raw Materials Research and Development Council, Abuja) states some of the non-oil resources to include non-metallic raw materials like Kaolin, talc, sulphur, bentonite clay, magnesite, trona, serpentine, gypsum, barite, anhydrite, feldspar, phosphate rock, kyanite, mica, muscovite, vesicular basalt, granite, pegmatite, marble etc.

² Saba, A.R.K. "After Rio What Next," in *Environmental Law and Sustainable Development in Nigeria*, ed. M. Ajomo and O. Adewale

activities of corporate bodies and individuals, which include inappropriate agricultural practices; the destruction of watershed; the opening up of river banks and other critical areas leading to siltation of river beds and loss of water courses; uncontrolled logging accentuated by lack of restocking in many parts of the country, resulting in loss of biodiversity; indiscriminate bush burning for farming and the attendant deforestation as well as felling of logs for firewood purposes; and mining of wasteland without corresponding provision for reclamation.³The above infracting activities necessitated the establishment of regulatory framework to curb further destruction of the environment *via* Acts, laws and bye-laws.

Despite the enactment of these environmental regulatory tools, environmental pollution has not been abated as a result of enforcement challenges and many other impediments to the effectiveness of the regulatory framework.⁴

In addition, the Federal Government of Nigeria monopolises ownership of minerals and mineral oils by vesting

(Lagos: NIALS, 1994): I, explains sustainable development as “development that meets the needs and aspirations of the current generation without compromising the ability to meet those of future generations”. However, Aina, E.O.A. and Adedipe ed. N.O.. *The Making of the Nigerian Environmental Policy* (Ibadan: University Press Ltd, 1991): 313-329, definition is more comprehensive as it explains the concept of sustainable development thus: “Essentially, the exploitation, management and use of the nature’s resources in a rational, practicable, coherent and comprehensive manner in a way that minimizes contradiction and duplication while enhancing co-operation and at all levels constitute the externalizations of the concept of sustainable development”.

³ Vision 2010 Committee Report of 1996. The infracting activities also include inability to manage wastes especially e-waste which pollutes source of drinking water and poisons the land and air, thereby making them harmful to man, flora and fauna.

⁴ Challenges include corruption, conservative attitude of Nigerian Judges over environmental issues, protraction of environmental cases in Court, lack of awareness of environmental harm, poverty, and a host of other impediments to the enforcement of environmental protection laws.

absolute ownership on itself.⁵ Equally all revenues (including non-oil revenue) accruing to the Federal Government are statutorily mandated to be paid into the Consolidated Account of the Federal Government⁶ and is shared among the three tiers of government. All these do not take environmental protection into consideration.

Some of the non-oil resources are neglected thereby leaving their exploitation unregulated and in the process, revenue is lost and environment is equally polluted through unregulated infracting activities.⁷

This paper therefore focuses on non-oil resources management in Nigeria and the effectiveness or otherwise of the environmental regulatory tools. Since the environmental regulatory tools are not effective in protecting the environment from the infracting activities of man, recommendations are offered for effective protection of the environment and the sustainable development of Nigeria.

2. Non-oil Resources in Nigeria

⁵ Section 44(3) of the *Constitution of Federal Republic of Nigeria 1999* (as amended).

⁶ *Ibid*, section 162.

⁷ RMRDC, *Salt Production in Nigeria* (Abuja: RMRDC Publication No. 023, 2010): 53-57. For example, there is no regulation for the exploitation of salt in this country despite the usefulness of this non-oil resource, thereby leaving the commodity in the hands of quacks. The most important use of salt in the chemical industry is for the manufacture of chlorine gas and sodium hydroxide used in the manufacture of plastics, aluminium paper, soaps, detergents, insecticides and glass. Salt is also used in ice control and road stabilization. It is equally used in food processing as a flavour enhancer, preservative, binder, fermentation – control additive, texture – control agent and colour developer. Salt is used for water treatment. Salt is important in general industrial use for textiles and dyeing, metal processing, pulp and paper, tanning and leather treatment, rubber, soap and detergent manufacture, ceramic glaze production, agricultural industry and other industrial applications.

Nigeria is blessed with abundant resources, some of which are renewable⁸ while others are non-renewable.⁹ The Non-oil Resources in Nigeria include:

1. **Water:** This is made up of surface and underground water, salt water and fresh water; the streams, rivers, creeks and oceans. Nigeria has territorial waters and shares water boundaries with Cameroon, Ghana and Equatorial Guinea. Water is used for drinking; it is a means of transport and is also used to generate electricity.¹⁰ It is equally a source of irrigation for agricultural purposes. It is additionally used for sanitation purposes like washing, flushing of drains and for household and industrial uses. Water is an important and generally used non-oil resource in Nigeria.

2. **Forests:** Nigeria is endowed with rich forests and mangroves especially in the Southern part. The rich and diverse forest resources include timber, home to wild flora and fauna, and among other uses protect the ecosystem from ultraviolet rays and cushion the effect of global warming.¹¹

3. **Agriculture:** This is the major source of livelihood for Nigerians as most Nigerian practice agriculture either for commercial purposes or on the basis of subsistence. Major crops cultivated include plantain, yam, beans, rice, cassava, cocoa, oil palm, rubber, groundnut, vegetables, cashew nuts and sorghum. Some of these agricultural products are foreign exchange earners.¹²

4. **Wildlife:** This includes untamed animals and plants. Unique animals and endangered species are to be found roaming the various forests and national parks of the country. Fauna found in the wilds in Nigeria include lions, wild dogs, jackals, cheetahs,

⁸ For example, water, forests and their products.

⁹ For example, coal, tin, kaolin, glass sand, copper, zinc ore, bentonite, granite and manganese.

¹⁰ Kainji Dam and Ajaokuta electricity projects.

¹¹ It needs to be noted that forest vegetation is dominated in most areas by trees and open woodland mixed with shrubbery especially in the northern parts of the country.

¹² For example, rubber, cocoa and cassava chips. <http://www.agricultureinnigeria.com> (accessed on 25/3/2016).

leopards, elephants and hippopotamus while the flora are used for medicine¹³. Wildlife is a source of aesthetics which attracts tourists and therefore is a foreign exchange earner for Nigeria.

5. **Fisheries:** Fish is an important source of protein and has dietary elements not found in other types of food. Fish is found in rivers, lagoons, creeks and oceans. Fish is one of the most important non-oil resources that Nigeria is richly endowed with. There are salt water and fresh water fish in Nigeria.

6. **Land:** Nigeria is blessed with vast landmass that is arable for agricultural purposes. Land in Nigeria is also used for pasture, buildings and construction of roads. Part of the land is regarded as wasteland especially land in the core north that is arid.

7. **Mineral Resources:** Nigeria is richly blessed with mineral resources that some are yet to be identified. Mineral resources abound in every State of the Federation and the Federal Capital Territory. Amokaye has stated that Nigeria has no rival when it comes to mineral resources.¹⁴ Some of the mineral resources are: kaolin, columbite, talc, granite, crushed rock, limestone, quartz, clay, marble, gold, zinc ore, uranium, lead sand, mica etc.

8. **Coastal Environment:** The Nigerian marine and coastal environment is the richest and longest in the world. Adedeji, Ako and Ogunleye state:

The coastal zone is the interface between the land and the sea and its boundaries are the coastal waters, the adjacent shorelines and the lands therein and thereunder. The coastal area of any nation is a very important part of the nation's territorial boundary, and is an important resource for agriculture, fisheries,

¹³ <http://www.wildlifeinnigeria.com> accessed on 25/3/2016).

¹⁴ Amokaye, G.O. *Environmental Law and Practice in Nigeria*. (Lagos: University of Lagos Press, 2004), p. 423, lists them to include: Glass, sand, limestone, salt, shale, ball clay, galena, granite, marble, laterite, bentonite, phosphate, kaolin, pyrite, feldspar, lignite, gypsum, sphalerite, clay Granite, clay, gypsum, limestone, uranium kaolin, coal, trona, barite, salt, marble, magnetite, laterite. Clay, glass, sand, salt, silica, sand, granite, coal, kaolin, limestone, lignite.

navigation, communication, military, commerce, tourism and mining activities. With a coastline of about 8.35km stretching from the western border with Benin Republic to the eastern border with Cameroon in close proximity with the Gulf of Guinea on the south-eastern Atlantic ocean, Nigeria has one of the most extensive coastlines in Africa.¹⁵

Apart from the resources of the coastline, the beaches around the coast could serve as holiday resorts with recreational activities like swimming, cruising and yachting.¹⁶

9. **Sun:** Nigeria has sunshine in abundance all year round especially in the northern part of the country. This can be harnessed into a very big source of energy to complement the hydro and gas sources of energy. The sun is the source of solar energy. Solar energy can be used in a variety of forms. The most common use of solar energy is to generate electricity. Utilizing power from the sun involves high initial investment. Solar technology has a number of advantages over conventional energy technologies. It is non-polluting, safe and cheap to maintain.¹⁷

10. **Wind:** This is one of the non-oil resources that is most neglected in Nigeria. Nigerians only see the bad side of wind in windstorms and the havoc it creates. Wind can be used to generate electricity, though wind patterns vary greatly even within the same locality. Wind energy as a source of generating electricity in Nigeria is under - utilized. There is lack of awareness as to the potentials of wind energy.¹⁸

¹⁵ Adedeji, A.A., Ako R.T., and Ogunleye, T.A. "Towards the Sustainable Management of Nigeria's Coastal Environment," *NIALS Journal of Environmental Law*(2011):296-297. Nigeria's coastline is rich in aquatic resources like flora and fauna, fisheries, sharp sand, garnet, clay, zircon etc.

¹⁶ *Ibid*, p. 297.

¹⁷ Atsegbua L., Akpotaire V. and Dimowo F., *Environmental Law in Nigeria: Theory and Practice* 2nd edition (Benin City: Ambik Press, 2010), p. 298.

¹⁸ *Ibid*, p. 301.

The list of non-oil resources in Nigeria is endless. As the country is abundantly blessed by nature, one tends to forget and ignore most of these abundant blessings. The fact is that non-oil resources are more abundant than oil resources in Nigeria.

3. Non-oil Resources Management in Nigeria

The ownership of non-oil resources in Nigeria is vested in the Federal Government, and that government therefore monopolises their management as well. On the ownership of non-oil resources in Nigeria, the Constitution provides thus:

Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.¹⁹

From the above, it can be deduced that ownership and management of the natural resources are vested in the Government of the Federation. The above section is in Chapter IV of the Constitution, which is generally justiciable. In contrast, the environmental objectives of government are stated in section 20 of the Constitution. That section, which is in Chapter II of the Constitution, is generally non-justiciable. It is therefore safe to conclude that the ownership and management of the non-oil resources, which are vested in the Government of the Federation

¹⁹ Section 44 (3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). Under Section 16 of the same Constitution, harnessing of the resources of the nation, control of the national economy and participation in the major sectors of the economy are the exclusive preserve of the Federal Government. In addition, Section 80 of the Constitution establishes the Consolidated Revenue Fund of the Federation. All the money generated for the Federal Government is paid into this fund and shared among the three tiers of government, that is, Federal, States and Local Governments.

do not encompass the concomitant duty to protect the environment which provision is in the non-justiciable Chapter of the Constitution.

There are laws enacted by the National Assembly and some State Houses of Assembly for the environmental management of some non-oil resources. We now turn to them.

4. Regulatory Framework for the Environmental Management of Non-Oil Resources in Nigeria

Regulatory framework encompasses all the laws regulating a particular thing or sector. In this case, it means all the laws regulating environmental management of non-oil resources in Nigeria. They are:

1. Constitution²⁰

The Constitution is the primary legislation in Nigeria. It recognizes the importance of the environment and makes provisions for its protection. It provides for implementation of treaties to which Nigeria is a party, and this includes International Environmental Law treaties.²¹ It also makes provision for the environmental objectives by providing that the State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.²² The Constitution guarantees the right to life and human dignity which have direct links with the right to a safe, healthy, unpolluted and protected environment.²³

²⁰ *Constitution of the Federal Republic of Nigeria 1999* (as amended).

²¹ *Ibid*, section 12. These treaties include Bamako Convention on the Ban of the Import into Africa and the Control of Trans-boundary Movement and Management of Hazardous Wastes Within Africa; Basel Convention on the Control of Trans-boundary Movement of Hazardous Wastes and their Disposal; Kyoto Protocol to the United Nations Framework Convention on Climate change; and Rio Declaration on Environment and Development.

²² *Ibid*. Section 20.

²³ Constitution, sections 33 and 34.

2. **National Environmental Standards and Regulations Enforcement Agency (NESREA) (Establishment) Act.**²⁴

This Act is the most comprehensive environmental law for the protection of the environment and the development of the non-oil resources in Nigeria. It provides for the functions of the Agency which include enforcement of environmental laws, creation of public awareness and provision of environmental education, sustainable environmental management, conduct environmental audit and establish data bank on regulatory and enforcement mechanisms.²⁵ It also provides for the powers of the agency which include power to make regulations, with the approval of the Minister of Environment.²⁶

The Minister of Environment is empowered under the Act to make regulations generally for the purposes of carrying out or giving full effects to the functions of the Agency under the Act.²⁷ The Minister of Environment, in compliance with the powers vested in him, has made a total of 24 Regulations under NESREA; 11 in 2009 and 13 in 2011.²⁸

²⁴ NESREA (Establishment) Act, No. 25, 2007, now Cap. N164 Revised Edition (Laws of the Federation of Nigeria) Act, 2010. This Act does not apply in the oil and gas sectors.

²⁵ *Ibid*, section 7.

²⁶ *Ibid*, section 8.

²⁷ *Ibid*, section 34 (c).

²⁸ These include:

National Environmental (Wetlands, River Banks and Lake Shores) Regulations, 2009.

National Environmental (Watershed, Mountainous, Hilly and Catchment Areas) Regulations, 2009.

National Environmental (Sanitation and Wastes Control) Regulations, 2009.

National Environmental (Permitting and Licensing System) Regulations, 2009.

National Environmental (Access to Genetic Resources and Benefit Sharing) Regulations, 2009.

National Environmental (Mining and Processing of Coal, Ores and Industrial Minerals) Regulation, 2009.

National Environmental (Ozone Layer Protection) Regulations, 2009.

National Environmental (Food, Beverages and Tobacco Sector) Regulations, 2009.

3. **Harmful Waste (Special Criminal Provisions) Act²⁹**

It prohibits the carrying, dumping, or depositing of harmful wastes in the air, land or waters of Nigeria, without lawful authority. It provides for a penal sanction of life imprisonment for individual offenders as well as the forfeiture of land or carrier used in committing the offence.³⁰ There is also the provision for the punishment “accordingly”³¹ of any conniving, consenting or

National Environmental (Textile, Wearing Apparel Leather and Footwear Industry) Regulations, 2009.

National Environmental (Noise Standards and Control) Regulations, 2009.

National Environmental (Chemical, Pharmaceutical, Soap and Detergent Manufacturing Industries) Regulations, 2009.

National Environmental (Standards for Telecommunications and Broadcast Facilities) Regulations 2011.

National Environmental (Soil Erosion and Flood Control) Regulations, 2011

National Environmental (Desertification Control and Drought Mitigation) Regulations, 2011.

National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries Sector) Regulations, 2011.

National Environmental (Control of Bush, Forest Fire and Open Burning) Regulations, 2011.

National Environmental (Protection of Endangered Species in International Trade) Regulations, 2011.

National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, 2011.

National Environmental (Coastal and Marine Area Protection) Regulations, 2011.

National Environmental (Construction Sector) Regulations, 2011.

National Environmental (Control of Vehicle Emissions from Petrol and Diesel Engines) Regulations, 2011.

National Environmental (Non-Metallic Minerals Manufacturing Industries Sector) Regulations, 2011.

National Environmental (Surface and Groundwater Quality Control) Regulations, 2011.

National Environmental (Electrical/Electronic Sector) Regulations, 2011.

²⁹ Cap H1, LFN 2010.

³⁰ Harmful Waste (Special Criminal Provisions) Act, section 6.

³¹ Whatever that phrase mean is not clear neither is there any penal sanction called “punishment accordingly.”

negligent officer where the offence is committed by a corporate body.³²

4. **Environmental Impact Assessment (EIA) Act**³³

This Act deals with the environmental impact of public and private projects. It generally deals with the assessment of potential positive or negative impacts of proposed projects on the natural environment. The Act requires an assessment of public or private projects likely to have significant adverse impact on the environment.³⁴ It also requires an application in writing, to the Agency for approval, before embarking on the projects for their environmental impact assessment.³⁵

5. **The Endangered Species (Control of International Trade and Traffic) Act**³⁶

The Act seeks to protect and manage Nigeria's wildlife and some of their species which are in danger of extinction due to over-exploitation. It prohibits, except under a valid license, the hunting, capture or trade in animal species, either presently or likely to be in danger of extinction.³⁷

6. **Nigerian Urban and Regional Planning Act**³⁸

The Act is aimed at a realistic and purposeful planning of the country, especially in the management of available space, to avoid overcrowding, pollution and poor environmental conditions, so as to achieve aesthetic value of the environment. The Act

³² Section 7 of the Act. Section 9 suspends Diplomatic Immunities and Privileges of Diplomats involved in criminal acts contrary to the provisions of the Act. It is doubtful if this can be achieved in view of the Vienna Convention on Diplomatic Relations 1961 of which Nigeria is a party; and within the concept of *pacta sunt servanda* which is applicable also to treaties validly entered into under International Law.

³³ Cap E12, LFN 2010.

³⁴ *Ibid*, Section 2(1).

³⁵ *Ibid*, Section 2(4).

³⁶ Cap E9, LFN 2010.

³⁷ *Ibid*. Section 1 of the Act.

³⁸ Cap N138, LFN 2010.

requires that every building plan for approval must be drawn by a registered architect or town-planner.³⁹ It provides for the rejection of application for land development if such development would harm the environment or constitute a nuisance to the community.⁴⁰ It also makes provision for the preservation and planting of trees for environmental conservation.⁴¹

7. Inland Fisheries Act⁴²

This Act focuses on the protection of water habitat and its species. It prohibits unlicensed operations of motor fishing boats within the inland waters of Nigeria.⁴³ It also prohibits the taking or destruction of fish by harmful means.⁴⁴

8. River Basin Development Authority Act⁴⁵

The Act focuses on the development of water resources for domestic, industrial and other uses; and the control of floods and erosion.

9. Sea Fisheries Act⁴⁶

The Act illegalizes the taking or harming of fishes within Nigerian waters by the use of explosives, poisonous or noxious substances. It also provides authority for the protection and conservation of sea fishes.⁴⁷ This Act applies to Nigerian waters in the outward boundary which is external boundary with other countries but within Nigeria's jurisdiction.

³⁹ *Ibid.* Section 30(3) of the Act.

⁴⁰ *Ibid.* Section 39(7) of the Act.

⁴¹ *Ibid.* Section 72 of the Act.

⁴² Cap I10, LFN 2010.

⁴³ *Ibid.* Section 1.

⁴⁴ *Ibid.* Section 6, like the use of dynamite and gamalin 20 which can harm un-captured fish, make captured fish poisonous for human consumption and also pollute the inland water.

⁴⁵ Cap R9, LFN 2010.

⁴⁶ Cap S. 4, LFN 2010.

⁴⁷ *Ibid.* Section 14(2).

10. Exclusive Economic Zone Act⁴⁸

The Act makes it illegal to explore or exploit natural resources within the zone without lawful authority.

11. Territorial Waters Act⁴⁹

The Act makes punishable any act or omission committed within Nigerian waters which would be an offence under any other existing law. This Act seeks to protect and conserve the natural resources of the seaward boundary of Nigeria for environmental sustainability.

12. Animal Diseases (Control) Act⁵⁰

The Act makes it an offence to import any animal, hatching egg or poultry into Nigeria except under a license. It is aimed at controlling animal diseases especially those of a trans-boundary nature like bird flu.

13. Agriculture (Control of Importation) Act⁵¹

The Act is concerned with the control of the spread of plants diseases and pests especially through the importation of infected agricultural products.

⁴⁸ Cap E. 11, LFN 2010. Harris, D.J. *Cases and Materials in International Law*, 6th edition (London: Sweet & Maxwell, 2004), 466-467. The exclusive economic zone has its roots in the concept of the exclusive fishing zone and the doctrine of the continental shelf. It combines and develops the two. The exclusive fishing zone is a zone of the sea adjacent to a coastal state's territorial sea within which the coastal State has exclusive jurisdiction over fishing.

⁴⁹ Cap T. 5, LFN 2010. Article 3 of the Convention on the Law of the Sea 1982 states that: Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention. Article 2 (1) states that the sovereignty of a coastal state extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters to an adjacent belt of sea, described as the territorial sea.

⁵⁰ Cap A17, LFN 2010.

⁵¹ Cap A9, LFN, 2010.

14. Nuclear Safety and Radiation Protection Act⁵²

The Act regulates the use of radioactive substances and equipment emitting and generating ionizing radiation. It provides authority to make regulations for the protection of the environment from the harmful effects of ionizing radiation.⁵³ It makes clarification that the same regulations applicable to the transportation of dangerous goods by air, land or water apply to the transportation of radioactive substances.⁵⁴

15. Quarantine Act⁵⁵

The Act seeks to prevent the introduction, spread and transmission of infectious diseases such as cholera, yellow fever, typhus etc in Nigeria. These infectious diseases are introduced *via* pollution of the environment.

16. Nigerian Mining Corporation Act⁵⁶

The Act establishes the Nigerian Mining Corporation with authority to engage in mining and refining activities; and to construct and maintain roads, dams and reservoirs, all with concern to protect and preserve the environment.

17. Pest Control Production (Special Powers) Act⁵⁷

The Act is concerned with export produce conditions and pest control of infestation of produce. It provides also that an Inspector of Produce has authority to take emergency measures to control pest infestation of produce.

18. Criminal Legislation

The Criminal Code⁵⁸ like some other criminal legislation makes provisions for the prevention of public health hazards and

⁵² Cap. N. 142, LFN 2010. It is to prevent such environmental disasters like Chernobyl disaster in 1986, nuclear disasters in Japan and China in 2011.

⁵³ *Ibid.* Section 4.

⁵⁴ *Ibid.* Section 40.

⁵⁵ Cap Q2, LFN 2010.

⁵⁶ Cap N120, LFN 2010.

⁵⁷ Cap P9 LFN 2010.

environmental protection. The Penal Code⁵⁹ under Chapter XIII and particularly sections 191 and 192 prohibits nuisance and other offences against public health. In a similar, the Criminal Law of Lagos State⁶⁰ equally contains similar provisions. Section 160(1) of the Law states:

- (1) Any person who by any act or default contaminates or allows to be contaminated, the water of any spring, stream, river, well, tank, reservoir, aqueduct or pond so as to render it less fit for the purpose for which it is ordinarily used, is guilty of a felony, and is liable to imprisonment for three years.

Further, section 164(a) provides that:

Any person who:

- (a) pollutes the atmosphere in any place so as to make it harmful to the health of persons living within the vicinity or carrying on business in the neighbourhood or passing along a public way; or
- (b) ...is guilty of a felony and is liable to imprisonment for three years.

19. Nigerian Minerals and Mining Act⁶¹

The Act has expectedly legislated many of the environmental objectives of government into law. The aim is to give legal backing to the environmental objectives encapsulated in

⁵⁸ Cap C38, LFN 2010, Sections 245-248.

⁵⁹ Cap P3, LFN 2010. Sections 183 to 203 titled "Public Nuisance" prohibits among other offences the fouling of water, public wells or reservoirs and making the atmosphere noxious to health. Though the Penal Code makes provision for punishment for offenders inclusive of fines, the fines are not stated especially under sections 192 to 193 which criminalise fouling of water etc.

⁶⁰ Laws of Lagos State, 2011. Chapter 24 of the Law contains further provisions criminalising any act which endangers life or health.

⁶¹ Act No. 20 of 2007, now Cap. N162 LFN 2010. This Act repealed the Minerals and Mining Act, Cap, M. 120, LFN 2010.

the mining policy and compel the observance and enforcement of the various environmental obligations imposed on holders of mining titles.⁶²

5. Effectiveness of the Regulation Framework

The environmental regulatory framework for the management of non-oil resources in Nigeria has not been effective. The rationale behind the ineffective regulatory framework can be found in social, economic, political, cultural and technological factors with inability or unwillingness to enforce the laws as a major setback in the protection and preservation of the environment. There is also lack of awareness of environmental harm due to ignorance especially where the deleterious effects of pollution are not immediate. There are challenges militating against effectiveness of the regulatory framework.

1. Ad hoc and Disparate Environmental Legislation:

Environmental legislations in Nigeria are *ad hoc* and uncoordinated. Pollution is harmful to the environment and this is mostly generated by wastes and environmentally unsustainable practices like unregulated effluent discharges into waterways, land and also pollution of the air. Legislations like the Harmful Waste (Special Criminal Provisions) Act⁶³ and the Endangered Species (Control of International Trade and Traffic) Act⁶⁴ are *ad hoc* in nature because they were a response to particular events that polluted the environment without taking into consideration preventive and precautionary measures. Therefore, lack of well-articulated and coordinated legislation for the environmental management of non-oil resources is a major challenge as enforcement would be impossible to achieve.

⁶² Akper, P.T. "Addressing Environmental Concerns in the Exploitation of Solid Minerals in Nigeria: Issues, Problems and Prospects," *NIALS Journal of Environmental Law* 1 (2011): 190.

⁶³ Note 51.

⁶⁴ Note 58.

2. **Ignorance of Environmental Harm:** This challenge is most apt as pollution takes place everywhere there are environmental infracting activities. An example is the lead poisoning in Zamfara State⁶⁵ that killed more than 400 children within two days as a result of ignorance of environmental harm of allowing dust associated with lead to contaminate food and drinking water.

3. **Poverty:** This ranges from inability to scientifically analyse environmental infracting activities that result in deleterious effects, inability to hire expert witnesses, inability to hire a good lawyer and the attendant expenses. Poverty does not only exist in Nigeria; it is even increasing. Usman has stated this challenge thus:

On the issues of parties to environmental litigation, often it is an impoverished individual or community against a rich industry. While the poor individual or community will lack the means and in some cases even the knowledge of employing the services of experts to give evidence for them, the industry is always in possession of means to employ high caliber lawyers and the best expert to give evidence in their favour with almost guaranteed success.⁶⁶

Poverty, which is the bane of environmental protection in developing countries, poses an insurmountable hurdle. The State usually bears the cost of prosecuting environmental crimes. Due to competing interests for scarce financial resources, the capacity for

⁶⁵ www.vanguardngr.com/2012/05/fg-tasked-on-zamfara-lead-poisoning-epidemic/. (Accessed on 4/4/2016). In *Seismograph Service Ltd v. Onokpasa (1972) 4 S.C. 123* the plaintiff was not aware of the environmental damage done to the buildings in his private school, the Trinity College in Sapele, until the company finished its blasting work and left the area.

⁶⁶ Usman, A.K. *Environmental Protection Law and Practice* (Ibadan: Ababa Press Ltd, 2011), p. 234.

the prosecution of environmental crimes is highly eroded in Nigeria.⁶⁷

4. **Weak Structure of Governance:** There are three arms of government in Nigeria. The legislature makes the laws; the executive arm enforces the laws while the judiciary interprets the laws. There are checks and balances among the three organs. What exists today is a rubber-stamp legislature that is tied to the apron-string of the executive arm. The judiciary is not free from this weakness. This results in institutional failure which also affects the environmental enforcement agencies.

5. **Lack of enforcement of existing environmental laws:** The enforcement agencies are not enforcing the laws and there is no single reported case-law of any conviction of polluters of the country's environment even with gross facts of pollution. The laws even protect the agencies and their officials from being proceeded against by aggrieved persons whose environments have been polluted as a result of dereliction of duty by the enforcement agencies.⁶⁸ This is in contradiction with what is obtainable in Europe in *Lopez Ostra v. Spain*⁶⁹, where the European Court of Human Rights held that failure by the State to act to prevent or protect the applicant from serious pollution (fumes from a waste

⁶⁷ Aigbokhaevbo, V.O. "Combating Environmental Crimes in Nigeria: A Daunting Uncertainty," *NIALS Journal of Environmental Law* 1 (2011): 227. Poverty exists in developing or underdeveloped countries as against developed countries and also exists among the populace of developing countries like Nigeria.

⁶⁸ Examples are Statutory Instrument No. 12 of National Environmental (Standards for Telecommunications and Broadcast Facilities) Regulations, 2011 which states thus: These Regulations shall not create liability on the part of the Agency or any other authorized or approving body or employee thereof for any damages that may result from reliance on these regulations or any other administrative decision lawfully made thereunder. It is the same under Statutory Instrument No.17 of the National Environmental (Soil Erosion and Flood Control Regulations, 2011. What it means is that from inception, the Agencies were not expected to function optimally.

⁶⁹ (1995) 20 EHRR 277.

disposal plant dealing with waste from a tannery) constituted a failure to respect her home and private life as enshrined in Article 8 of the European Convention on Human Rights.

6. Joint Venture Arrangement between Nigeria and the Major Oil Companies: Effective enforcement has also been impeded by Nigerian Joint Venture arrangement with most of the oil companies operating in the country which it is suppose to monitor. This raises the problem of conflict of interest and impedes effective enforcement of environmental regulatory laws in the oil industry⁷⁰ which also affects lands, air and water, which are non-oil resources.

7. Individuals and Households also pose a Big Challenge to Enforcement especially as the planet earth has to grapple with more than 7 billion persons worldwide.⁷¹Omaka has stated:

Few environmental laws focus on what we do at home, but a host of pollution problems are caused by what we do there... some of the everyday sources of pollution are: exhaust from poorly maintained cars and trucks; solvents from discarded paints, paint thinners and nail polish remover, waste crankcase oil; household cleaners; and garden poisons and fertilizers that are discarded or used too heavily. Also, waste paper and trash add a burden either to the solid waste problem (if buried in municipal landfills) or to air pollution if burned. And wasteful use of electric power causes

⁷⁰ Aigbokhaevbo, V.O. "Environmental Regulatory Standards: Problems of Enforcement in an Emerging Economy," *Igbinedion University Law Journal* 3 (2005): 111.

⁷¹ en.wikipedia.org/wiki/world-population (access on 5/4/2016). The world population is the sum total of all living humans on earth. As of today, it is estimated to number 7.024 billion by the United States Census Bureau (USCB). The USCB estimates that the world population exceeded 7 billion on March 12, 2012. According to a separate estimate by the United Nations Population Fund, it reached this milestone on October 31, 2011.

excess pollution at the power plant where it is generated. All these problems can be reduced by our actions at home.⁷²

8. Attitude of Nigerian Judges Towards Victims of Environmental Pollution: The attitude of Nigerian Judges to environmental litigation, particularly their attitude to award of damages which mostly are general in character, also operate as a disincentive to environmental litigation in the country,⁷³ and therefore a challenge to enforcement of regulatory framework. In *S.P.D.C. Ltd v. Farah*⁷⁴, the plaintiff/respondent claimed the sum of N26m as compensation from the defendant/appellant for oil spillage from the defendant/appellant's oil well which destroyed about 607 hectares of adjoining farmlands by reducing their value. The trial Court awarded a paltry sum of N4.6m. On appeal to the Court of Appeal, the appellate court upheld the decision of the trial court by justifying the paltry N4.6m on the ground that it was "fair and adequate compensation" according to the Petroleum Act.

In *Mon Irouand & Anor v. SPDC Ltd*⁷⁵ the Judge admitted that the plaintiffs' fish pond had been destroyed by the oil exploration activities of the defendant company but awarded N200.00 as damages. In *SPDC Ltd v. Tiebo*⁷⁶, there was massive destruction and pollution of the river Nun, fish ponds and ecology of the plaintiffs *via* the oil operations of SPDC Ltd. The plaintiffs sued and demanded N64m as compensation. They proved their allegations through admissible and expert witnesses. The Court, however, awarded N6 million to the plaintiffs, an amount that could not bring the plaintiff to the position they were before the

⁷² Omaka, C.A. "The Jurisprudence of Polluter Pays Principle and Environmental Criminal Enforcement in Nigeria," in *Philosophical Legacy on Issues in Nigerian Public Law*, ed. S.I. Oji (Sokoto: Usman Danfodiyo University Press, 2008), p. 54.

⁷³ Usman, A.K. 243.

⁷⁴ (1995)5 NWLR (Pt. 398) 561.

⁷⁵ (1970)1 RSLR 711.

⁷⁶ (1996)4 NWLR (Pt. 445) 657.

damage or would have been but for the damage.⁷⁷ All the above are challenges to the enforcement of environmental laws in Nigeria.

9. **Inelegant Drafting of Environmental Laws:** Most of the provisions in the law are inelegantly drafted and are incapable of being understood nor implemented. Beyond the issue of enforcement is the uncertainty of some of the provisions which contain nebulous terms such as “as far as reasonably practicable” and “where applicable” in settling standards that the holders of mining titles are expected to comply with in their operations.⁷⁸

10. **Grant of Unsustainable Concessions to Foreign and Pioneer Companies:** In a bid to encourage Foreign Direct Investment and industrialization in the country, the Nigerian government gives incentives to foreign and pioneer companies without considering the effects of their activities on the environment. Under the Industrial Development (Income Tax Relief) Act,⁷⁹ pioneer status is granted to some companies that have invested in, for example, agro-allied productions, export goods, solid minerals; and the estimated cost of qualifying capital expenditure on or before production date is not less than N50,000.00 for an indigenous company and N150,000.00 in the case of others. These companies are also exempted from tax for three years, which may be extended by the President for a period

⁷⁷ This is in contradistinction to what obtains in other countries. For example, the English Court in *Hollbone v. Midhurst and Fenhurst Builders* (1968)1 Lloyds' Reports 3, ordered “costs of re-instatement” where the property, with its value, was in some sense unique. Also in *Marquis of Granby v. Bakewell UDC* (1923)137 JP 105, the Court awarded the full costs of restoration, including re-stocking of fish and invertebrates, as well as sums for loss of wildness.

⁷⁸ Akper, P.T. 193-194. Section 118 of the Minerals and Mining Act, 2007. These nebulous provisions in Paragraph 5(2) of National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, 2011 include “Best Available Technology (BAT)” and “Best Practicable Technology (BPT)”.

⁷⁹ Cap. 17 LFN 2010.

of one year and a further extension for another period of one year commencing from the end of the first period of extension.⁸⁰ In essence, they can have up to five years tax-free period. This includes investment in solid minerals or mining.⁸¹ All these are done without any thought on the protection of the environment and preservation of the ecology by these pioneer companies.⁸² In *Ikpede v. SPDC Ltd*⁸³, there was leakage of crude oil from the defendant's facilities which caused damage to the fish swamp of the plaintiff. The Court held that though the defendant was careless in its operations, it was not liable since the laying of its pipeline was done pursuant to a licence issued under the Oil Pipelines Act.

11. **Protraction of Environmental Cases in Court:** Most of these pollution cases stay in Court for too long so that even where damages are awarded; they do not alleviate the suffering of the victims of pollution. Most of the time, the victims even lose the case in Court. In *Nwadiaro v. SPDC Ltd*,⁸⁴ the pollution started in 1966 but the company negotiated with the community for out-of-court settlement. The negotiations broke down and the community commenced the action in 1985 but the company entered a preliminary objection on lack of jurisdiction based on the Limitation Act. The company succeeded as the matter was dismissed by the trial court. The community appealed to the Court of Appeal and succeeded. The matter was re-listed in 1988 at the trial court but the defendant still entered a preliminary objection for its dismissal which the trial court refused to grant. The defendant further appealed to the Court of Appeal which dismissed the suit again in 1990. Therefore, this matter lingered from 1966 to 1990 which the community, the victims of the pollution, also lost.

⁸⁰ Section 10 of the Act.

⁸¹ Minerals Act, Cap M12, LFN 2010.

⁸² Included in the list of pioneer companies are: manufacture of cement; manufacture of glass and glassware, coastal fishing and shrimping; quarrying and processing of marbles; deep sea trawling and processing; manufacture of iron and steel from iron ore; mining of lead and zinc ores by underground mining methods etc.

⁸³ (1973) All NLR 61.

⁸⁴ (1990) 5 NWLR (Pt. 150) 322.

12. **Inability of the Victims to Prove Environmental Crimes:** Pollution of the environment can only be proved through scientific means and this is normally done by expert witnesses. Accordingly, Nigerian Courts over the years have insisted in deciding oil pollution cases on a high standard of proof by the plaintiff before their claims are upheld.⁸⁵ In *Seismograph Services Ltd v. Saturday Mark*,⁸⁶ Mr. Mark sued the company claiming damages for the damage done to his fishing net and boat by the company's vessel at Akaza waters in Akwalbom State. He alleged that the company's vessel tore through his nets, which he affixed to net floaters and buoys to warn approaching vessels of the presence of nets along the line. He succeeded at the trial Court but the company appealed. The Court of Appeal reversed the trial Court and held that failure of Mr. Mark to give particulars of the company's negligence was fatal to his case.

13. **Prioritizing Economic Interests Over and Above Environmental Protection:** Without environmental protection, there cannot be economic development, and economic development cannot be sustained in a polluted environment. In *Allan Irou v. SPDC Ltd*⁸⁷, in a suit for an injunction to restrain the defendant from further pollution of the land, creek and fish pond of the plaintiffs, the Warri High Court refused to order the injunction and held:

...negligence or carelessness by the defendants' employees cannot be controlled by the defendants. To grant the order would amount to asking the defendants to stop operating in the area. The interest of third persons must in some cases be considered. For

⁸⁵ Ienlanye, S.A. "A Critical Examination of the Attitude of Nigerian Courts in the Proof of Environmental Pollution in Oil Related Litigation," *University of Benin Journal of Private and Property Law* 1, no. 1 (2010): 277.

⁸⁶ (1993) 7 NWLR (Pt. 304) 203.

⁸⁷ (Unreported) Suit No. W/89/71, Warri HC 26/11/73.

example, where the injunction would cause stoppage of trade or throwing out a large number of people... It will not be just and convenient to grant an injunction in this case.

However, the case is different in India where the Indian Court held in *M.C. Mehta v. Union of India & Ors*⁸⁸ that enterprises must ensure no harm results to anyone, irrespective of whether the disaster was caused by a negligent act or not; and that life, public health and ecology have priority over unemployment and loss of revenue.

14. ***Locus Standi***: The Courts in Nigeria have always insisted on *locus standi* because it goes to jurisdiction since jurisdiction is the foundation of litigation,⁸⁹ but this has done more harm than good especially in the enforcement of environmental laws. In *Lawan Xoons v. West African Portland Cement Co. Ltd*⁹⁰ the plaintiffs sued the defendant for the damage done to them and their stream, which was the only source of drinking water, due to the activities of the defendant. The plaintiffs sought an injunction to restrain the defendants from further pollution of their environment. The defendant raised a preliminary objection on the ground that the plaintiffs had no *locus standi* to institute the action since the nuisance complained of was a public nuisance and ought to have been brought by the Attorney General. The Court ruled in favour of the defendant even in the face of uncontroversial evidence as to the facts and extent of the pollution. However, with the combined effects of Section 6(6)(b)⁹¹ and *Adediran v. Interland Transport Ltd*⁹² the situation has now changed though not radically.⁹³

⁸⁸ (1987) SCR (1) 819.

⁸⁹ *Madukolu v. Nkemdilim* (1962) All NLR 581; *Abraham Adesanya v. President of Federal Republic of Nigeria* (1981) 5 S.C. 112.

⁹⁰ (1973) 3 UILR (Pt. 4) 459. It was equally the same woes in the following cases: *Amos v. SPDC Ltd* (1974) 4 ECSR 486, *Oronto Douglas v. SPDC & Ors, Suit No. FC/CS/573/93*.

⁹¹ Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁹² (1986) 2 NWLR (Pt. 20) 78.

15. **Lack of Modern Equipment by the Regulatory Agencies.** Equipment which are required by the regulatory agencies but are hardly available includes equipment to control dust/particulate matter, emission⁹⁴ and noise monitoring.⁹⁵

16. **Corruption:** This is one of the major challenges to the effectiveness of environmental regulatory framework. Corruption has become an endemic problem in every facet of Nigerian society.⁹⁶ Corruption and complicity of multinational corporations have marred successful efforts to regulate environmental crimes in Nigeria.⁹⁷ It is one of the biggest challenges.

17. **Lack of Funds for the Regulatory Agencies to Effectively Carry out their Duties.** This also contributes to the lack of staff motivation of the regulatory agencies thereby exposing them to manipulations by corporations polluting the environment.

18. **Low Level of Technology:** This impedes the ability to detect, at first glance, environmental hazards. It dampens the possibility of preventive measures which are better than curative measures in environmental protection.

⁹³ This is now experienced on arguments of not getting the written authorization of all victims of pollution for the plaintiff to sue in a representative capacity or in class action as was held in *Chinda & Ors v. SPDC Ltd* (1974)2 RSLR 101. However, this is different from what is obtainable in other jurisdictions like the United States of America in *Amoco Production Co. Ltd v. Village of Gambell, Alaska*, 480, U.S 531 (1987) and in the Philippines in *Minors Oposa v. Secretary of the Department of Environment and Natural Resources 33 Km* (1994) 173 where *locus standi* was deduced from the facts of pollution and likely destruction of the ecosystem and not on mechanical application of rules by the Court.

⁹⁴ Statutory Instrument No. 24 of National Environmental (Domestic and Industries Plastic, Rubber and Form Sector) Regulations, 2011.

⁹⁵ *Ibid*, Para. 30.

⁹⁶ Atsegbua, Akpotaire and Dimowo, Op. Cit. P. 250.

⁹⁷ Aigbokhaevbo, V.O. note 87, 226.

19. **Lack of Objective Public Opinion:** Public opinion in Nigeria reflects political party affiliations, ethnicity, religion or based on very subjective criteria. Omaka states that the public should react especially where there is unusual smoke, strong odour or smell that is unpleasant, nasty and foul sight, secretive and suspicious activities of persons and corporations, like a bulldozer operating at night in a marsh or wetland, or a truck pouring waste water into a sewer on the side of the road.⁹⁸

20. **Conflict Of Roles Among The Regulatory Agencies:**⁹⁹ There exist conflict of roles between and among regulatory agencies saddled with the task of regulating and ensuring that non-oil and indeed all other resources are utilised in the best interest of the environment and humanity. Some of these conflicts seem to arise from the laws which establish the various agencies. Others seem to be from a wrong interpretation of the scope of the activities of these agencies by their staff.

21. Exclusion of the jurisdictional application of NESREA Act from the oil sector is a major challenge to enforcement of environmental laws against polluters of our environment, especially corporate bodies, particularly as oil is the major polluter of non-oil resources.

The above challenges are enormous but are by no means exhaustive.

6. **Recommendations**

The following broad based recommendations are proffered:

⁹⁸ Omaka, C.A. 55 – 56.

⁹⁹ Example is the recent face-off between Nigerian Communications Commission (NCC) and the NESREA over the distance for siting telecommunications mast from buildings. While NCC says the distance should be 5 metres, NESREA insists it should be 10 metres, according to its Statutory Instrument No. 11 of 2011 (Para. 5 (4) (b) and (c).

1. There is urgent need for strong democratic institutions especially the three arms of government to rid them of corruption and lack of political will.
2. Nigeria should endeavour to strike a balance between trade and environment. This has been achieved in India. There is no reason why Nigeria should continue to be an exception.¹⁰⁰
3. There should be a balance between consumption and the preservation of the environment.
4. Corruption should be tackled like a vicious environmental enemy. Ewere has stated the benefits of transparency and its relationship with development thus:

Transparency is like sunshine. It is a state or quality of being transparent or open in what-ever you do, particularly as it relates to public interest. It implies disclosure, accountability and the adoption of a procedure that allows for free and easy public access to corporate, political and personal information.¹⁰¹

The issue of corruption is more worrisome now than ever before especially as our National Assembly members demand and collect bribes in thousands of dollars.¹⁰²

5. Nigeria should properly domesticate International Law principles in clear and concise language that is capable of being implemented. Nigeria should always study the text of International Treaties before signing or acceding to same; and if need be, enter a valid reservation.

¹⁰⁰ In *Vellore Citizens Welfare v. Union of India* (1996) AIR 2715 the Supreme Court of India held that industries were vital for the country's development, but that with regard to the pollution caused by them, the principle of sustainable development has to be adopted as the balancing concept.

¹⁰¹ Ewere, A.O. *NEITI and Good Governance in the Nigerian Oil Industry* (Benin City: Ambik Press, 2011), p. 3.

¹⁰² Obia, V. "Otedola, Lawan and the \$620,000 Bribe," *THISDAY*, 17 June (2012): 87. Money spent in bribes can be used in fixing the refineries so that the environment and Nigerians can be saved from imported toxic fuels.

6. There is the urgent need for Federal and State Governments, communities, NGOs, Experts and other stakeholders to embark on public enlightenment on the dangers of environmental pollution.

7. The practice of capitalism in the country should be socially responsible capitalism and not the capitalism where prices of goods and services are determined by the market forces of supply and demand, so that pollution can be reduced to a manageable level as poverty is a big problem in environmental protection.

8. The current desire for second-hand goods must be discouraged because it is making Nigeria a dumping ground for hazardous substances like lead, and cadmium used in the manufacture of fridges, batteries and air conditioners.¹⁰³ Maureen Azuh stated:

In 2008, United Nations reported on the possible effects on human health and the environment in Africa of some trade products. Second-hand goods may contain mercury and lead. Mercury is said to damage brain tissues while lead destroys the reproductive system, with effects such as decreased sperm count in men and spontaneous abortions in women. They have also been associated with high lead exposure. The developing fetus is at particularly high risk from maternal lead exposure, with low birth weight and slowed post-natal neuro behavioural development likely... WEEE

¹⁰³ E-waste, non-metallic minerals, vehicular emissions from petrol and diesel engines, domestic and industrial plastic, rubber and foam are the major polluters of the Nigerian environment. For example, large-scale importation of second-hand goods, without any regulation or enforcement of the existing regulations is a major setback on the efficacy of the Polluter Pays Principle. Importers of electrical and electronic equipment, especially the so-called fairly used types, do not register with NESREA as stipulated in Statutory Instrument No. 23 of 2011. None of them adopts the 5 Rs (Reduce, Repair, Re-use, Recycle and Recover) nor abide by the Extended Producer Responsibility (EPR) so that the end of life equipment be returned to the manufacturers for proper disposal.

contains hazardous constituent that may negatively impart(sic) the environment and affect human health if not properly managed as it is the case in developing countries which lack adequate infrastructure to manage wastes safely.¹⁰⁴

9. Nigeria should separate environmental terrorism from environmental advocacy.¹⁰⁵ Those who blow-up oil pipes and flow stations thereby releasing hazardous substances into our environment cannot be described as “friends” of the earth. There are other ways of agitating for inclusive sharing instead of vandalism. This should be discouraged.

10. Public interest litigation should be encouraged. This has been achieved in the United States through legislation which is called “Citizen’s Suits”. In the U.S. this was born out of the desire by Congress to assure that the environment would be adequately protected, and not merely on paper, to ensure both that polluters were brought to justice and the EPA fulfilled its duties.¹⁰⁶

11. There is urgent need for judicial activism especially on the part of members of the bench. In *Obajimi v. Adedeji*¹⁰⁷ the Court of Appeal held that justice is a two way street, it has lanes marked “justice for the plaintiff and justice for the defendant”. The Supreme Court, in *Josiah v. State*¹⁰⁸ had earlier stated instead that justice is a three way traffic, thus:

And justice is not a one-way traffic. It is not justice for the Appellant only. Justice is not even only a two-way traffic. It is really a three-way traffic: justice for the Appellant accused of a heinous crime of murder; justice

¹⁰⁴ Maureen Azuh, “Despite Risk of Skin Cancer Others, Tokunbo Goods Reign Supreme,” *The Punch Newspaper*, Wednesday, October 5 (2011): 3.

¹⁰⁵ Atsegbua L. and Aigbokhaevbo, V.O. “Anti-Terrorism Bill: Implication for Environmentalism in Nigeria,” *University of Benin Journal of Private and Property Law* 1, no. 1 (2010): 28-41.

¹⁰⁶ Omaka, C.A. 57.

¹⁰⁷ (2008)3 NWLR (Pt. 1073)1; per Augie, JCA.

¹⁰⁸ (1985) 1 NWLR (Pt. 1) 125; per Oputa, JSC.

for the victim, the murdered man, the deceased, whose blood is crying to heaven for vengeance' and finally justice for the society at large, the society whose social norms and values had been desecrated and broken by the criminal act complained of...

The above can be adopted in environmental cases because the victims and the environment, realized in the concept of society, are always at the receiving end of pollution, especially by corporate bodies, and therefore demand justice so as to exist in a clean and pollution-free environment.

12. The grant of concessions to pioneer companies should be conditional on the adoption of pollution-free and environment friendly methods of production of goods and services.

13. There should be proper waste management systems. Operators should be licensed and wastes must be properly segregated for proper management. Though the NESREA Regulation¹⁰⁹ provide for segregation of wastes for proper management, every household primarily deposits wastes in polythene bags before dropping them in the designated bins. In this way, the aim of segregation is defeated because with the uncontrollable use of polythene bags, wastes are already mixed up before being deposited on the supposedly segregated bins.

14. Some of the NESREA Regulations are subjected to "progressive realization", that is, they are not immediately binding. For example, the Extended Producer Responsibility (EPR) takes effect two years after the coming into force of the Regulations. In the meantime, these polluters have a field-day polluting the environment without any remedy *via* enforcement.¹¹⁰

7. Conclusion

This paper has discussed the effectiveness of environmental regulatory tools for non-oil resources management in Nigeria. It has also analysed the challenges to the effectiveness of these environmental regulatory tools. It has equally proffered solutions

¹⁰⁹ Para. 34(7) & 35 of NESREA Statutory Instrument No. 23 of 2011.

¹¹⁰ *Ibid*, Para. 11 (3).

via recommendations for effectiveness of these regulatory tools. Living is not just about existence but also about decent living, orderliness and beauty.¹¹¹ There must therefore exist, on the part of government, a conscious effort to enforce environmental laws. Non-oil resources are capable of generating more revenue to the government than the oil resources.¹¹² Besides, majority of the non-oil resources are renewable and cannot be exhausted over time. This will therefore serve the present generation as well as generations yet to come and thereby encourage sustainable development.

It is imperative that the recommendations be implemented so as to fully realize the effectiveness of environmental regulatory tools in the management of non-oil resources in Nigeria.

¹¹¹ Chinwuba, N.N. "Life in Nigeria: Need for a New Paradigm on Environmental Quality," *NIALS Journal of Environmental Law* 1 (2011): 160.

¹¹² "Earnings from Solid Mineral Sector will Surpass Oil." Available at www.nigeria_magazine.com/.../ (accessed 12 April, 2016).