

The Legal Framework for Solid Waste Disposal and Management in Kwara State, Nigeria

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ABSTRACT

Solid waste such as “garbage” “trash” “refuse” “slug” and “rubbish” is disposed off or is required to be disposed off in accordance with national law. The study relies on primary and secondary sources of information. The primary sources include the Constitution, statutes and subsidiary legislation. The secondary sources of information include books, journals, conference proceedings, newspapers, magazines and internet materials. The information obtained from these sources is subjected to content and contextual analysis. The study examines the Kwara State Environmental Protection Agency Law, 1992 and other laws on waste disposal and management in Kwara State, Nigeria. The study also examines the regulations and the agency *i.e.* the Kwara State Environmental Protection Agency created by the law with a view to determine the inadequacies in the law.

Keywords: Solid Waste; Waste Disposal; Waste Management and Domestic Waste

1. Introduction

There is no doubt that a dirty environment affects the standard of living, aesthetic sensibilities, health of the people and the quality of their lives [1]. In recognition of the need to take a holistic approach to environmental management in Nigeria, the Federal Government created the Federal Environmental Protection Agency in 1988 [2] through the Federal Environmental Protection Act (FEPA) 2007. All States and Local Governments were equally directed by FEPA to establish Environmental Protection Commission and Committees respectively. Thus, the Kwara State Government created the Kwara Waste and Environmental Protection Agency (KWEPA) under the Kwara State Ministry of Environment and Tourism and the Kwara State Environmental Protection Agency through the Kwara State Environmental Protection Agency Law 1992. Charged with the responsibility of waste management and disposal within the state, it is against this background that this paper examines the law on solid wastes disposal and management in Kwara state, Nigeria. The paper also identifies the various challenges facing waste management and disposal in the State with a view to make recommendation on how to tackle the problem.

2. Kwara State

Kwara State is a derivative of the local name for the River Niger. It was created on May 27, 1967 when the Federal Republic of Nigeria was split into twelve states. Its original name of West Central State has subsequently changed to Kwara. Prior to its creation, the area currently known as Kwara was part of the former Northern Region of Nigeria. The structure of the state has undergone several alterations. First, in 1976, a segment of the eastern part of the state was merged with the current Benue state. Second, in 1991, part of the areas of the state was merged with the current Niger state and Kogi state. The capital city, Ilorin, is a historically ornate centre, with one of the most distinguished Emirates in the country.

Kwara state is located in the North Central Nigeria; it lies between 11°2' and 11°45' North and Longitude 2°45' and 6°4' East. The state covers a land area of 35,705 square kilometers and has a population of 2,371,089 [3]. It has 16 Local Government Area, which are: Asa, Baruten, Edu, Ekiti, Ifelodun, Ilorin East, Ilorin South, Ilorin West, Irepodun, Isin, Kaiama, Moro, Offa, Oke-Ero, Oyun and Pategi. Kwara occupies a vantage position on the map of Nigeria. It shares the same borders with Niger state in the

North and in the South-Western states of Osun, Oyo, Ekiti and the Republic of Benin. The 32,500 square kilometers of the state is arable and suitable for human habitation and development.

Kwara state is endowed with agricultural and mineral resources. Major agricultural produce include: plantain, sorghum, cocoa, palm oil/palm-kernel, cashew nut, sugar cane, banana, maize, cassava, groundnut, yam and soya beans. The state has potential for processing these agricultural products. Key investment opportunities are in the area of processing of crop and livestock products; limbering and furniture; paper production; ceramics; rubber based and agro chemicals.

The cultural, religious and ethnic mix of the state is reflective of the uniqueness of its location and its history. The state's religious mix is a combination of Islam and Christianity, while the major ethnic groups are the Yoruba, Nupe and Baruba. The Yoruba are undoubtedly the most populous of the major ethnic groups in the state, through there is a very high degree of integration and inter-marriage among these different groups.

As Kwara state grew over time, particularly from the early 80s, social-economic activities and physical development doubled, and thus affected inflow of people. This increase resulted into daily increase in waste generated by the dwellers. Hence, the need for intervention strategy through the establishment of government agencies backed by legislation to tackle the challenges of waste management in the state [4]. The agencies include, the Kwara Waste and Environment Protection Agency (KWEPA) under the Ministry of Environment and Tourism and the Kwara Waste Management Company (KWMC) also under the Ministry of Environment and Tourism.

3. Kwara State Laws

3.1. Kwara State Environmental Protection Agency Law

The Kwara State Environmental Protection Agency Law was enacted in 1992. The Act created the Kwara State Environmental Protection Agency (KWEPA) to promote a safe and healthy environment for the people of Kwara state to live in, and to ensure sustainable development for the purposes of the use of the environment. The Agency is shadowed with the powers to carry on all environmental protection activities, to carry out research and development activities for environmental protection and to educate the general public on the types of disposal methods acceptable by the State Government for domestic and industrial wastes among others. For the purpose of achieving its set goals, the law created a governing council whose function is to formulate policies and programmes aimed at enhancing the position and improvement of the protection of the environment in the state, formulate and en-

hance policies, rules and regulations on solid waste collection and disposal, co-ordinate the activities of all the agencies in the state connected with environmental matters; conduct public enlightenment campaigns and disseminate vital information on environmental matters, render advisory services and support to all Local Government in the state in areas of solid waste management matters; take measures to guarantee consistent effectiveness of environmental structures throughout the state for solid waste collection and disposal, formulate master plans for solid wastes management for development of environmental standard mobilize the inhabitants of all areas in the state for the effective observance of environmental rules and guidelines for the promotion of a healthy and safe environment; monitor and control disposal of solid waste generated by both Government and private facilities in the state and implement applicable laws and standards on activities related to the environment among others.

At the Local Government level, the law established the Local Government Committee on environmental protection for the purpose of maintaining good environment quality in their domain.

For the effective control and management of solid wastes in the state, the law authorized the Agency, local government council or private collector to assist in the disposal of refuse waste within the state. The law also provided that vehicle or container used in transporting or conveying refuse or waste within the state should be covered in such a way that the content thereof does not litter the street.

The law provided that all owner or occupier of a tenement should have receptacle which shall kept within the tenement to be used for depositing refuse of any description and only to be brought out of the tenement for the disposal of refuse and that every owner or occupier of a tenement shall maintain in a good condition the receptacle and replace them when it is worn out.

Furthermore, the law also makes it an offence for any person to throw or deposit on any street, open space, gutter, drain or drainage system or tenement whether occupied or not obnoxious, toxic or poisonous waste except at such places authorized by the Agency. In addition, the law prohibits the burning of the contents of any dustbin or receptacle of the Agency.

The law also provided that any person who contravenes any of the offences mentioned above commits nuisance and would be tried by either a Magistrate Special Environmental Court or Area Court within the jurisdiction and upon conviction shall be liable to a maximum fine of N5000.00 (five thousand naira) or imprisonment for six months.

3.2. Environmental Sanitation Law

The Environmental Sanitation Law of 2004 was enacted

to ensure sanitary conditions in residential and public places in Kwara State. In order to promote clean environment in the state, the law provided that every owner, occupier or tenant of a tenement should clean and keep the streets, side-walks at the front, back or either sides of such tenement and the drains, gutters or channels by such streets, free of all filth, rubbish and refuse; not to litter, sweep out or throw ashes, refuse, paper, nylon and rubbish into any street, public place or vacant plot; not to use dustbins which may be leaking or permitting litter to escape out which may injure people handling them and to ensure the cleanliness of their premises, particularly the background and the courtyard. The law also makes it mandatory for producers, sellers and consumers of pure water, ice cream and related products to ensure that the nylon of the product are properly disposed off after consumption.

In order to ensure compliance, the law makes it mandatory for every owner or occupier of a tenement to provide dustbin with cover for the tenement to be used for depositing refuse. The law also makes it mandatory for them to remove daily, all refuse from dustbin to a public refuse depot such as those provided by the Kwara State Environmental Protection Agency. The law also makes it mandatory for commercial vehicles operating within the state to carry a litter bin for the use of the passengers, and that their passengers should not throw any litter, fruit tins, scrap of paper or other items on to the road from any vehicle.

The law prohibits indiscriminate dumping of wastes along the highways, roads, channels, gorges, vacant lands except at designated refuse disposal sites as approved by the Kwara State Environmental Protection Agency.

The law also makes it mandatory for all vehicles or containers used in transporting or conveying wastes to be securely covered in such a way that the contents do not litter the road. The law also provided that all waste from markets, restaurants, schools, shops, religious premises and other commercial institutions should be packed in plastic waste bags or tightly covered dustbins before disposal.

The law provided that any person who contravenes or fail to comply with the provision of the law shall be guilty of an offence and shall upon conviction be liable to the fines ranging between N500.00 (Five hundred naira) and N10000.00 (Ten thousand naira).

There is no doubt, the Environmental Sanitation Law of 2004 complement the Kwara State Environmental Protection Agency Law of 1992 on the management and control of solid wastes in Kwara State.

3.3. Special Environmental Sanitation Court Law

In order to give the force of law to the existing laws on

waste management and control in Kwara State, the State Government enacted the Environmental Sanitation Court with divisions in each of the three Senatorial Districts of the state to be manned by a Magistrate.

The court is empowered to try offences on environmental matters in respect of cases arising out of the provisions of the Environmental Sanitation Law, Kwara State Environmental Protection Agency Law, its Regulations or any other laws on environmental protection and other related enactments. The court is also empowered to try offenders summarily in accordance with the provision of the Criminal Procedure Code Law. However the jurisdiction of the court is limited to N5000000.00 (Five million naira). Appeals from the decision of the court lie in the High Court.

4. National Laws

The Federal Government of Nigeria in its efforts to control and manage wastes in the country enacted laws, such as, the Constitution 1999; the National Environmental Standard and Regulation Enforcement Agency, 2007; Federal Solid and Hazardous Waste Management Regulations, 1991; Harmful Waste (Special Criminal Provisions) Act, Criminal Code Law; National Environmental (Sanitation and Waste Control) Regulation, 2009; Management of Solid and Hazardous Wastes Regulations and the National Policy on the Environment, 1989.

4.1. The Constitution

The Constitution of the Federal Republic of Nigeria, 1999 recognizes the importance of improving and protecting the environment and makes relevant provisions on environmental protection.

The Constitution establishes, though impliedly, that international treaties (including environmental treaties, protocols, conventions etc.) ratified by the National Assembly should be implemented as law in Nigeria. The Constitution makes it an objective of the Nigerian state to improve and protect the air, land, water, forest and wildlife of Nigeria. The Constitution also guarantees fundamental human rights to life and human dignity which could be linked to the need for a healthy and safe environment.

4.2. The National Environmental Standards and Regulation Enforcement Agency Act

The National Environmental Standards and Regulation Enforcement Agency (NESREA) Act, 2007 which replaced the Federal Environmental Protection Agency (FEPA) Act of 1988 is administered by the Federal Ministry of Environment to protect and promote sustainable development of the environment and its natural resources.

The law provides authority to ensure compliance with local and international laws on environmental sanitation

and pollution prevention and control through monitory and regulatory measures. The law also empowers the Agency to make and review regulations on air and water quality effluent limitations, control of harmful substances and other forms of environmental pollution and sanitation. However, the law prohibits, without lawful authority, the discharge of hazardous substances into the environment.

The law also make regulations namely, the National Effluent Limitation Regulations, National Environmental Protection (Pollution Abatement in Industries and Facilities Producing Waste) Regulation on the environmental protection in the country.

4.3. The Federal Solid and Hazardous Waste Management Regulations

The Federal Solid and Hazardous Waste Management Regulations of 1991 make it an obligation for industries to identify solid hazardous wastes which are dangerous to public health and the environment and to research into possibility of their recycling.

4.4. The Harmful Waste (Special Criminal Provisions) Act

The Harmful Waste (Special Criminal Provisions) Act of 1988 prohibits, without lawful authority, the carrying, dumping or depositing of harmful waste in the air, land or waters of Nigeria.

4.5. Criminal Code Law

The Criminal Code Law contains provision for the prevention of public health hazards and for environmental protection.

4.6. National Environmental (Sanitation and Waste Control) Regulations

The National Environmental (Sanitation and Waste Control) Regulation of 2009 makes adequate provision for waste control and environmental sanitation.

4.7. The Management of Solid and Hazardous Waste Regulations

The Management of Solid and Hazardous Waste Regulations regulate the collection, treatment and disposal of solid and hazardous waste for municipal and industrial sources and give the comprehensive list of chemicals and chemical waste by toxicity categories.

4.8. National Policy on Environment

The National Policy on Environment was launched by the Federal Government of Nigeria on 27th November,

1989. The documents prescribe guideline and strategies for achieving the Policy Goal of sustainable development.

5. Challenges

In spite of the laws (local and national) on waste control and management in Kwara State, Nigeria, there appears to be a losing battle against the harmful consequences of unguided waste and the attainment of a clean healthy environment in the state. It is common sight in Kwara state particularly in Ilorin, the state capital to see heaps, accumulation of festering waste dumps.

The Kwara State Environment Protection Agency created by the law appears to be ineffective in controlling the volume of waste generated in the state. The Agency is faced with many problems, such as, lack of fund; lack of trained/professional waste managers; lack of effective monitoring and control; peculiarity of the Nigerians' attitude; the "government-does-everything"; lack of modern technology/lethargy in implementing efficient waste management methods and corruption.

Furthermore, the Special Environmental Court sitting in Ilorin and the three senatorial districts of the state lacked the personnel to control the wave of crime committed during the monthly environmental sanitation exercise. The law needs to be reviewed to give room for more sanctions for offences committed during environmental sanitation.

6. Conclusion and Recommendations

The problem of waste control and management in Kwara State, Nigeria goes beyond its proper disposal. In addition to many technical and environmental difficulties, administrative, economic and political problems must be solved. The effort to address all the problems is often referred to as the practice of waste management. In this context, management encompasses the planning, design, financing, construction and processing, recycling and final disposal of waste material. In order to address the problems of waste control and management in the state, it is hereby recommended as follows:

Improved funding of the Ministry of Environment and the Kwara State Environmental Protection Agency responsible for domestic waste management would go along way at assisting them to procure better and more equipment for domestic waste collection and disposal.

The Ministry of Environment and the Kwara State Environmental Protection Agency should strengthen their training programme for the managerial staff and inspectorate/monitoring staff. This would enhance effective monitoring and control of waste from collection to disposal.

The Government should provide uniform containers of different sizes to the people in residential areas and in-

dustries at reasonable cost. This would enable the government to determine the quality of wastes generated and to provide for adequate disposal sites needed.

The Government should desist from the dumping of waste in the neighborhood. Recycling of waste should be the goal.

The existing laws on waste control and management in the state should be reviewed.

There is the urgent need for strict laws and penalty with proper implementation.

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