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# Plastic Pollution in Nigeria: The Need for Legislation to Tackle the Menace<sup>5</sup>

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## Abstract

Collection, disposal and management of plastic waste and polythene bags is a growing problem in Nigeria. The use of plastic/polythene bags made of thin plastic film has increased significantly in recent years. The manner of disposal of these items has resulted in the degradation of the natural environment. In Nigeria, lots of plastics are used on daily basis, of which most, if not all of them, are not properly disposed of. Some of these items end up in landfills, littering the environment, harming wildlife or blocking drainages, therefore, increasing the risk of flood. This paper examines the existing laws in relation to waste management in Nigeria and the inadequacies of the existing legislation in combating this phenomenon. The doctrinal method of research was used and it is recommended that there is a need for new legislation to be enacted for Nigeria to surmount the menace of plastic pollution.

**Keywords:** plastic pollution, waste management, environment, legislation, Nigeria.

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# Zanieczyszczenie plastikiem w Nigerii. Potrzeba legislacji w celu uporania się z zagrożeniem<sup>6</sup>

## Streszczenie

Zbieranie, wyrzucanie odpadów z plastiku oraz plastikowych worków, a także gospodarowanie nimi to coraz większy problem w Nigerii. Zjawisko korzystania z plastikowych/polietylenowych toreb wykonanych z cienkiej plastikowej folii w ostatnich latach znacząco się zwiększyło. Sposób wyrzucania tych produktów poskutkował degradacją środowiska naturalnego. W Nigerii na co dzień korzysta się z dużej ilości plastiku, z czego większość, jeśli nie całość, jest niewłaściwie usuwana. Niektóre z tych odpadów kończą na wysypiskach, zaśmiecając środowisko, wyrządzając szkodę dzikiej przyrodzie czy blokując odpływy, co zwiększa ryzyko wystąpienia powodzi. Niniejszy artykuł bada istniejące przepisy dotyczące gospodarowania odpadami w Nigerii oraz niedoskonałości obecnego ustawodawstwa, jeśli chodzi o walkę z tym zjawiskiem. Zastosowano doktrynalną metodę badawczą i zgłoszono potrzebę wcielenia w życie nowych przepisów, żeby Nigeria mogła pokonać zagrożenie, jakim jest zanieczyszczenie plastikiem.

**Słowa kluczowe:** zanieczyszczenie plastikiem, gospodarowanie odpadami, środowisko, ustawodawstwo, Nigeria.

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<sup>6</sup> Badania wykorzystane w artykule nie zostały sfinansowane przez żadną instytucję.

## Introduction

The manner in which plastic bags are disposed in Nigeria is of great concern and there is a need to address the issue urgently. As our planet is covered with plastic every day, the threat to the environment in the world is increasing. Plastic products and packaging have become an integral part of our modern-day life, every minute, approximately 2 million disposable plastic bags are distributed at checkouts around the world. The reason for this is not farfetched, it is simply because plastic is durable, cheap and lightweight, and can be flexible or rigid. However, they contribute to 300 million tons of plastic waste generated each year through multiple uses, many of which end up in the environment, threaten wildlife, endanger public health and cost billions of dollars to clean up.<sup>7</sup> A significant increase in plastic production and widespread improper management of plastic waste have created a huge 'tragedy of the commons' in our oceans, seas and waterways as it is now a global limitation that can damage ecosystems, disrupt biodiversity and affect everyone on the planet. Nigeria uses a great deal of plastic every day, but most of it is not properly managed and disposed of. Some of these will eventually be dumped in landfills and thereby pollute the environment, harm wildlife, or block drainage and increase the risk of flooding. By 2050, our oceans will contain more plastic than fishes, and about 99% of seabirds will be some form of plastic, at the rate of the current disposing of disposable plastics such as bottles, bags and cups. The plastic pollution situation in Nigeria and many other countries has reached this level due to inadequate current laws and policies to address this phenomenon. Plastic pollution is fast becoming a 'cancer' that gradually eats up the environment, and like other cancers, it becomes an incurable disease if not properly addressed; based on this, it is expected that this should be fundamentally important to governments and policy makers. This article argues that there is a need for Nigeria government to enact new laws and regulations in order to limit the surprising use of plastics and limit their impact on human health and the environment at large as a healthy environment is a sine qua non to a healthy living.

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<sup>7</sup> E. Cirino, *What Laws Work Best to Cut Plastic Pollution?*, 4.03.2019, <https://therevelator.org/plastic-pollution-laws/> (access: 6.07.2022).

## Methodology

The article relies on the doctrinal research methodology. Doctrinal research is concerned with legal propositions, the sources of data are legal and appellate courts decisions. It is library research; it includes primary and secondary sources. The primary sources are statutes, the Constitution, acts and laws, while secondary sources are books, articles etc.

Some of the primary sources explored here are: The 1999 Constitution of the Federal Republic of Nigeria (as amended),<sup>8</sup> The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007,<sup>9</sup> Environmental Impact Assessment (EIA) Act.<sup>10</sup> The secondary sources include books, articles and journals related to the subject matter of this research. The internet is also of tremendous help in putting this article together.

## Aim of the research

The major aim of this article is to examine the problem of plastic pollution in Nigeria while highlighting the effects of plastic pollution on human health and the Nigeria environment as a whole. It is also aimed at suggesting that a policy-based approach be employed to tackle the menace of plastic pollution in Nigeria.

## Definition of terms

### Environment

Environment was defined by the Environmental Protection Act 1990 S.1(2) as consisting of all or any of the following media, namely the air, water and land; and the medium of air includes the air within buildings and the air within other natural or manmade structures above or below ground. This has been repealed by the Pollution Prevention Act 1999 which retains the same definition in the context of environmental pollution. The Environmental Information Regulations 2004 contain a more expansive definition of what is included in the elements of the environment including air and atmosphere, water, soil, land, landscape and natural sites includ-

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<sup>8</sup> The 1999 Constitution of the Federal Republic of Nigeria (as amended), Cap C23, LFN 2004.

<sup>9</sup> Cap 301LFN 2010.

<sup>10</sup> Cap E12, LFN 2004.

ing wetlands, coastal and marine areas, biological diversity and its components including genetically modified organisms, and the interaction among these elements.<sup>11</sup> It was also defined to include the air, water and land; and the medium of air includes the air within buildings and the air within other natural or manmade structures above and below the ground<sup>12</sup> environment has also been defined to include water, air, land and the inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organisms and property.<sup>13</sup> *Environment* is a very difficult word to define. Its normal meaning relates to the surroundings but obviously that is a concept which is relatable to whatever object it is which is surrounded.<sup>14</sup>

The environment has also been viewed as a complex relationship existing between the ecosystem and its inhabitants. Scientific explanation contends that environment is the product of a complex ecological system in which human beings and other living and non-living organisms co-exist. In this context, environment is characterised and classified into two broad categories: physical and cultural. The physical environment is the natural environment, which consists of biosphere, atmosphere, hydrosphere and lithosphere, and their inherent resources. The cultural environment generally encompasses the way of life of a set of people in a specific location including human settlements, cultural, historical and religious aspects of human activities.<sup>15</sup> The environment includes the ways in which the environmental media interact with one another and the ways in which they interact with the man-made environment, the fauna and flora which inhabit them.<sup>16</sup>

Furthermore, the Federal Environmental Protection Agency Act<sup>17</sup> defines the environment as water, air, land and all plants and human beings or animals living therein and the interaction which exist among any or all of them. From whatever perspective the environment is defined, it is our source of sustenance that we depend upon. We depend on it for food, fuel, medicines and other materials needed.

<sup>11</sup> M. Woodley (ed.), *Osborn's Concise Law Dictionary*, 12th ed., Sweet and Maxwell 2013, p. 165.

<sup>12</sup> P.H. Richards, L.B. Curzon (eds.), *Longman Dictionary of Law*, 8th ed., Gosport 2011.

<sup>13</sup> A.O. Kehinde, *Legal Control of Improper and Effect of improper solid waste management in Nigeria*, "Novena Law Journal" 2019, 6(2), p. 2.

<sup>14</sup> *Encyclopedia Law Dictionary*, 3rd ed., New Delhi 2008.

<sup>15</sup> G.O. Amokaye, *Environmental Law and Practice in Nigeria*, Lagos 2004, p. 4.

<sup>16</sup> *Ibidem*.

<sup>17</sup> Section 38, Federal Environmental Protection Agency Act, Cap F10 LFN 2004.

## Environmental pollution

The word *pollution* is derived from the word pollute which means 'to corrupt or to defile'.<sup>18</sup> Pollution has many and various definitions as it means different things to different individuals and organisations. Many jurists and academia have tried to define the term pollution.

Section 37 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act<sup>19</sup> defines pollution as "man-made or man-aided alteration of chemical, physical, or biological quality of the environment beyond acceptable limits and 'pollutants'" shall be construed accordingly. According to A.S. Hornsby (1984), pollution is "the process of making air, water, soil, land, etc. dirty, the skill of being dirty, what is annoying or harmful levels of noise or artificial high at night."<sup>20</sup> According to *Boomer v Atlantic Cement Co.*,<sup>21</sup> it was held that concerning the environment, pollution means: 'The contamination of soil, air, water by noxious substance and other materials including noise. It has therefore been described as the contamination of the environment by a variety of sources including but not limited to hazardous substance, organic wastes and toxic chemicals.' According to Section 41 of the Federal Environmental Protection Agency Act of 1988, pollution means 'man-made or man-aided alternation of chemical, physical and biological quality of the environment or beyond acceptable limits.'<sup>22</sup>

Section 15 of the Harmful Waste (Special Criminal Provisions) Act 1988, harmful waste is described as: 'any injurious, poisonous, toxic or noxious substance and includes nuclear waste emitting any radio-active substance. If the waste is in such quantity, whether with any other consignment of the same or if different substance as to subject any poison to the risk of death, fatal injury or incurable impairment of physical and mental health.'<sup>23</sup>

Therefore, environmental pollution is when an injurious or corrupting element is introduced into the environment which by fouling reduces the satisfaction and utility derivable from growing and development within it.<sup>24</sup> For the environment to be polluted, certain things must be of necessity to be introduced into it. These things may either be harmful in themselves or unarmful depending on their

<sup>18</sup> *Roget's 21st Century Thesaurus*, 3rd ed., New York 2013.

<sup>19</sup> Section 37 of NESREA Act 2007, the Interpretation Section.

<sup>20</sup> A.S. Hornsby, *Oxford Advanced Learners Dictionary*, 4th ed., Oxford 1984.

<sup>21</sup> 26 N.Y. 219 @309.

<sup>22</sup> FEPA 1988 S41 the interpretation section of the Act.

<sup>23</sup> Cap 165 LFN 1990.

<sup>24</sup> R.E. Goodin, *The Politics of Rational Man*, London 1976, pp. 144-189.

nature. Harmful things are injurious to human health, while examples of unarmful things include waste papers, abandoned vehicles or scrap materials etc.

Thus, environmental pollution is the introduction by man directly or indirectly of substances onto the environment resulting in such deleterious effects as to harm to living resources, hazards to human health, a hindrance to marine activities, including fishing, impairment of quality for use of seawater and the general reduction of amenities.<sup>25</sup>

## Sources of pollution

There are two sources of environmental pollution and they could be classified as follows:

- i. Primary sources
- ii. Secondary sources

### Primary Sources

The primary source of pollution including plastic pollution which is the crux of this paper is man. No animal or plant has insulted the environment as much as man has. The activities of man from a mere food gatherer and hunter and an agriculturist and lately, an industrialist have affected the environment in no small measure.<sup>26</sup> All other sources such as industrialisation, population, explosion etc. have their origin rooted in the activities of man. Man is thus the primary source of environmental pollution while other factors that contribute to environmental pollution are all secondary sources.

### Secondary Sources

The secondary source of pollution is not unconnected to the primary source just explained above, they include:

- i. Industrialisation
- ii. Flood
- iii. Erosion
- iv. Population explosion and urbanisation
- v. Poverty, ignorance and misplaced values
- vi. Toxic wastes

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<sup>25</sup> G.O. Amokaye, op. cit., p. 4.

<sup>26</sup> Ibidem.

**Industrialisation:** This can be referred to as an increase in the share of manufacturing in the Gross Domestic Product and in the occupations of the economically active population. It could mean the development of economic activities of a particular country. It is the period of social and economic change that transforms a human group to an industrial society from an agrarian society, involving the extensive manufacturing reorganisation of an economy.<sup>27</sup>

**Flood:** This is an overflowing of a large amount of water beyond its normal confines, especially over what is normally dry land.

**Population explosion and urbanisation:** Population explosion can be described as a sudden, large increase in the size of a population while urbanisation can be described as the process through which cities grow, and higher percentages of the population comes to live in the city.<sup>28</sup>

**Poverty, ignorance and misplaced values:** Poverty has been defined as the state of one who lacks a usual or socially acceptable amount of money or material possessions. It is said to exist when people lack the means to satisfy their basic needs.<sup>29</sup> Ignorance has been defined as the state or fact of being ignorant, that is lack of knowledge education or awareness,<sup>30</sup> while misplaced values can be described to mean 'to set a wrong object or eventuality.'<sup>31</sup>

**Toxic waste:** Waste is considered to be toxic if it is poisonous, radioactive, explosive, carcinogenic, mutagenic, teratogenic or bioaccumulative. Waste containing dangerous pathogens, such as syringes, is sometimes considered to be toxic.<sup>32</sup>

## Some laws regulating waste management in Nigeria

**The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act of 2007:**<sup>33</sup> This Act was established in 2007. NESREA replaced FEPA. NESREA was established as a parastatal of the Federal Ministry of Environment, Housing and Urban Development.<sup>34</sup> It is charged with the responsibility for the protection and development of the environment, biodiversity conservation and

<sup>27</sup> <https://cleartax.in> (access: 27.06.2021).

<sup>28</sup> <https://www.nationalgeographic.org> (access: 27.06.2021).

<sup>29</sup> <https://www.britannica.com> (access: 27.06.2021).

<sup>30</sup> <https://www.merriam-webster.com> (access: 27.06.2021).

<sup>31</sup> Ibidem.

<sup>32</sup> <https://www.britannica.com> (access: 27.06.2021).

<sup>33</sup> Cap 301, LFN 2010.

<sup>34</sup> NESREA was established the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act No. 25 of 2007. Its commencement date was 30 July 2007. By virtue of the provisions of Section 36 of NESREA Act, the FEPA Act had been repealed.

suitable development in Nigeria's natural resources in general.<sup>35</sup> The vision of the Agency is to ensure that Nigerians have access to a cleaner and healthier environment while the mission is to inspire personal and collective responsibility in building an environmentally conscious society for the achievement of sustainable development in Nigeria.<sup>36</sup>

The Agency's powers are so wide. In the area of protecting the environment, the Agency has the power to prohibit processes and the use of equipment or technology that undermine environmental quality.<sup>37</sup> It also has the power to conduct field follow up compliance with set standards and take procedures prescribed by law against any violator.<sup>38</sup> The Agency also reserves the power to establish mobile courts in order to dispense off cases of environmental violations expeditiously.<sup>39</sup> The Agency can conduct public investigations and make proposals to the minister for the review of existing guidelines, regulations and standards on environment.<sup>40</sup> Also, the Agency can establish programs for setting standards and regulations for the prevention, reduction and elimination of pollution and other forms of environmental degradation in the nation's air, land, oceans, seas and other water bodies and for restoration and enhancement of nation's environment and natural resources.<sup>41</sup>

**The Environmental Impact Assessment (EIA) Act:**<sup>42</sup> This was promulgated to assess the impact of any kind of project on the environment and it further makes it mandatory for an EIA report to be issued from the Federal Ministry of Environment. Environmental Impact Assessment is the process of identification of any contrary effect that may arise from siting certain projects in a particular area as well as the mechanisms put in place to contain, curtail, mitigate such contrary effect and as well ensure that parties who are adversely affected get restitution.<sup>43</sup> Thus, the Environmental Impact Assessment should ensure that before an approval is granted in respect of any project, the appropriate government authorities have fully identified and considered the environmental effects of the proposed activities under their jurisdiction and control and affected citizens had an opportunity to understand the proposed project and expressed their views to the decision makers.

<sup>35</sup> See Section 2, NESREA Act.

<sup>36</sup> D.A. Ariyoosu, *An Examination of Legal Regulation and Environmental Impacts of Telecommunication Installations in Nigeria*, "Journal of Law, Policy and Globalisation" 2014, 30, p. 6.

<sup>37</sup> Section 8(d) NESREA Act.

<sup>38</sup> Section 8(e) NESREA Act.

<sup>39</sup> Section 8(f) NESREA Act.

<sup>40</sup> Section 8(k) NESREA Act.

<sup>41</sup> Section 8(o) NESREA Act.

<sup>42</sup> Cap E12, LFN 2004.

<sup>43</sup> P.C. William, *The Environmental Impact Assessment Act and the Process as an Environmental and Livelihood Advocacy Tool in Defending the Environment*, "Environmental Defense Newsletter" 2009, 31, p. 3.

**The 1999 Constitution of the Federal Republic of Nigeria:**<sup>44</sup> It is worthy of note that the 1999 Constitution of the Federal Republic of Nigeria recognises the need to protect the environment. The Constitution recognises the need for environmental protection as it provides that ‘the state shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.’ It is obvious from this provision that the government realises that there is a need to protect the environment so as to make it worth living for the Nigerian people. It is worthy of note that as beautiful as this provision is, it falls within the rights under Chapter II of the Constitution which are non-justiciable rights.<sup>45</sup> It is my view that this right should be one of the rights under Chapter IV of the Constitution so as to enable it have the kind of weight it ought to have in the country. As far as this right is concerned, it is just a toothless bull dog. The Constitution as the principal legislation in the country should ensure that this right is justiciable.

**The National Policy on the Environment:** This was launched by Government on 27 November 1989. This document described guidelines and strategies for achieving the policy goal of sustainable development in Nigeria.

**The National Guidelines and Standards for Environmental Pollution Control:** This was launched on 12 March 1991 and represents the basic instrument for monitoring and controlling industrial and urban pollution.

**The Kanji Lake National Park Act:**<sup>46</sup> This Act provides for the establishment of Kanji Lake Park. It also makes further provision for controlling, managing and maintaining the park as well as ensuring the security of animal and plant life within the park.

**The River Basin Development Authorities Act:**<sup>47</sup> It makes provisions for the comprehensive development of water resources and of floods and erosion.

**The Petroleum Regulation:**<sup>48</sup> This prohibits the discharge or escape of petroleum into waters within harbour areas and makes provisions for precaution in the conveyance of petroleum and rules for safe operations of pipeline.

**The Oil in Navigable Waters Act:**<sup>49</sup> By the provisions of this Act, the discharge of oil or any mixture containing oil into the territorial or navigable inland waters is prohibited. The Act by the provisions<sup>50</sup> makes it an offence for any Nigerian ship to discharge oil into the prohibited sea areas created under the international

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<sup>44</sup> Cap C23, LFN 2004.

<sup>45</sup> Section 6(6)(c) of the Constitution of the Federal Republic of Nigeria of 1999, as amended.

<sup>46</sup> Cap 197, LFN 1990.

<sup>47</sup> Cap R9, LFN 2004.

<sup>48</sup> Petroleum Regulations of 1967.

<sup>49</sup> Cap O6, LFN 2004.

<sup>50</sup> Section 1(1), *ibidem*.

convention and contained in the Schedule to the Act. The oils include crude oil, fuel and lubricating oil and heavy diesel oil.<sup>51</sup>

**The Oil Pipeline Act:**<sup>52</sup> This Act prohibits the pollution of land or any waters. It provides further that the holder of an oil license shall pay compensation to the victim(s) of oil spillage.<sup>53</sup>

**The Land Use Act:**<sup>54</sup> Land ownership structure is relevant for environmental protection, in that the control and ownership of land often dictates the right to important resources such as oil, natural gas, mineral resources and agricultural products found on the land. Section 1 of the Act now vests ownership of land within a state in the State Governor who holds the land in trust and administers it for the benefit of all Nigerians. The general aim of the Act was to vest absolute ownership of land in each state in the state governor. The governor allocates such land for commercial, agricultural and other purposes via a grant of statutory right of occupancy or customary right of occupancy.

The Act further provides that such a right given to an individual by the governor may also be revoked by him for overriding public interests.<sup>55</sup> This includes the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith. This provision makes it possible for the Nigerian government to appropriate land containing oil and gas. To that effect, government can take over even private or industrial land, wherever oil is found, in the interest of the general public.<sup>56</sup>

**The National Effluence Limitation Regulations of 1991:** This instrument makes it mandatory that industrial facilities install anti-pollution equipment, make provision for further effluent treatment, prescribe maximum limit of effluent parameters allowed for discharge and spell out penalties for contravention.

**The Pollution Abatement in Industries Facilities Generating Waste Regulations of 1991:** Through this Act, restrictions are imposed hereunder on the release of toxic substances and requirements stipulated.

- i. Monitoring of pollution to ensure permissible limits are not exceeded
- ii. Unusual and accidental discharges
- iii. Contingency plans
- iv. Generator's liabilities
- v. Strategies of waste reduction and safety for workers

<sup>51</sup> Section 1(2), *ibidem*.

<sup>52</sup> Cap O7, LFN 2004.

<sup>53</sup> Section 11 (5)(a–c), *ibidem*.

<sup>54</sup> Cap L5, LFN 2004.

<sup>55</sup> Section 28, *ibidem*.

<sup>56</sup> D.S. Olawuyi, *The Principles of Nigerian Environmental Law*, revised ed., Ado Ekiti 2015, pp. 21–22.

**The Waste Management Regulation of 1991:** This regulates the collection, treatment and disposal of solid and hazardous waste for municipal and industrial sources and gives the comprehensive list of chemicals and chemical waste by toxicity categories.

**The Water Resources Act:**<sup>57</sup> The Act was enacted in 2004 and it is aimed at developing and improving the quality and quantity of water resources.

**The Niger Delta Development Commission (NDDC) Act:**<sup>58</sup> This Act was aimed at tackling the ecological problems arising from the exploration of oil in Niger Delta Region of the country. It is observed that because of the dynamic nature of the environmental problems which necessitate the enactments of various acts, in order to solve or abate particular problems for a sustainable development, the Law on the environment will be promulgated from time to time so as to meet the need to sustain environmental development.

## The menace of plastic waste disposal in Nigeria

The unguarded use and disposal of plastic materials especially polythene bags is posing great deal of danger on Nigerians and the world entirely. These non-degradable materials that litter the country remain for decades without decaying and eventually obstructs the drainages and water channels, thereby causing flooding, while endangering the ecosystem and eventually leads to land/soil pollution. The menace of plastic pollution is of growing concern to environmentalists in Nigeria and has raised international eyebrow. Plastic waste is littered in every nook and cranny of the country. According to Anichebe,<sup>59</sup> the statistics released by the World Health Organisation in 2016 shockingly revealed that four Nigerian cities (Anambra, Kaduna, Aba and Umuahia) were ranked amongst the 20 most polluted cities in the world. This calls for urgent attention on the part of Nigeria government and other relevant stakeholders in the environmental sphere to take necessary and speedy steps in curtailing the menace.

In Nigeria there is currently no effective legislation which prohibits the use, manufacture and importation of plastic bags. There is also the Environmental Impact Assessment Act that is responsible for accessing the level and impact of activities done by persons or authorities on the environment makes no specific

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<sup>57</sup> Cap W2, LFN 2004.

<sup>58</sup> Cap N87, LFN 2004.

<sup>59</sup> U. Anichebe, *Plastic Plague in Nigeria: Lessons from Other Nations*, "This Day" 16.12.2019, <https://www.thisdaylive.com/index.php/2019/12/16/plastic-plague-in-nigeria-lessons-from-other-nations/> (access: 20.01.2021).

provision prohibiting the use, manufacture, sale and importation of plastic bags. The realisation of this makes it almost impossible for the National Environmental Standards and Regulations Enforcement Agency (NESREA) to take significant step to clamp down on the problem; NESREA by its enabling Act saddled with the responsibility of enforcing compliance with Regulations on importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals and wastes other than those in the oil and gas sector.<sup>60</sup> It can therefore be safely concluded that this inadequacy prompted the legislative arm to establish the Bill that seeks to address this lacuna which is referred to as **the Plastic Bag (Prohibition) Bill of 2018**.<sup>61</sup> The Bill according to the lawmakers will address the issues of waste management and environmental pollution in Nigeria.

### Objectives of the Bill

The Bill has the following as its objectives:

- i. The prohibition of the use, manufacturing and importation of plastic bags used for commercial and household packaging in order to address its harmful impacts on oceans, rivers, lakes, forests, environment, wildlife as well as human life and also to relieve pressure on landfills and waste management.
- ii. To give the National Environmental Standards and Regulations Enforcement Agency (NESREA) and other relevant environmental protection agencies the statutory foundation to clampdown on those who pollute our environment with the use of plastic bags.
- iii. To sanction anyone who engages in the use, manufacture and importation of plastic bags.

The Bill provides in Section 1(2) that *a retailer shall offer a paper bag to the customer at a point of sale*. It goes further to state that the failure to do so is an offence.<sup>62</sup> In addition it provides that a manufacturer of plastic bags, who produces plastic bags for the purpose of selling, is guilty of an offence.<sup>63</sup> Also a person, who imports such bags whether as a carryout bag for sale, is guilty of an offence.<sup>64</sup> Section 2(1) stipulates that any person found guilty shall be liable on conviction to a fine not exceeding

<sup>60</sup> S 8 NESREA Act.

<sup>61</sup> A Bill sponsored by Hon. Deacon Sergius Ose Ogun representing Esan North East/Esan South East Federal Constituency, Edo State in the Nigeria House of Representatives. Available at <http://www.abcnig.com> (access: 2.07.2021).

<sup>62</sup> Section 1(3)(a) of the Bill.

<sup>63</sup> Section 1(3)(b) of the Bill.

<sup>64</sup> Section 1(3)(c) of the Bill.

N500,000 or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment while subsection 2 of the same section prescribes a fine not exceeding N5,000,000 to companies found guilty of the offences.

Prior to the Plastic Bags (Prohibition) Bill, plastic bag regulation has been in existence since the year 2009 which is referred to as **the National Environmental (Sanitation and Wastes Control) Regulations of 2009**.<sup>65</sup> All traders in the markets or in the management or control of a business or operation where wastes are generated shall ensure that litter and recyclable materials are deposited in appropriate receptacles or waste bins.<sup>66</sup> The Regulation<sup>67</sup> makes provision for the operators of industrial facilities who are vested with a similar responsibility to the effect that they shall provide receptacles for recyclable materials in appropriate and easily accessible locations.

This provision presupposes the availability of waste bins for the disposal of recyclable materials bearing in mind that some plastics are recyclable materials. The antithesis is however the reality in Nigeria as there is an absence of such receptacles properly designated in strategic places in the country and most recyclable materials including plastics end up in illegal landfills, incinerators, drainage and the ocean.

The Regulation prescribes the specification for plastic bags permitted in the country that is, those made of plastic film with a wall thickness of not less than 80 micrometres.<sup>68</sup> The Regulation therefore prohibits the manufacture, trade and commercial distribution of plastic bags made of plastic film with a wall thickness of less than 80 micrometres with the exception of bread bag. The implementation of this Regulation ensures the reusability and recycling of plastic bags therefore reducing single-use on the go plastic bags and minimising wastes from plastic bags. Although this Regulation is laudable, it is however limited to plastic bags as against plastics generally. To ensure effective implementation, the government in collaboration with the private and public sector is required to form a strategic alliance to implement a plastic film phase-out programme.<sup>69</sup> The government is yet to give effect to this regulation as there is still massive manufacture, and distribution of plastics especially single-use on the go plastic bags in Nigeria. This is very common in the pure water industry, retail stores, market places, among others.

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<sup>65</sup> Regulations No. 28 of 2009, Vol. 96, No. 60.

<sup>66</sup> Regulation 7 National Environmental Sanitation and Waste Control Regulation 2009.

<sup>67</sup> Regulation 8(c), *ibidem*.

<sup>68</sup> Regulation 18, *ibidem*.

<sup>69</sup> Regulation 66, *ibidem*.

Another policy in respect of plastic waste was put in place in the year 2020.<sup>70</sup> The goal of the policy is to promote the sustainable use of plastic as a resource through its life cycle management by laying a foundation where the design and production of plastics and plastic products respect the reuse, repair and recycling needs. This goal is to be achieved through the development of legislative instruments, standards, trade measures, models and systems, among others, that support plastic waste management. The 2018 Bill on Plastic Waste Management is one of such legislative instruments that must be speedily passed into law so as to give full effect to its provisions.

## Effects of improper plastic waste management

Improper plastic waste management or plastic pollution refers to the accumulation of plastic materials in the environment in a manner that adversely impacts on the environment.<sup>71</sup> As a result of the inexpensive and durable nature of plastic materials, they are adaptable for various uses thereby resulting in the increasing demand for, and production of large plastic supplies.<sup>72</sup> However, the chemical structure of plastic materials makes them resistant to natural degradation processes thus, it takes a long period of time for plastics to decompose.<sup>73</sup> The consequence of these is the accumulation and persistence of large volume of plastic wastes in the environment.<sup>74</sup> Thus, plastic pollution is increasingly being recognised globally as a significant environmental challenge.

The impact of plastic pollution or improper plastic waste management are multi-dimensional ranging from the impacts on human, to the impacts on the ecosystem, as well as the economy.

### Impact on the Ecosystem

The effects of plastic pollution on the ecosystem are wide, ranging from the effects on land, to the effects on the atmosphere, and the marine environment. Plastic

<sup>70</sup> National Policy on Plastic Waste Management 2020.

<sup>71</sup> Ch. Moore, *Plastic Pollution*, [in:] *Encyclopaedia Britannica* (18.06.2021), available at <https://www.britannica.com/science/plastic-pollution> (access: 5.07.2021).

<sup>72</sup> J.W. Readman, E. Kadar, J.A. Readman, C. Guitart, *Estuarine and Marine Pollutants*, [in:] R.E. Hester, R.M. Harrison (eds.), *Marine Pollution and Human Health*, London 2011, p. 84.

<sup>73</sup> O.A. Alabi, K.I. Ologbonjaye, O. Awosolu, O.E. Alalade, *Public and Environmental Health Effects of Plastic Wastes Disposal: A Review*, "Journal of Toxicology and Risk Assessment" 2019, 5(1), p. 21.

<sup>74</sup> *Ibidem*.

pollution threatens the survival of marine species, and affects coastal tourism. Globally, over three hundred million tons of plastics are produced yearly, and a minimum of eight million tons end up in the oceans making up about eighty percent of marine debris.<sup>75</sup> Marine species, such as seabirds, whales etc., ingest or get entangled with such plastic debris and get severely injured, or dies. The frequent loss of marine species can affect the sustainability of coastal tourism and this may adversely affect the economy.<sup>76</sup>

Furthermore, plastic pollution contributes to the challenges of climate change. Plastic pollution resulting from the open burning or incineration of plastic wastes is known to increase carbon emissions into the atmosphere, and may contribute to global warming.<sup>77</sup> In addition, indiscriminate dumping of plastic wastes on land can lead to the abiotic and biotic degradation of plastics after a long time, whereby additives from the plastics can leach into the environment causing soil and water contamination.<sup>78</sup> This can also lead to a reduction in water percolation and agricultural soil aeration thus resulting in reduced agricultural productivity.<sup>79</sup> Also, because of the non-biodegradable nature of plastic materials, improper plastic waste disposal can result in the blockage of drainage systems especially in urban areas, and may also lead to the loss of the aesthetic value of nature.<sup>80</sup>

### Impact on Humans

Plastic pollution threatens food safety and quality, as well as human health. Majority of the chemicals used in the production of plastics have been found to be carcinogenic thereby capable of interfering with the human endocrine system, and causing severe human disorders.<sup>81</sup> The ingestion of such toxic substances from plastic wastes can poison aquatic animals, and consequently adversely affect the supply

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<sup>75</sup> J.G. Derraik, *The Pollution of the Marine Environment by Plastic Debris: A Review*, "Marine Pollution Bulletin" 2002, p. 842.

<sup>76</sup> Ibidem.

<sup>77</sup> V.K. Chandegara, S.P. Cholera, J.N. Nandasana, M.T. Kumpavat, K.C. Patel, *Plastic Packaging Waste Impact on Climate Change and its Mitigation*, [in:] R. Subbaiah, G.V. Prajapati (eds.), *Water Management and Climate Smart Agriculture: Adaptation of Climatic Resilient Water Management and Agriculture*, New Delhi 2015, p. 404.

<sup>78</sup> F. Dubaish, G. Liebezeit, *Suspended Microplastics and Black Carbon Particles in the Jade System, Southern North Sea*, "Water, Air, & Soil Pollution" 2013, 224(2), p. 1352.

<sup>79</sup> Ibidem.

<sup>80</sup> L. Adane, D. Muleta, *Survey on the Usage of Plastic Bags, Their Disposal and Adverse Impacts on the Environment: A Case Study in Jimma City, Southwestern Ethiopia*, "Journal of Toxicology and Environmental Health Sciences" 2011, 3(8), p. 234.

<sup>81</sup> International Union for Conservation of Nature Issues Brief, *Marine Plastics*, May 2018.

of food for human consumption.<sup>82</sup> Similarly, various toxic contaminants accumulate on the surface of plastics from exposure to water over a long period of time. When aquatic organisms ingest such plastics, the contaminants accumulate in their system over time and such contaminants may be transferred to humans through consumption of seafood thus occasioning health hazards. For instance, traces of invisible plastics have been reported in salt, tap water, and beer, among others.<sup>83</sup>

The open burning or incineration of plastic wastes releases toxic greenhouse gases into the environment. When inhaled by humans, such greenhouse gases can cause severe health hazards especially respiratory disorders.<sup>84</sup>

### Impact on the Economy

Improper plastic waste disposal damages the aesthetic value of tourist areas resulting in the reduction of tourist revenues, and the accrual of economic costs as a result of the clean-up of tourist sites.

### Recommendation and conclusion

As earlier discussed in the paper, plastic pollution is of great concern across the globe and the effect is alarming. There is a need on the part of Nigerian government to ensure that adequate laws are put in place to combat the menace. There are few laws mentioned in this paper, if they are properly implemented, the issue will be addressed to an extent if not fully. Thus, it is our recommendation that they be implemented and that the Plastic Bag (Prohibition) Bill of 2018<sup>85</sup> should, as a matter of urgency, be passed into law and once passed, sanctions be meted out to violators of the law.

We recommend further that the Nigerian government should ensure creation of projects that will encourage conversion of plastic waste into renewable resources. In addition, government should encourage the use of clothing material in making bags instead of plastics/nylons. Individuals should also make conscious efforts to ensure that the regulations or laws put in place are obeyed accordingly.

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<sup>82</sup> Ibidem.

<sup>83</sup> Ibidem.

<sup>84</sup> C. Hamlet, T. Matte, S. Mehta, *Combating Plastic and Air Pollution on Earth Day, Vital Strategies* (2018), available at <https://www.medium.com/vital-strategies/combating-plastic-and-air-pollution-on-earth-day> (access: 5.07.2021).

<sup>85</sup> A Bill sponsored by Hon. Deacon Sergius Ose Ogun representing Esan North East/Esan South East Federal Constituency, Edo State in the Nigeria House of Representatives. Available at: <http://www.abcnig.com> (access: 2.07.2021).

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