AN APPRAISAL OF THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR WASTE MANAGEMENT IN KANO STATE

BY

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BEING A PROJECT SUBMITTED TO THE POSTGRADUATE SCHOOL, AHMADU BELLO UNIVERSITY, ZARIA, IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF ARTS IN LAW (M.A.L) FACULTY OF LAW, AHMADU BELLO UNIVERSITY, Zaria

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DECLARATION

I, Ali Yahaya BINALI, do solemnly declare that this project entitled "An Appraisal of the Legal and Institutional Framework for Waste Management in Kano State" is the result of my independent and personal research apart from ideas referred to from previous writers which have been duly acknowledged. No part of this research has been presented to the best of my knowledge, anywhere before. I remain solely responsible for all views expressed and errors contained therein.

_____ _____

Ali Yahaya BINALI **Date**
MAL/LAW/22491/2012-2013

CERTIFICATION

This project entitled "An Appraisal of the Legal and Institutional Framework for Waste Management in Kano State" by Ali Yahaya BINALI, meets the regulations governing the award of Degree of Master of Arts in Law (M.A.L) of Ahmadu Bello University, Zaria and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

This project is dedicated to: Aishatu M. Inuwa and late Hasiya Yahaya may her soul rest in perfect peace ameen and my parent. May Almighty Allah bless this work and my entire family, ameen.

ACKNOWLEDGEMENTS

In the name of Allah, Most Gracious, the Most Merciful. May the peace and blessings of Allah be upon prophet Muhammad (S.A.W), the choicest Allah's Messenger, his Household, his Noble and Compassionate Companions and Righteous Servants.

I am most grateful to Almighty Allah (S.W.T) whose guidance and assistance I have persistently enjoyed right from the commencement to the end of this programme.

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My deepest heartfelt gratitude goes to my parents, Mallam Yahaya and Malama Fatima Muhammad whose prayers and blessings remain the secret behind the successful completion of this work. May Allah reward them abundantly here and hereafter, Amin.

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National Environmental (Textile, Wearing Apparel Leather of Footwear Industry) Regulations 2009 Federal Republic of Nigeria, Abuja, Regulation No. 34 of 2009 official Gazette Vol. 96 No. 66 16th October, 2009

ABSTRACT

Waste is the greatest danger facing mankind today therefore measures must be nationally and internationally taken to control disposal of such waste to save and provide a safer, sound and good environment. Due to the damaging effect of waste to both human beings and environment, legal machinery needs to be put in place to cater for the environment. Constitutionally the issue of making laws to cater for legal and institutional framework for waste management in Nigeria falls within concurrent legislative list empowering both the Federal and state governments to make laws on it. This research entitled "An Appraisal of Legal and Institutional Framework for Waste Management in Kano State has been embarked upon with sole aim of studying and analyzing the laws and institutions of Kano State and Federation on waste management with a bid to identify the problems and prospects. The research has discussed the conceptual clarification of key terms and equally provided analysis of legal framework for waste management. The work also considered institutions responsible for waste management in Kano State. So many problems associated with the institutions have been critically analyzed and the prospects thereof have elaborately highlighted. The method adopted was doctrinal i.e library-oriented. The scope of the research was largely the basic laws relating to environmental issues affecting waste management in Kano State. At the end of the work, finding in relations to waste management in Kano State have been made out. The research finally provides some recommendations in order to achieve the desired goal of a safer, sound and good environment.

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CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction

At the heart of environmental concerns for every state and nation is the problem of waste and its management. Disposal and management of waste be hazardous or non-hazardous presents serious environmental problem. The problem is due to the lack of adequate resources namely: legal, financial, technology and manpower.

An effective waste management as a means of protecting environment under environmental law needs adequate legal regime, technology and enough manpower with necessary managerial skills and training to properly handle waste, hazardous and non-hazardous in an environmentally safe and sound manner.

The modern industry has come along with it the problem of hazardous waste. Having to use raw materials to produce goods, modern industries end up with hazardous waste which could either be toxic or radioactive. Communities in urban areas, settlements in rural areas and villages, markets, commercial places, schools, houses and institutions have now become a source of waste and there is always the problem of how to manage and dispose of them without

either harming the human environment or the environment of animals and plants.

Waste management is the generic expression that covers the various stages involved in the handling of waste. The collection, treatment, storage and disposal of waste are various stages of waste management. For every state law exist to provide a legal framework for the management of waste at that state. This forms the background study on the appraisal of the legal and institutional framework for waste management in Kano State.

1.2 Statement of the Research Problem.

The research seeks to examine the legal and institutional framework for waste management with particular reference to Kano State. Kano State now is facing serious problems and challenges with the issue of waste management. There is almost everywhere in the state dumps sites, land spread, water disposal and incineration and some numbers of land fillings particularly outside town and each of these have serious environmental defects/impacts.

The legal and institutional framework setup for the management of waste in the state are not enough[1]. The principal law enacted to regulate waste management

[1].Refuse Management and Sanitation Board Law, Law No. 7 of Kano State 2003.

in the state recognized only waste to be refuse of solid nature[2]leaving the other kind of waste which could be liquid in nature.

Therefore, the research aims at determining efficacies and deficiencies in providing for an adequate environmental protection to the population of Kano state at large. Generally, the research is meant to study all environmental issues that affect waste management in Kano State.

1.3 Justification for the Research

The need to understand the basic laws and regulations governing environmental protection particularly as it relates to waste management in Kano state makes this research significant and justifiable. The serious danger which these waste either hazardous or non-hazardous posed to the communities in Kano State easily justifies the need to research in this area. It will also be useful to environmentalists, environmental litigants to seek redress in courts for any grievances suffered due to poor management of waste.

1.4 Aims and Objectives of the Research

The main objective of this research is to review the legal and institutional framework on waste management in Kano State with a view to bring out the shortcomings of the law in the area and make laudable recommendations that

2. Ibid section 2.

will impact positive improvement in the laws enacted for the protection of the environment particularly in Kano State.

Kano state government and its population will benefit from the efforts which the researcher harnessed and presented in a coherent whole.

1.5 Scope of the Research

The scope of this research covers some of the basic laws relating to environmental issues affecting waste management particularly in Kano State. However, reference is made to national, regional and other international instruments relating to environmental protection and waste management because some of the environment laws are of Federal application. While others are derived from regional and international legal instruments.

1.6 Methodology of the Research

The research methodology adopted is doctrinal, essentially. Hence, primary and secondary sources shall be put to use. Most significantly, statutes, law reports and important gazette, information, hansards are to be consulted. Textbooks, magazines, newspapers, committee reports and journals shall also form part of the sources of the research.

1.7 Literature Review

Despite the fact that environmental law is a new concept its importance has grown tremendously, nationally and internationally. It is well established that the main aims of environmental laws are to ensure, waste management inclusive, and make safer and sound environment for either human or non-human populace.

There is no doubt that there are several literatures on the subject matter. It is also true that most of the writers on the issue of environmental pollution paid much attention on the problem of toxic waste without specifically looking at non-toxic waste and its management.

Generally, waste of any kind is inevitable due to the human and non-human activities and therefore its institutional frameworks and management is necessary in order to provide a qualitative and sound environment.

Ikoni[3] explained the basic concept of waste management. He stated thus "waste management is therefore, the collection and proper handling of wastes from the point where they are generated to where they are disposed of to achieve maximum environmental safety". The writer failed to go further to look at the legal framework in order to ensure and achieve maximum environmental

3Ikoni, U.D, An Introduction to Nigerian Environmental Law , Malthouse Press Limited, Lagos, 2010, p. 87

safety. As such, this exposition is found wanting and thus, the need for the study in the area.

Another writer Arene[4] presented a gloomy picture of waste management and opined thus, "Waste management means the organized and systematic dumping and channeling of wastes through or into landfills or pathway to ensure that they are disposed of with attention to acceptable public health and environmental safeguard". This exposition also does not touch the need to establish a legal regime in order to ensure organized and systematic channeling of waste to ensure environmental safeguard and hence, posed the need to make a research in the area.

Ilegbune[5] views waste management to means the collection, keeping, treatment and disposal of waste in such a way as to render them harmless to human and animal life, the ecology and the environment generally. This exposition of the learned writer do not make any reference as to the use of legal machinery to ensure proper handling of waste and thus, the need for the study in this area.

4Arene, E.O. "Dumping of Hazardous Wastes on African Coast" in proceeding in the Dumping of Toxic Wastes in African Countries, held at NIALS, Lagos, 10th August, 1988, p. 31.
5. Ilegbune, T.O. Legal Regulation of Industrial Waste Management, in: Ajomo, M.A. et. al (eds) Environmental Laws and Sustainable Development in Nigeria, Lagos, NIALS, 1994, p. 88

Another writer Okorodudu-Fubara[6] when discussing the issue of industrial waste management stated thus. "industry has developed with no enforceable legislation on industrial pollution, control, textile plants, breweries, slaughtering factories, sugar refineries, pulp and paper plants and petroleum industries all discharge raw, untreated and liquid effluents into open gutters, drains, streams, channels and lagoons. This view of the writer represents an exact picture of what is obtainable at the industrial estates in Kano State. And even the available legal instrument[7] created with a view to monitor waste management in the state contains a lacuna as regard to the definitions of waste, restricting the board which the law itself established when it comes to waste management in the state, and hence, the need for the study in this area.

Professor Ladan in his book titled Materials and Cases on Environmental Law[8]presented a picture of good environmental management but without paying too much attention as regard to the legal and institutional framework for sewage and waste management. The academic exposition is laudable but not sufficient as it relates to waste management, hence, the need for this research.

6. Okorodudu-Fubara, M.T. Law of Environmental Protection: Materials and Texts, Caltop Publications (Nig.) Limited, Ibadan, 1998, p. 241.
7. Refuse Management and Sanitation Board Law, Law No. 7 of Kano State 2003.
8. Econet Publishing Company Limited, Zaria, Nigeria, 2004, p. 1-8.

Justine Thornton and Silas Beckwith in their book Environmental Law 2nd Edition[9] while discussing the problem of waste management viewed thus "wastes require regulation simply because they are unwanted. A waste and a raw material may have equivalent hazardous properties (e.g. both may be toxic or flammable).But whilst there is an economic incentive to use raw materials efficiently and carefully, there is not the same imperative with the waste. Indeed the economic imperative is to dispose of it as cheaply and quickly as possible and without taking care to ensure that its hazardous properties do not cause harm to the environment. It is through disposal that waste can harm the environment. Harm can also arise when waste is stored, transported or treated either to reclaim useful substances within it, or to change its form so that it can be easily disposed of more easily. Regulation therefore, needs to extend more widely than to disposal practices. The above exposition of the learned authors amplified negative effects of waste disposal and emphasized the need to regulate waste management with a view of having harmless and sound environment and therefore the need to study in this area.

IKoni[10]while evaluating and analyzing the issue of waste management viewed thus "the issue of waste management therefore concerns with the interplay

9. Sweet and Maxwell Ltd, 100 Avenue Road, London NW3, 2004, p. 176
10. op. cit. p. 6

among generation, storage, collection and disposal of waste. This is because the volume of waste whether solid, liquid, gaseous or hazardous generated per day does not invariably measure the degree to which the environment will be polluted or degraded. It could be understood from the above exposition of the learned author that, he paid too much attention to the harmonious cooperation among the citizens/generations for effective waste management and at the same time overlooking the essential need to legal framework in order to have a good and sound environment, hence the need for this study.

Most of the literatures discussed above are not comprehensive enough to cover environmental problems as it relates to waste management. By restricting the review to the scope of the research i.e. Kano state it could be said that there is almost no comprehensive literature on the issue of waste management. This, therefore, gives more room for additional research on the subject. It is for this reason that this research is embarked upon to study the legal and institutional framework for waste management in Kano State.

1.8 Organizational layout

This work is divided into five chapters.

Chapter one deals with the background introduction of the subject matter, the problems of the research, objectives of the research, the scope of the research, methodology of the research and the literature reviews.

Chapter two deals with the conceptual clarification of the key terms, nature and the scope of the environment, nature and scope of the environmental law, nature of waste management, methods of waste management among others.

In chapter three analysis of legal framework on waste management in Nigeria and in particular Kano State will be provided.

Similarly an overview of waste management institutions in Kano state, is fully discussed in detail under chapter four.

Finally, chapter five which is the concluding chapter brings about the summary, findings and recommendations.

CHAPTER TWO

CONCEPTUAL CLARIFICATION OF KEY TERMS

2.1 The main aims of this chapter is to provide conceptual clarification of the following terms: environment, environmental law, waste, waste management, hazardous waste, non-hazardous waste, waste electronic and electrical equipment, enforcement of environmental law as well as method of waste management.

2.2 Nature and Scope of the Environment

The definition of the term environment establishes the philosophical basis of any legislation drafted and implemented to protect the environment. The way the term is defined indicates the value placed on the various aspects of the environment and the perception which policy makers place on it. Such a definition also reflects the focus of the environmental legislation and commitment of the state to protect the environment. It is therefore very fundamental to begin with the definition of the environment.

There are a lot of statutory definition ascribe to the term environment. Section 38 of the recently defunct Federal Environmental Protection Act[1]defined the term "environment to includes water, air, land and all plants

[1] Laws of the Federation of Nigeria Cap 131, 1990

and human beings or animals living therein and the inter-relationships which exist among these or any of them".

The statutory definition of the environment does not improve with the coming of National Environmental Standards and Regulations Enforcement Agency(Establishment)[2] Act. Section 37 of the Act is in total with the provision of section 38 of the defunct Federal Environmental protection Act[3]. It provide thus: "environment includes water, air, land, and all plants and human beings or animals living therein and the inter-relationship which exist among these or any of them".

Another statutory definition of environment could be found in section 1 (2) of the Environmental Protection Act 1990[4]. It thus provides: "the environment consists of all, or any of the following media, namely, the air, water and land, and the medium of air includes the air within building and the air within other natural or man-made structures above or below ground"

To Susan Wolf, Anna White and Neil Stanley[5] environment refers to our surroundings. It is often understood to include not only land air, water but also the built environment and the condition of the local neighborhood. The

2. Law No. 25 of 2007, Laws of the Federation of Nigeria
3. Laws of the Federation of Nigeria Cap 131, 1990
4. Law of the United Kingdom 1990.
5. Susan Wolf, Anna White, et al, Principles of Environmental Law, Cavendish Publishing Ltd, London, 2002 p.4

environment can mean something more specific and refer to the conservation of natural habitats and ecology.

Perhaps the simplest and most memorable definition of environment is that given by Albert Eistein, who once said "the environment is everything that is not me"[6]. U.D Ikoni[7] while defining the term environment has this to say; "Ina conventional usage today, environment means surrounding or the total conditions surrounding an organism or group of organism. The author goes further to opined that in the western industrial tradition, the word environment tends to mean that which surrounds man and awaits his dominance, exploitation and control on behalf of the accumulation of wealth[8].

To Agbole[9]environment is a composite set of behavioural setting in which Individuals within a community act with diverse consequences. According to him environment is conceived as an agglomeration of all influences and conditions (whether internal or externals) which affect the living conditions of an organisms, in this instance, man.

6. Justine Thorton, Silas Beckwith, Environmental Law, Sweet and Maxwell, London, 2nd Ed. 2004 p. 4 (1-002)
7. Ikoni U.D An Introduction to Nigerian Environmental Law Malthouse Press Ltd. Lagos, 2010 p.21
8. Ibid. p 21
9. Agbola, T.A, A review of Environmental Component in Nigeria's National Development Plans (1946-85) In: Sada, P.O Odemerho, F.O (eds) Environmental Issues in Nigerian Development, Evan Brothers (Nig.) Pub. Ltd, Ibadan, 1988, P. 47

Prof. Ladan[10]provides several definition to the term environment and includes among others; "the term refers to the basic elements of the earth such as the air, land, and water. It also consists of only those natural resources upon which human place a value, that is aspect of the earth, sky and water that can be polluted or used up. Another definition including all living of the elements of the earth as resources, but not include humans in the definition or defines the environment as it relates to human.

To sum up the point of the eminent scholars, environmentalist and the policy makers in defining environment is that environment is what man within a particular society makes of his habitat. It includes natural resources of earth, any materials in its native state which when extracted has economic value. It includes not only timber, gas, oil, coal, minerals, lake and submerged land, but also features which supply all human needs and contribute to the health, welfare and benefit of a community, which are altogether essentials to their well-being.

10.Ladan, M.T. Materials and Cases on Environmental Law, Econet Publishing Co. Ltd. Zaria, 2004, p.1

2.2 Nature and Scope of Environmental Law

Environmental law in Nigeria is a body of rules and regulations which have as their object or effect the protection of the environment from pollution and wasteful depletion of natural resources and ensure sustainable development.

There is proposition that environmental law has not been developed as self-contained discipline but has simply borrowed concepts form other areas of law.

One result is undoubtedly a degree of incoherence but another is that the objective of the protection of the environment is not always served by the legal mechanism available, because these other areas were not developed with the particularly problems of environmental protection in mind. For example, private law concentrates on the protection of private interest and has difficulties when it comes to protecting common public interests in the unowned environment. No damages are payable for harm to the environment as such and only those with personal or property rights may bring an action. No value is placed on the environment itself and environmental protection is simply an incidental by-product of the production of other interest[11].

11Simpson, S. and Fagbohun O, (Ed) Environmental Law and Policy, Law Centre, Faculty of Law, Lagos State University, Lagos, 1998, P. 10-49

The labeling of certain concerns as environmental (and others by implication as non-environment) can certainly help to identify and clarify the objectives of the environmental regulations. Like many legal terms, the term environmental law may be seen as having a central core of meaning surrounded by what be called a "penumbra of uncertainty[12]". Within the core are to be found those laws which relate to the protection of natural resources and people's enjoyment of them. Natural resources include air, land, water, flora and fauna, and the climate. They are protected through variety of legal mechanism including integrated pollution prevention and control, the planning system, environmental impact assessment procedures and laws guaranteeing human right and access to environmental information[13].

Just outside the core environmental laws are laws designed to protect the quality of life particularly groups of people laws for example, relating to sanitation in dwellings, or to the health and safety of employees. Further still outside the core but within penumbra are laws which protect society generally. At every edge of penumbra are laws designed to protect and enhance people's commercial activities such as those relating to consumer protection or to the carriage of goods by road, rail and sea. These, although

12. Justine Thornton, Silas Beckwith, Environmental Law, Sweet and Maxwell, London, 2nd Ed 2004 p. 5 (1-003)
13. Ibid p. 4 (1-002)

not generally thought of in any sense as environmental law, can have profound impact on the protection of natural resources[14].

One of the characteristics of the law and policy of environmental protection is that it evolves constantly reflecting the various values and priorities which we place upon different aspects of evolvement. This means that in recent years as environmental issues have gained importance we have seen a period of unprecedented rapid change. In a subject area such as this where activities have to be planned reasonably far in advance it is always helpful to know what is likely to happen in the future as well as what is the law at the time. In this sense, environmental law is forward looking law[15].

There is a growing realization that the different areas of law, public or private law etc. merely provide in the environmental context a set of different tools to achieve a specific objective. In this case the protection of the environment[16]. For example in relation to contaminated land, it is clear that someone has to pay for the contamination, either by clearing it up or by living with the consequences, essentially there are four options: - the pollutant could be made liable, the current owner or occupier would be liable, the state could pay i.e. through some public form of taxation, or

14. Ibid p. 6 (1-003)
15. Odewale, O, Environmental Pollution in the Petroleum Industry; In JUS 1991, Vol. VI P. 9
16. Odewale, O. Ryland V. Fletcher and the Nigerian Petroleum Industry in JPPL, 1987 – 1988 Vol. 8-9 P. 50-51

finally the loss could lie where it falls, meaning that the environment and the local community pay affectively. For a policy maker the issue is how to come up with a solution that is effective, efficient and fair, whilst that are available include but not limited to legal mechanism[17].

Law generally reflects and shape society norms. They can change attitudes particularly towards aspects of life and control behavior. Laws can be defined as code of conduct appropriate to the values of the community drafting and enforcing them. The definition of what constitutes an environment as wide as the definition of environment itself. Environmental Lawcan be defined as a body of law which contains elements to control the human impact on the environment/earth. Environmental law can be divided into two major parts; national environmental law and international environmental law.

2.3 Waste

Modern society generates enormous amount of waste some of which is very dangerous to human health and poses a serious threat to the environment. Waste is basically what we do not want and is usually placed in our dustbin to be collected and removed from sight. Therefore a lot of definitions have been provided for the word waste.

17. Khariale, The Koko Incident; The Environment and the Law: in Shyllon, F. (Ed) The Law and the Environment in Nigeria, University of Ibadan Press, Ibadan, 1989, P. 134

Black Law Dictionary[18] defines waste to mean permanent harm to real property committed by a tenant to the prejudice of the heir, the reversioner, or the reminderman, physical damage, failure to maintain and repair; failure to pay property taxes etc.

Susan Wolf, Anna White and Neil Stanley in their book Principles of Environmental Law[19]define waste to mean a substance, material or article from the perspective of the person who wishes to dispose of it. A substance, material or article will, as a general rule, be waste if the intention of the person who produced it, or who is currently in possession of it, is to rid or dispose himself of it. The substance, material or article is waste regardless of any commercial value it has.

The statutory definition of waste is provided in article 1 of the Council Directive on Waste[20]. By the Directive waste means any substance or object in the categories setout in Annex I which the holder, discards or intends or is required to discard. The categories of waste set out in Annex I include:

a. Production or consumption residues not otherwise specified,
b. Off-specification products,
c. Residue of industrial processes,

18. Garner, B.A, (Editor in Chief) Black Law Dictionary, West Publishing Company, USA, 2004, 1727
19. Cavendish Publishing Limited, London, 2002, P. 116
20. The Council of the European Communities 15th July, 1975

d. Products for which the holder has no further use, and

e. Any materials substances or products which are not contained in the above categories.

It is important to note that waste generally is categorized into two broad areas; namely solid and liquid. Liquid is that which is in form of water and flows freely while solid waste is the direct opposite of the liquid waste. Waste can also be toxic or radioactive. It can also be classified into several headings for example industrial waste, household waste, commercial waste etc.

2.4 Waste Management

Part 7 of the National Environmental (Sanitation and Wastes Control) Regulations 2009[21] defines waste management as "planning, handling, treatments, processing and disposal, including the supervision of these operations, as well as the measures for the protection of the environment and of human life and health during the operation of the facilities and installation of waste disposal, and care taken after the termination of their operation, generation and of its negative impact on the environment and human life, health, including waste handling, the administrative and

21. Regulation Issued Pursuant to S. 34 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act. 2007, Regulation No. 28 of 2009, Official Gazette Vol. 96 No. 60

operational activities that are used in handling, packaging, treatment, conditioning, reducing, recycling, reusing, storage, and disposal of waste.

It could be discernible from the above definition of waste management that it has encompassed almost essential ingredients of waste management from the point when a material, substance, object or article becomes a waste to the point where it ceased to be waste.

Part 4 of the rules[22] mandates National Environmental Standards and Regulation Enforcement Agency Establishment Act 2007[23] compliance with the provisions of the rules. The Agency shall ensure compliance of the rules at all levels of government, ensure compliance with the condition of permits issued as contained in the relevant schedules, and the rules provided for institutional roles and responsibilities of the Federal, States and Local Government by emphasizing the need for strategic cooperation and collaboration as it relates to waste management.

In the United Kingdom a particular legislation was made in order to provide sfor effective waste management. The Act named Waste Management

22. Ibid p. 22
23. Law No. 25 of 2007 Laws of the Federation of Nigeria.

License Regulations 1994[24]. A detail discussion and comparisons will be provided in chapter three.

2.5 Hazardous Waste/Substance

Hazardous waste is especially dangerous and/or difficult to dispose of as it needs careful and additional measures. It includes acids, alkalis, pesticide, and flammable solvents. It is special because of its harmful properties. Section 15 of the Harmful Waste (Special Criminal Provision) Act[25] is the most comprehensive and important legislation on hazardous and toxic waste management in Nigeria. It defines harmful waste as: "any injurious, poisonous, toxic or noxious substance and in particular, includes nuclear waste emitting any radioactive substance , if the waste is in such quantity, whether with any other consignment of the same or different substance as to subject a person to the risk of death, fatal injury or incurable impairment of physical and mental health; and the fact the harmful waste is place in a container, shall by itself be taken to exclude any risk which might be expected to arise from the harmful waste"

24. Law of the United Kingdom 1994
25. Cap 165 Laws of the Federation of Nigeria 1990

Section 37 of the National Environmental Standard and Regulations Enforcement Agency(Establishment) Act 2007[26] defines hazardous substance to mean "any chemical, physical or biological or radioactive material that poses a threat to human life, health and the environment or any such substance regulated under international conventions to which Nigeria is a part or signatory e.g. Montreal protocol, Rotterdam convention, Stockholm convention etc and includes any substance designated as such by the president of the Federal Republic of Nigeria by order published in the Federal Gazette"

These definitions require the waste not only to be harmful but also hazardous. The waste does not only have to actually harm, if it is enough to create a risk to human life resulting in death or injuries. These definitions were also subject to some criticism on the basis that criteria laid down in defining hazardous waste substance not by reference to possible environmental damage, but by reference to the possible effect on human health, and the emphasis is not so much on the waste but of its poisonous nature.

26. Op. Cit p. 22

2.6 Non-Hazardous Waste/Substance

It is important to understand that why a waste is termed hazardous is due to the presence of hazardous properties it contains such as explosives, oxiding, highly flammable, flammable, irritant, toxic, infectious, teratogenic, corrosive, ecotoxic harmful[27] etc. Therefore, any waste without the above listed properties could be non-hazardous waste. Any waste other than the hazardous waste defined above is non-hazardous waste.

2.7 Waste Electronic and Electrical Equipment

This kind of waste is relatively new and is getting prominence especially in Europe. It involves the waste of household appliances e.g. fridges and washing machines, IT and telecommunications equipment and electrical or electronic equipment.

The Europeans Parliaments issued directives on waste electronic and electrical equipment known as "WEEE Directives[28]". Some members of states in the European communities are making national legislation dealing with this type of waste. This type of waste is yet to be recognized by Nigerian legislation.

27. Op Cit. p. 23
28. Directive 2002/96/EC of the European Parliament and Council of January 27, 2003 on Waste Electronic and Electrical Equipment.

2.8 Method of Waste Management

Waste whether liquid, solid, gaseous, hazardous or non-hazardous can be managed or disposed of using any of the following methods[29]:

a. Littering,
b. Open dumps,
c. Land treatment,
d. Waste poles,
e. Incinerations,
f. Composing,
g. Re-use and re-cycling,
h. Landfill,
i. Packaging waste,

a. Littering as a method of waste management is an indication of how untidy the person involved is. It involves dropping, throwing of waste anyhow. For example, it is common to see cigarettes, packet, sweet papers, dropped along the streets or see people throwing used orange or banana out of a moving vehicle etc.
b. Incineration as a method of waste management is provided for in regulation 94 of the National Environmental Protection (Management of Solid in

29.Ikoni U.D An Introduction to Nigerian Environmental Law Malthouse Press Ltd. Lagos, 2010 p.21

Hazardous Wastes) Regulations S. 1991 under this process the refuse is burnt in a large furnace with a high chimney. It reduced the volume of wastes generated and it caused atmospheric pollution through smoke during the burning of the wastes.

c. Land filling waste management means burying waste in the ground. In most instances land filling sites are provided outside town.

d. Reusing and recycling method of waste management involves a process of turning the waste into useful and valuable.

e. Open dumps are sites provided for usually dumping wastes mostly from household, commercial places, schools and institutions. In Kano State designing a particular location as an open dump site is usually made byKano State Urban Planning and Development Authority[30] a body responsible for designing urban areas in the State.

[30] Kano State Urban Planning and Development Authority Law 2011, Law No. 1 Vol. 44

CHAPTER THREE

ANALYSIS OF LEGAL FRAMEWORK ON WASTE MANAGEMENT IN KANO STATE OF NIGERIA

3.1 INTRODUCTION

The legislative powers of Federal Republic of Nigeria and the states of the Federation are provided extensively by section 4 of the constitution of the Federal Republic of Nigeria 1999. The section empowers the National Assembly to make laws for the peace, order and good government of Nigeria. It also empowers States House of Assembly to make law for peace, order and good government of the states.

The section provides two types of powers that is, Exclusive Legislative List which involve the list of matter upon which the National Assembly have exclusive power to legislate solely and the Concurrent Legislative List on which both National Assembly and the State House of Assembly have to exercise legislative powers.

Section 20 of the constitution[1] mandates the state of federation to take necessary steps in ensuring a safer, sounds and good environment. It

1. Cap C. Constitution of Federal Republic of Nigeria 1999

provides thus "the state shall protect and improve the environment and safeguard the water, air, and land forest and wild life of Nigeria"

It is important to note that this section is very specific as it mentions components of the environment and mandates the state and the federation to protect and improve them.

Careful perusal of sections 4, 20 and part I and II of the second schedule of the constitution of the Federal Republic of Nigeria reveals that the issue of environmental protections and waste management in Nigeria falls within concurrent legislative list giving the Federal and states government power to legislate on it. Therefore, there are several laws enacted both at federal and Kano state government to cater for the protection of environment and waste management. Regulations also are issued under enabling laws to help achieve the goals of those environmental laws.

3.2 LEGAL FRAMEWORK FOR THE ENVIRONMENTAL AND WASTE MANAGEMENT IN NIGERIA.

A. National Environmental Law

Broadly speaking national environmental law consists of the legislations, standard regulations, institutions and administrations adopted to control

damaging effect to the environment. Among the laws that are enacted nationally in Nigeria to provide for the protection of environment are:

i. National Environmental Standards and Regulation Enforcement Agency (Establishment) Act 2007[2]

In order to provide an effective environmental protection measures, the Act established an Agency known as National Environmental Standards and Regulation Enforcement Agency[3]. This law is currently the most recent and principal law in Nigeria when it comes to the issue of environmental protection and sanitation. The Act[4] repealed the Nigerian flagship law on the environment Federal Environmental Protection Agency Act[5].

The Act[6]established an Agency known as National Environmental Standard and Regulation Enforcement Agency as an institution under the Federal Ministry of Environment, Housing and Urban Development. The Agency is a body corporate with perpetual succession, which may sue and be sued on its corporate name[7]. It is responsible for the enforcement of environmental standards, regulations, rules, Laws, policies and guidelines. The Agency is

2. Law No. 25 of 2007, Laws of the Federation of Nigeria
3. S. 1 National Environmental Standard and Regulation Enforcement Agency (Establishment) Act, Law No. 25 of 2007, Laws of the Federation of Nigeria.
4 Laws of the Federation of Nigeria Cap 131, 1990
5. S. 36 National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007
6. National Environmental Standards Regulations and Enforcement Agency (Establishment) Act 2007
7.S. 1 National Environmental Standards Regulations and Enforcement Agency (Establishment) Act 2007

charged with the responsibility for the protection and development of the environment, biodiversity, conservation and sustainable development of Nigeria's national resources as well as environmental technology[8].

The NESREA Act and regulations constitutes a new dawn because in both purpose and contents, they aim at addressing the preponderance of obsolete environmental regulations, standards and enforcements mechanism which resulted over the years in the high rates of non-compliance with environmental laws, regulations and standards. The Act provides for collaboration and partnership and also to conduct public education and awareness on topical environmental issues, strengthening institutions and building capacity to monitor compliance and enforcing existing environmental regulations including guidelines for best practices[9].

Section 7 and 8[10] provide to function and power of the Agency to enforce maximum compliance with law, guidelines, policies and standards on environmental matters.

Section 25[11] provides specifically for environmental sanitations. It empowers the Agency to make regulation for the purpose of protecting public health and

8. Op. Cit. p. 31
9. Ibid section 34.
10.National Environmental Standards Regulations and Enforcement Agency (Establishment) Act 2007
11. Ibid p.

promotion of sound environmental sanitation. Section 27 of the Act prohibits the discharge in such a harmful quantity of any hazardous substances into the air or upon land and the water of Nigeria or at any adjoining shorelines except where permitted or authorized under any law enforce in Nigeria. Section 30[12] of the Act empowers an officer of the Agency in the course of his duty at any reasonable time and on the production of certificate of his designation if so required to enter and search with a warrant, issued by a court any premises and inspect and take samples if he believes it contravenes environmental standards and regulations. He can also examine article, book, document, seize and detain any article, to which he reasonably believes any provision of the Act has been contravened.

Careful study of the NESREA act could reveal that the Act enjoys the preeminent role of the flagship legislation on environmental law in Nigeria, having repealed and replaced both FEPA Act and its Agency. The new legislation has no doubt improved upon the shortcomings inherent in its predecessor act.

12.Ibid p.

ii. Environmental Impact Assessment Act[13]

It has come as a fitting compliment to the defunct Federal Environmental Protection Act in the important area of land utilization and siting of industries. The principal goal of this Act was stated in section 1 which is to ensure that possible negative impacts of development projects are predicted and addressed prior to any project take-off.

1. Harmful Waste (Special Criminal Provisions, etc) Act[14]

The Act was enacted with the specific object of prohibiting the carrying, deposing and dumping of hazardous wastes on any land, territorial water and matters relating thereto. The main objective of this Act is to prohibit the carrying, depositing and dumping of harmful waste on any land, territorial waters and matters relating thereto. Section 1 of the Act[15]prohibited and declared it unlawful all activities relating to the purchase, sale, importation, transit, transportation, deposit, storage of harmful waste and make the deposition, carrying, dumping, transporting, selling, of harmful waste on any land, territorial waters, contagious zone inland waters a crime. Section 6 of the Act[16]provides penalties for the commission of the crimes prescribed under

13. Decree No. 86 of 1992, Laws of the Federation of Nigeria
14.Cap. H 1Laws of Federation of Nigeria 2004
15. Ibid p.
16.Ibid. P.

section1.Section 11 of Act[17]empowers the Minister for Works and Housing to seal of any area or site which has been, is being, or will or might be used directly or indirectly for the purpose of depositing or dumping any harmful waste. Thorough study of this Act indicates that the it aims at protecting environment by ensuring that harmful waste which has hazardous properties are not deposit and dump in Nigeria environment.

2. Oil in Navigable Waters Act[18]

The Act is infact the first law that deals specifically and solely with industrial waste generated by oil pollution. Its main focus is for the prevention and control of pollution of the sea by the oil. The Act was made to implement the terms of the international convention for the prevention of pollution of the sea and to prohibit the discharge of oil into navigable water. Section 1, 2 and 3 of the Act[19] categorically prohibited the discharged of certain oil into the sea areas and waters of Nigeria and make it a criminal offence to contravene the provision of the said sections. Section 6 of the Act[20] provides penalties for the offences under section 1,2,3, and 5 of the Act.

17. Ibid p.
18.Cap 0.6 Laws of the Federation of Nigeria 2004
19. Ibid p.
20. Ibid p.

3. Hides and Skins Act[21]

The main aims of this Act is to provide regulations to be made for maintaining and improving the quality of Nigeria hides and skins and for regulations and controlling the trade and export of hides and skins. It is important to note that dealing in hides and skins will have negative effects on the environment and therefore, section 2 of the Act[22] enable the president of the Federal Republic of Nigeria to make regulations to ensure a safer and sound environment. Rule 14 of hides and skins Regulation 1954 prohibits using any premises or enclosure as a place for burying or preparation of hides and skins unless such premises or enclosure is licensed by the principal officer of the veterinary department of the state in which the premises are situated.

4. Sea Fisheries Act[23]

The Act provides for the provision regulation, protection and control of sea fisheries in the derivational waters of Nigeria. Section 8 and 9 of the Act[24] prohibited using any explosive substance, noxious or poisonous matter in order to destroy or attempt to take in destroy any fish with territory waters of Nigeria and also makes it an offence to contravene the provision of section 8.

21. Cap H. 3 Laws of the Federation of Nigeria 2004
22. Ibid p.
23. Cap S. 4 Laws of the Federation of Nigeria 2004
24. Ibid p.

5. Mineral and Mining Act[25]

The Act provides for environmental protection during mining activities. In order to safeguard the environment for any person to participate in mining activities, he must apply and obtain mining right from the minister. Section 46 and 47 of the Act[26] prohibit contaminating water in the course of mining or prospecting operations or in any works connected therewith and any person who uses water in connect with mining operation must ensure all water so used shall not contain injurious substance in quantities likely to prove detrimental to animal or vegetable life when it leaves the mining area in which it has been used.

6. Petroleum Act[27]

The Act provides for the protection of environment during exploration of petroleum from the territorial waters and the continental shelf of Nigeria and Petroleum activities. In order to ensure and safeguard the environment section 2 of the Act[28] makes it mandatory that before any person, natural or legal participate in the oil exploration, oil prospecting and oil mining to apply and obtain licenses.

25.Cap M. 50 Laws of the Federation of Nigeria 2007
26Ibid p.
27. Cap P. 10 Laws of the Federation of Nigeria 2004
28. Ibid p.

In order to provide for effective enforcement of environmental standard, regulating, rules, Laws, Policies and guidelines by the newly established National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007. Section 34 of the Act[29]empowers the Minister of Environment to make regulations for the general purpose of carrying out and giving full effect to the function of the Agency under the NESREA Act 2007.This has led to the making of twenty four regulations as highlighted below[30].

i. **National Environmental (Sanitation and Wastes Control) Regulations 2009[31].**

In terms of structure, these regulations are divided into seven parts with eighteen schedules. Part one contains preliminary provision relating to application of objectives, the purpose of this regulation which is the adoption and sustainable and environmentally friendly practices in sanitation and waste management in order to minimize pollution. Part two deals with environmental sanitations matters relating to general cleanliness, duties of owners of occupants of premises, citizen obligations, extended procedures, responsibilities, the polluter pay principles and banned pesticides or chemicals

29. National Environmental Standards Regulations and Enforcement Agency (Establishment) Act 2007
30. Op. Cit. p.
31. Regulation No. 28 of 2009, Official Gazette, Vol. 96 No. 60, Federal Republic of Nigeria

for domestic fumigation. Part Three provides for detail provisions on the control of solid waste effluent discharge and hazardous and health care wastes. Part four provides for institutional roles and responsibilities of the Federal, States and Local Governments by emphasizing the need for strategic cooperation and collaboration. Part five seeks to ensure implementation of the rule. Part six provides as part of the Agency strategic alliance programmes on environmental sanitation and waste control. All States and Local Government shall ensure that their programmes conform to the Agency's interventions programmes in this area promoting proper harmonization and implementation as contained in schedule 8 to the this regulation. Part seven defines all the relevant key words in the regulations.

ii. **National Environmental (Permitting and licensing system) Regulations 2009**[32].

Part one of this regulation deals with matters relating to mode of application, information accompanying application, chargeable permit fees. Part two includes regulations relating to the procedures of amendment and renewal of permits submission of application for amendment, attachment of receipt of payment for amendment. Part Three deals with matters relating to suspension and cancellation of permit, procedure grounds for suspension of permit,

32. Federal Republic of Nigeria, Abuja, Regulation No. 29 of 2009 official Gazette Vol. 96 No. 61 7th October, 2009

notification of representation by the permit holders, decision of the Agency's and orders regarding suspension. The overall purpose of this regulation is to enable consistent application of environmental laws, regulations and standard in all sectors of the economy and geographical regions[33].

iii. **National Environmental (Mining and Processing of Coal, Ores and Industrial Minerals) Regulations 2009[34]**.

The main purpose of these regulations is to minimize pollution from mining and processing coal, ores and industrial minerals. These regulations have 13 parts and 13 schedules. The part covers the following matters purpose, planning and best practices, new development in mining and processing techniques, efficient cleaners, production technologies, general permits, monitoring, pollution, equity, community relations, control, mitigation and enforcement, treatment of effluent management of oil station, fuel dumpsites, emergency response plan. Matters relating to duties of the Agency to ensure compliance with conditions, enforcement notices are covered. Offences and penalties under effluent limitations, emission limitation, noise pollution and control guidelines and codes of practices, audiometric testing and compliance, verification as well as interpretation and citations.

33 Op. Cit. P.

34. Federal Republic of Nigeria, Abuja, Regulation No. 31 of 2009 official Gazette Vol. 96 No. 63 12th October, 2009

The schedules deal with effluent limitation standards, format for annual effluent monitoring report, best practices, discharge, monitoring report format, incident report form, guidelines, preparing environmental management plans, fugitive emission sources etc.

iv. National Environmental (Food, Beverages and Tobacco Sector) Regulation. 2009[35]

The regulations has 13 parts and 13 schedules and deal with environmental governance, planning, emergency response plan, installation of antipollution equipment, pollution control organizational system, chemical usage, banned or restricted chemicals, management of oil station, community relation, effluent limitation standard, restriction on the release of toxic effluent disposal standards, emission and emission control, treatment technology, noise standard and abetment, conservation programme. The regulations provides for sampling procedures in relation to collection, analysis of samples, sport and composite sampling for physical or chemical parameters, microbiological analysis, license permits, industrial effluent in emission monitoring and reporting requirements, duty of the Agency to ensure compliance with the conditions and/or enforce regulations, nature and scope of offences and penalties, incentive interpretation and citation.

35. Federal Republic of Nigeria, Abuja, Regulation No. 33 of 2009 official Gazette Vol. 96 No. 65 14th October, 2009

Finally, the schedules provide for effluent limitation standard for food, beverages, tobacco sector, sludge disposal permissible limit, list of banned or restricted chemicals guidelines for preparing environmental management plan, guidelines for consumers products stewardship programmes and monthly discharge monitory report.

v. **National Environmental (Textile, Wearing, Apparel Leather of Footwear Industry) Regulations, 2009**[36].

These regulation deal with environmental governance, planning, emergency response plan, installation and antipollution equipment, minimization of wastes, chemical usage, banned or restricted chemicals effluent, sludge disposal, activities resulting into atmospheric emission sampling procedures, collection and analysis of sample, sampling for license classification, procedures for licensing of permitting industrial effluent, monitoring and reporting requirements, duty of the Agency, offences penalties, incentives, interpretation and citation

The schedules cover the following matters: effluent limitation standards for textile, wearing apparel tanning and leather finishing section, sludge disposal, guidelines for preparing environmental management plan and certification statement.

36. Federal Republic of Nigeria, Abuja, Regulation No. 34 of 2009 official Gazette Vol. 96 No. 66 16th October, 2009

vi. National Environmental (Chemical, Pharmaceutical, Soap and Detergent Manufacturing Industries) Regulations2009[37].

The regulations deal with minimization of waste, pollution control organizational standards system, chemical usage, management of chemicals, effluent standards, sludge disposal, emission standards, listing the activities resulting in atmospheric emission, noise standards and abetment, conservation and monitoring, sampling procedures, sampling for physical or chemical license and for the license classification, microbiological analysis of noise measures.

The schedules covers effluent limitation standards, sludge disposal, permissible limit, gaseous emission, guidelines for pharmaceutical, petroleum and chemical industries, guidelines for preparing environmental management plan, the Agency compliance awards and monthly discharges monitoring reports.

At Kano state level also, the state made laws and regulations to ensure the protection of the environment and waste management in the state and the principal laws are the followings:

1. Refuse Management and Sanitation Board Law[38]

37. Federal Republic of Nigeria, Abuja, Regulation No. 36 of 2009 official Gazette Vol. 96 No. 68 20th October, 2009

38. Law No. 7, of 2003 Law of Kano State 2003.

The law is an important improvement as it relates to the waste management in Kano State. It provides and establishes a body/authority responsible for the disposal and management of refuse/waste and for other matters connected therewith.

The Board is responsible for the overall task of waste management in the State. It is important to note that the functions of the Board are not only restricted to waste management, it includes sanitation of the State particularly streets in the urban areas through sweeping and cleaning and ensuring a clean and conducive business environment.[39]The Board also participates in the vector control programmes by means of fumigation and other means of control.[40]

Section 11 of the law [41] empowers the local governments in the state to establish a local government and a village sanitation committee. The above two mentioned committees exercise the functions of the Board as provided by section 4 of the law[42]. The Board gets its funding for financing its activities from the state and mainly from the eight metropolitan local governments. The amount to be contributed per month by each metropolitan local government shall be agreed upon after due consultation with the state government at the beginning of each financial year. As to the other local government apart from

39Section 4 Refuse Management and Sanitation Board Law, Law No. 7 of Kano State 2003.
40 Ibid s. 4
41 Ibid s. 11
42 Ibid s. 4

the eight listed each shall contribute 5% of whatever agreed as their monthly contribution in keeping the state clean[43].

It is important to discuss the issue of funding of the Board. There is a specific section of the law making provision of funding and finances of the Board while no provision is made for the funding and finances of the local governments and villages sanitation committees though they are expected to perform certain functions as they relate to waste management and sanitation in their respective areas. This is fundamental because it could render the sanitation committees functionless as what is now on the ground.

It is permissible for any local government to, in addition to the services of the Board, initiate any programme particularly purchase of sanitation equipment and employment of staffs to facilitate waste management and sanitation in the State[44]. A detail overview of the law, the authority it established and its functions will be provided in chapter four.

2. Kano State Urban Planning and Development Authority (KNUPDA) Law[45]

The main objective of the law is to establish an authority to provide for effective town planning of Kano state and for other matters connected thereto. The Authority is appointed under the provision of Town and Country Planning

43 Ibid s. 8
44 Ibid s.8(3)
45. Kano State Urban Planning and Development Authority Law 2011, Law No. 1 Vol. 44

Law 1991 to be the planning Authority for all urban areas in the State[46].Pursuant to section 12, the schedule II of the law[47] certain areas in each local government in the State as urban area for the purpose of effective functioning of the Authority.

The schedule described an urban area to include all areas covering 10 kilometres from the centre of the local government town, detailed description of which is shown on the survey plan of the area deposited in the office of the surveyor general of the State. With respect to the metropolitan local government urban areas includes all areas covering the whole local government[48].

The fundamental role of the Authority in relation to waste management is when it comes to designing and providing industrial, commercial and residential layouts and providing facilities thereto. The facilities provides by the Authority include, among others, waste collection centres to assist in effectively managing waste in Kano State. Detail overview of the authority would come at chapter four and its function thereto.

[46] Ibid s.10(1)

[47] Ibid s. 12

[48] Second schedule of the Kano State Urban Planning and Development Authority Law 2011, Law No. 1 Vol. 44

B. International Environmental Law

International law governs relationship between independent states. The rules of law binding upon states and emanates from their own free will as expressed in conventions or by usage generally accepted as expressing principles of law and established order to regulate the relation between co-existing independent communities or with a view of achieving common aims.

International environmental law instruments primarily includes international conventions or treaties, customary international law, general principles of international law, judicial decisions and writing of eminent jurists, United Nations General Assembly Resolutions.

Therefore, international law assists in building and capturing consensus between nations/states on goals for environmental protection and resources, conservation and sustainable use. A thorough discussion and analysis of the national environmental laws and regulations listed above and others together with that of international environmental law will be fully discussed and provided in chapter three which deals with analysis and discussion of laws relating to environmental protection particularly with reference to waste management.

CHAPTER FOUR

WASTE MANAGEMENT INSTITUTIONS IN KANO STATE: AN OVERVIEW

There are two important laws and bodies that play role in the waste management in Kano state. The two bodies are Refuse Management and Sanitation Board which was enacted principally for waste management in state and the other body, that is, Kano State Urban Planning and Development Authority which is task with the responsibility of planning and controlling urban areas in the state.

4.1 Refuse Management and Sanitation Board[1]

The Board is established by section 3 of the Refuse Management and Sanitation Board law[2] to provide environmental protection as it relates to waste and refuse management and sanitation in Kano state. Section 3 (2) of the law[3] establishing the Board clothed it with legal personality. It has perpetual succession and common seal, it can sue and be sued in its corporate name.

1. S. 3 Refuse Management and Sanitation Board Law 2003, Law No. 7 of 2003, Official Gazette, Kano State Vol. No.
2Ibid. p.
3Ibid. p.

The provision of section 2 of the law[4] provides definitions to certain terms used in the law in order to provide a guideline as to the meaning of those terms. For example the section interprets refuse to means any solid waste of whatever nature. Therefore leaving the refuse of liquid waste of whatever nature to be outside its operational scope, section 4 of the law[5] stated categorically the functions and responsibilities of the Board and which include among others;

I. Refuse collection and disposal,
II. Management of refuse collection centres and dump sites,
III. Land reclamation,
IV. Streets sweeping and cleaning,
V. Control of street hawking and random refuse disposal,
VI. Liaise with self-help group in relation to waste collection and disposal,
VII. Vector control (mosquito control) by means of fumigation and other means of control,
VIII. Inspection and enlightenment programmes on sanitation,
IX. Liaise with all metropolitan Local Governments towards a sustainable sanitation operation,
X. Ensuring a clean and conducive business environment in market and commercial premises,

4. Refuse Management and Sanitation Board Law 2003, Law No. 7 of 2003, Official Gazette, Kano State Vol.
5Ibid. p.

XI. Initiating privatization and commercialization of sanitation programmes in the state,

XII. Formulation and designing of programmes to provide solution to waste management issues e.g. fabrication of equipment, introduction of public participatory programmes,

XIII. Maintenance of all waste management on the state,

XIV. Prosecution of environmental sanitation defaulters,

XV. Maintenance workshop,

XVI. Fabrication,

XVII. Control of Board finance and disbursement, and

XVIII. Staff administration generally.

A thorough study of the list of functions of the Board provided by the law[6] it could be understood that the task of the Board includes an embodiment of environmental protection and sanitation at the same time and aim at providing a safer, sound and good environment. It is not only the issues of refuse collection, disposal, controlling, random refuse disposal, inspection and enlightenment programmes, liaising with metropolitan local government councils in providing sanitation to the environment, sweeping and cleaning the street, vector control, liaising with self-help groups among others the Board has the functions to

6. Refuse Management and Sanitation Board Law 2003, Law No. 7 of 2003, Official Gazette, Kano State Vol.

provide, it also includes maintenance of all waste management in the state generally.

It is important to note that, though the Board is restricted to only refuse of solid waste of whatever nature as provided by section 2 of the law[7], the function of the Board which includes maintenance of all waste management in the state as provided by section 4 (1) (xiii)[8] has taken away the restriction impose because waste management could be liquid waste or solid waste. Therefore, the using of the phrase "all waste management" encompasses not only solid but liquid waste.

Apart from the power of the Board to prosecute environmental sanitation defaulters, the Board has the power for an effective implementation of its functions to appoint sanitary inspectors and it is the duty and responsibility of the Board to provide guidelines of the sanitary inspections to follow[9]. The Board is under the supervision of the Ministry of Environment[10].

Section 24 of the law[11] enables Governor of Kano State to make regulations with a view of given general effect to the provisions of the law. And at the moment, there is no any regulation issued pursuant to the said section. And

7Ibid. p 48
8Ibid p 48
9S.9 Refuse Management and Sanitation Board Law 2003, Law No. 7 of 2003, Official Gazette, Kano Vol. No.
10 Ibid S. 10
11Ibid p 50.

where offences are committed against the regulations provided pursuant to this law, they may be tried by either shari'ah court or a magistrate of first grade.

4.2 OPERATIONAL FRAMEWORK OF THE REFUSE MANAGEMENT AND SANITATION BOARD

It is important to understand that the Board is principally established to provide waste management and sanitation services professionally as well as providing technical support to groups and individuals through efficient partnership and adequate enlightenment, using skilled manpower and best practices towards a sound, good and protected environment for citizens of Kano state, as it could be understood from the list of functions of the Board[12].

The Board as empowered by section 4 (2) of the law[13] established four respective departments[14].

4.1.1. Operation Department

Operation department is the most important department of the Board when it comes to the issue of waste and refuse management in the state. The department is responsible for organizing an appropriate method as it relates

12Ibid p 48.
13Ibid p48.
14A visit and interview with the Director Operation Engr. Aliyu Suleman Bichi at the Board Headquarters, No. Club Road, Kano on 21st November, 2014 at about 10:00a.m

to waste and refuse management in the state. And also provide management skills and manpower in handling with dumps sites of waste and refuse in the metropolitan by making sure that the specific areas designated for dumping of refuse and waste are taking care properly.

The department works hand in hand with self-help groups in managing refuse and waste in the state especially the metropolitan. There are a lot of self-help groups in the state that inform the board in advance on their preparation to carry out co-operative work in their settlement of bringing out mostly refuse to a designated dump sites through a written letter in order to enable the Board through the operation department to take care of it.

The operation department also has a monitoring team under the leadership of operation manager to inspect whether is there any dump site which needs to be taken care of.

It is important to note that, the duties and responsibilities of the operation department, as the organ of the Board, includes maintenance of all waste management as provided by section 4(1) (xiii) of the law[15]. The department restricted its activities to cover only solid waste produced by household, commercial places, schools, institutions. The Board through operation

15Op. Cit. p 48.

department restricted itself to only refuse of solid nature due to the provision of section 2 of the law[16] and the name of the law which only contained the word refuse.

Kano is a commercial city with certain areas designated for industrial purposes. There are at present over 400 privately owned large, medium and small scale industrial factories producing various products such as textile, tanned leather, foot wears, cosmetics, plastics, enamel ware, pharmaceuticals, ceramics, furniture, agricultural implements etc.[17].

The industrial areas in Kano state include Bompai industrial estates, sharada industrial areas, challawa industrial area and Tokarawa industrial layout. These areas/estates have several manufacturing industries[18]. These industries due to their activities produce waste mostly with hazardous properties by looking at the nature of the products they make, and invariably this resulted in producing waste either hazardous or non-hazardous in the state.

A careful and thorough study of the Refuse Management and Sanitation Board Law[19] and the acts of the Board through operation department of confining itself to the refuse of solid nature could reveal that the only

16 Refuse Management and Sanitation Board Law 2003, Law No. 7 of 2003, Official Gazette, Kano Vol. No.
17Tanko, A.I, Idris, H.A Irade, Commerce and Industries, in: Tanko, A.I, and Momale, S.B, (eds) Kano Environmental, Society and Development, Adonis & Abbey Publishers Ltd. No 3 AkanuIbiam Street Abuja (2014) P. 11
18 Ibid. p. 111
19 Law No. 7 of 2003, Law of Kano state

effective laws to take care of waste produced by industries in the state are the laws enacted at the federal levels such as National Environmental Standards and Regulation Enforcement Agency (Establishment) Act 2007[20], Harmful Waste (Special Criminal Provision etc.) Act[21] among others and the regulations issued pursuant to enabling Acts as fully discussed in Chapter Three.

4.1.2. Sanitation Department

Sanitation department is essentially established to take care of the insects, pests, rodents etc. in the state and the designated dump sites. The department carries the task of sanitizing the state from the insects, pests and rodents by using one of the following methods[22]:

i. Hand Application of chemicals ii. Spraying of chemicals

iii. Fumigation and residual spraying.

Using any of the above listed methods involves applying chemicals to the environment and not only the target creatures such as insects, pests and rodents. The types of the chemical used include organocholorine

20 Law No. 25 of 2007, Laws of the Federation of Nigeria
21 Cap H1 Laws of the Federation of Nigeria, 2004
22Op. Cit. p. 50

compounds, organophosphates compounds, and cabamates[23]. The above mentioned chemicals have damaging effects to the environment. Some of the chemicals have poisonous effect to the land also, e.g. Lindane.

It is important to note that sanitation department carries out its task after operation department collected and take way a refuse or waste from dump sites to a landfilling site outside the town of the state[24]. There is no any organizational framework provides by the Board to take care of the damaging effects of the chemicals used in sanitizing the state in order to protect the environment[25].

4.1.3 Engineering Department

Engineering department takes care of all the machineries and other equipment involved in the management of waste/refuse and sanitation exercises carried out by either operation department or sanitation department[26].

23 Op. Cit. p. 50
24 Op. Cit. p. 50
25 Op. Cit. p 50
26 Op. Cit. p. 50

4.1.4 Administrative Department

Administrative department deals with administrative issues as it affects the Board and its department as a whole[27].

4.2 KANO STATE URBAN PLANNING AND DEVELOPMENT AUTHORITY

The Authority is essentially established by S. 3 of the Kano State Urban Planning and Development Authority Law[28] to among others provide planning, maintaining and development of urban areas of Kano state. Section 10 of the law[29] provides functions of the Authority which include among others furnishing, publishing, and providing planning scheme for every urban area, controlling the development and use of the land in urban areas, provide and maintain proper infrastructure for urban development, planning, designing and providing industrial, commercial, and residential layouts, construction of drainages along road networks in urban areas, carry into effect any scheme or part thereof approved concerning any urban area, and do all such other things or acts as may appear to the authority necessary for purposes of its function under this law.

27 Op Cit. P 50
28 Kano State Urban Planning and Development Authority Law 2011, Law No. 1 Vol. 44
29 Ibid S 10

Section 11 of the law[30] provides powers of the Authority which includes designing and construction of roads, bridges, culverts, drainages, sewers and water course, beautify all urban centres and provide public amenities and conveniences.

It is understandable that the role of the Authority in waste management falls under the provision of section 10 (2) particularly paragraphs (e) (f) (h) and (i) of the law and also section 11 paragraphs (a) (b) and (c) of the law[31].

Section 3 (2)[32] of the law clothes the Authority with perpetual succession, common seal and can sue and sued in its corporate names. It is the responsibility of the authority design industrial, commercial and residential layouts and do all such things or acts as appear necessary for the purpose of performing its functions and it includes providing and designing dumping sites in the urban areas.

The law principally repealed the defunct Kano State Environmental Planning and Protection Agency Edict[33].

Administratively, the Authority has six departments in order to effectively carry out its functions and powers and they include the following:

30 Ibid. p 55
31 Ibid. p 55
32 Ibid. p 55
33 Edict No. 15 of 1990, Law of Kano State

i. Department of personal management,

ii. Urban Planning Development Department,

iii. Department of Architecture,

iv. Development control department,

v. Department of Civil and Mechanical Engineering, and

vi. Department of Finance and Supply.[34]

The above mentioned departments are created pursuant to section 10 (2) (i) of the law[35] which authorizes the Authority to do all such other things and acts as may appear necessary for purposes of its functions under the law. The relevant department as it relates to this research is urban planning development department which is responsible for planning and designing industrial, commercial and residential layouts.

Urban Planning Development Department

Urban Planning development department is responsible for urban and regional planning. It also plans and designs industrial, commercial and residential layouts in the state. The responsibility of the department includes coordinating the implementation of industrial estates, house schemes and other major planning projects, examining in details town planning schemes

34 A visit and Interview with Authority's Legal Secretary and Deputy Director Urban Planning Development, Kano State Urban Planning and Development Authority on 24th Nov. 2014 at about 11:00am

35 Kano State Urban Planning and Development Authority Law 2011, Law No. 1 Vol. 44

and layouts, processing planning programmes, master plan, comprehensive and other developments plans for government approval, and initiating planning research programmes among others[36].

The role of the Authority includes planning and designing layouts be it industrial, commercial or residential and when planning and designing any of the above listed layouts, the Authority through urban planning development department designs strategic locations in the layout for the provisions of facilities. The facilities include clinics, hospitals, schools, playgrounds, community utilities centres, sport complex, cemetery, police stations and refuse and waste dump sites and central collection of refuse and wastes points. While planning and designing strategic positions as refuse and waste dump sites the Authority takes the following factors into consideration:

a. a strategic position which is idle,
b. walking distance, and
c. cluster of development[37].

In whole essence, the roles of the Authority as it relates to waste management in Kano State is, it pertains to planning and designing of certain strategic positions

36 Revised and compiled staffs schedules of duties of the year 1987, Kano State Urban Development Board, Kano 1987 at p. 20
37 Op. Cit. p 57

in layouts be it industrial, commercial or residential as refuse/waste dump sites and central collection centres of refuse/waste.

In residential and commercial layouts in particular, apart from the designated refuse and waste dump sites, central collection point of refuse and waste is provided for the whole layouts with a view of helping Refuse Management and Sanitation Board carries its functions conveniently[38].

38Op. Cit. p 57

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1 Summary

Waste is the greatest danger facing mankind in the world today therefore measures must be nationally and internationally taken to control disposal of such waste to save and provide a safer, sound and good environment. This research has succeeded in studying and analyzing the legal and institutional framework for waste management in Nigeria and Kano state in particular. In Nigeria, environmental problems that resulted in producing enormous waste which we are confronted with include those arising from mines and mineral exploitation, oil exploration among others. Kano state level the environmental problems that resulted in producing waste in great quantity and which we are confronted with include those arising from urbanization, industrialization, existence of new commercial places/activities, desertification, deforestation and problems associated with environmental consideration in health care activities. It is clear that all the above listed factors are presence in the state and contributed immensely in producing large scale of waste in almost every part of the state leaving the policy makers to come up with a solution through enactments and regulations

embodying concerned with environmental issues as they broadly affect the entire environmental components. At Federal level there are lot of legislations and regulations aim at providing necessary legal and institutional framework for waste management. At Kano State levels also certain laws are enacted to cater for environmental protection. As earlier stated that presently there are over 400 privately owned large, medium and small scale industrial factories producing various products such textiles, tanned leather, cosmetics, enamel wares, pharmaceuticals, diary products, animals feed, foot wears etc. The activities of all industries in the state produce waste which threatens the environmental protection. It is clear that uncontrolled industrial activities pose greater danger to the environment than any other activity due to the nature of the waste they produced.

The question remains, how far has existing legal and institutional framework in matters of environmental protection have been addressed, tackle, halt or otherwise abate the problem of environmental pollution in its entire ramification?

The enforcement of environmental laws in Nigeria and Kano State in particular has been problematic. The laws do not operate in vacuum. The management and regulations of environment, though the enforcement has been beset by a host of problems, and has met with limited success.

5.2 FINDING

Constitutionally, the issue of waste management is on the concurrent legislative list empowering both Federal and state Governments to enact and provide regulations for a sound and good environment. The relevance of environmental legislation to the economic, social, cultural and political well-being and development cannot be over emphasized.

Urbanization and industrializations are greatly sources of waste generation as well as factors of development. Development implies the transformation and distribution of economic resources in favour of a society. It is undisputable fact that the process of development has the effort of an unprecedented degradation of environment resulting from the waste the development factors come along with and which has the effect of posing serious threat to the environmental protection.

Fortunately, the issue of the problem of the implementation and enforcement of environmental legislation at Federal level is nowadays getting improvement due to the coming of National Environmental Standards and Regulation Enforcement Agency established by section 1 of the National

Environmental Standards and Regulation Enforcement Agency (Establishment) Act 2007[1].

The agency is charged with the responsibility for the protection and development of the environment biodiversity, conservation and sustainable development of Nigeria natural resources as well as the environment. The Agency and the Act establishing it constitute a new dawn in both purpose and contents. They aim at addressing the preponderance of obsolete environmental regulations, standards and enforcements mechanism which resulted over the years in the high rates of non-compliance with environmental laws, regulations and standards.

At Kano state level, the activities of the Refuse Management and Sanitation Board confine mainly to refuse/waste of solid nature leaving the liquid waste/refuse and the waste produce by industries out of its domain. There is no any legislation in Kano state aim at addressing the problems of waste produce by industries in the state and these kind of wastes mainly have hazardous properties in them and have a great damaging effects to the environment. Therefore these types of wastes i.e industrial wastes are still regulated by the national legislations and regulations made for the purpose of waste management in Nigeria.

1 Act, No. 25 of 2007 Laws of the Federation of Nigeria 2007

The government of the Federation and Kano state must be commended for their swift reaction to the waste management through creation of National Environmental Standards and Regulations Enforcement Agency and Refuse Management and Sanitation Board. Respectively, notwithstanding the above effort there is still the problem of enforcement of environmental protection laws, waste management inclusive. This appears to be lack of political will on the part of the government and subsequently the failure of the governments to enlighten the populace on the existing of the environmental protection laws and the existence of waste management institutions. This is also further compounded by the much touted corruption whereby some polluters particularly in the corporate section get away with flagrant breaches of our environmental legislation. Lack of awareness in environmental issues is also one of the problems in the effective regulation and management of waste. Illiteracy and ignorance constitute a great obstacle to the regulation and enforcement of environmental legislation and waste management and the remedies available at Law.

People needs to know the consequences of their acts or omissions or that other persons, institutions, settlements, schools on the environment and how it affects their existence. Lack of effective implementation on existing laws on waste management is also contributory. Another problem is jurisdiction

to try all cases under Refuse Management and Sanitation Board Law which is vested in the Sharia court or magistrate of first grade. The court is over-burden with other cases on which it has jurisdiction and as such imposing environmental waste management cases on it would stretch it to a breaking point resulting in a congestion and delay of cases.

5.3 RECOMMENDATIONS

It is humbly recommended that some of the problems of environmental protection especially that of laws and regulations of waste management could be properly addressed if the following measures are adopted not only by Kano state government and also that of the Federation and their various agencies and organs responsible for environmental protection through waste management.

- First and foremost, government should ensure that there is adequate enlightenment of the populace as regard to the environmental protection through proper waste management, and how it affects their existence.
- Government should ensure that the beautiful statement on environment contained in its developmental plans are put into practice by ensuring a thorough environmental impact assessments in all developmental plans as to achieve much needed sustainable development at the end of the day.

- The inherent inadequacies of some of our environmental laws need to be urgently amended to make it more effective by way of empowering the agencies and Boards established by various laws to ensure full observance and compliance with the provisions of the Law.
- The inadequacies of some our environmental laws need to be urgently amended to make it more effective by way of higher punishment and payment of reasonable damages that would serve as a deterrent to would be offenders and defaulters.
- Government should organize seminars and workshops for the staffs responsible for implementing and enforcing environmental laws and regulations in order to carry out their duties effectively.
- Polluter pays principle should be strengthened. That is the government should introduce a form of environmental taxation or levy for industries in order to make them more liable in ensuring environmental protection of the area where they operate.
- Specialized environmental protection court should be created in order to deal with environmental offenders and defaulters to ensure speedy adjudication bordering on environmental offences.