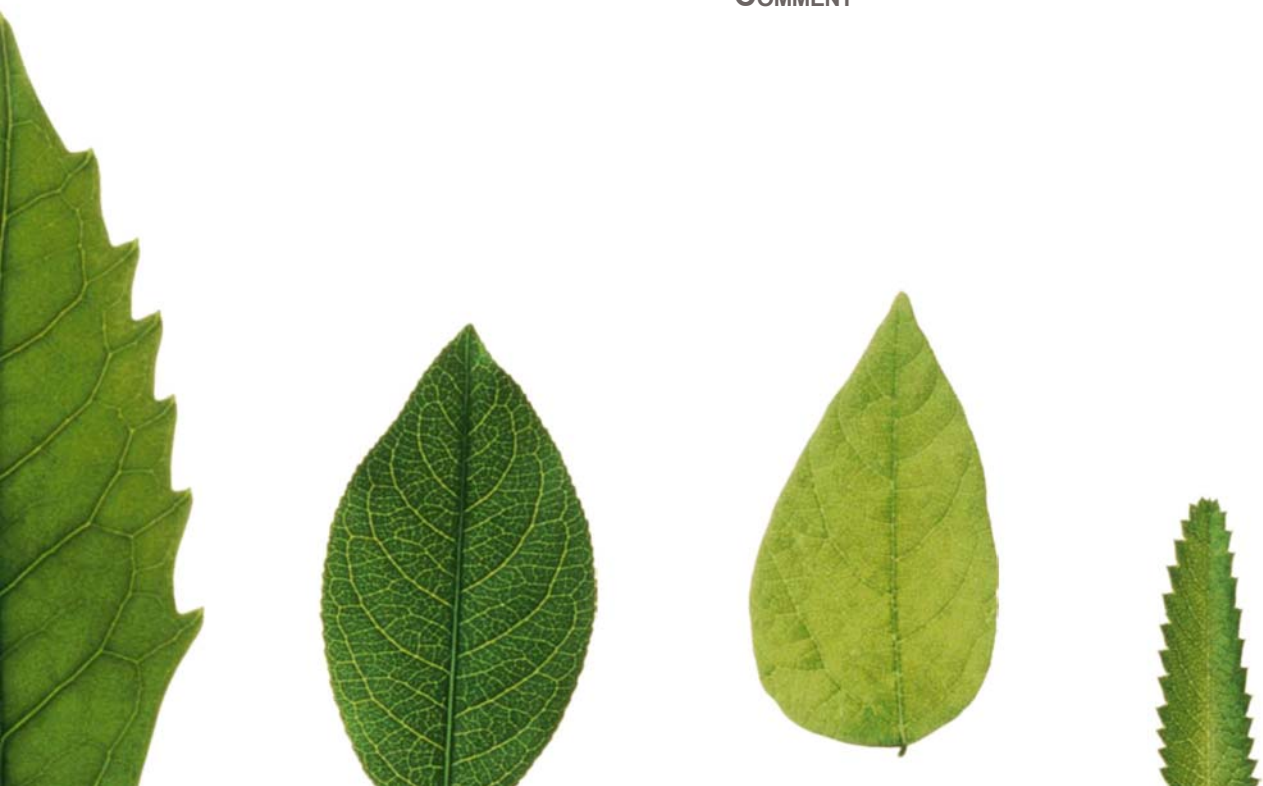
LAW ENVIRONMENT AND DEVELOPMENT JOURNAL
LEAD

REVIEW OF THE LEGAL RESPONSE TO ENVIRONMENTAL IMPACT OF COVID-19 IN NIGERIA

Eti Best Herbert and Oluwabunmi Temitope Akinleye

COMMENT



VOLUME 17/2

LEAD Journal (Law, Environment and Development Journal)
is a peer-reviewed academic publication based in New Delhi and London and jointly managed by the
Law, Environment and Development Centre of SOAS University of London
and the International Environmental Law Research Centre (IELRC).
LEAD is published at www.lead-journal.org
info@lead-journal.org
ISSN 1746-5893

Comment

REVIEW OF THE LEGAL RESPONSE TO ENVIRONMENTAL IMPACT OF COVID-19 IN NIGERIA

Eti Best Herbert and Oluwabunmi Temitope Akinleye

This document can be cited as
Eti Best Herbert and Oluwabunmi Temitope Akinleye, 'Review of the Legal Response to Environmental Impact of Covid-19 in Nigeria',
17/2 *Law, Environment and Development Journal* (2021), p. 198,
available at http://www.lead-journal.org/content/c1702.pdf

Eti Best Herbert, Legal Practitioner and Research Consultant; Head of Practice, Olive Branch Attorneys, Ibadan. Email: etiherbert@gmail.com.

Oluwabunmi Temitope Akinleye, PhD Candidate (Ado-Ekiti). Legal Practitioner, Oasis of Justice & Associate, Ado-Ekiti, Ekiti State, Nigeria.

TABLE OF CONTENTS

1 INTRODUCTION

The outbreak of Corona virus respiratory disease, popularly referred to as Covid-19 or Severe Acute Respiratory Syndrome-Cov2 in Wuhan, China, sometime in December 2019 has caused a serious global pandemic.[1] The deadly impact of the disease has created a serious public health emergency in many countries, including Nigeria. The preventive and curative measures adopted to deal with the disease have caused a massive generation of infectious municipal solid waste and biomedical/health care waste.[2] Apart from the caused waste management crisis, it portends a negative impact on the environment and public health. This obviates the need for effective law to address these challenges.

In view of the foregoing, it is necessary to examine existing waste management practices and regulatory frameworks set up to address the waste management crisis caused by the advent of Covid-19 in Nigeria. Therefore, this paper shall undertake a review of the various legal and policy instruments available for addressing issues of solid waste management. The legal framework shall be classified and analysed as pre-Covid-19 and post-Covid-19 legal regime for solid waste management. The objective is to determine how well they contemplate or encompass measures to address the special nature of the Covid-19 induced waste.

2 PRE-COVID-19 REGIME FOR SOLID WASTE MANAGEMENT

The convenient point of departure is the Constitution of the Federal Republic of Nigeria 1999 (CFRN). The state is empowered to ensure protection and improvement of the environment as well as providing a safeguard for land, forest, wildlife, air, and waterways.[3] This section actually made provision for the collective right of the people to have a protected and habitable environment. The state is the duty bearer in respect of the protection of the environment. Unfortunately, the enforceability of this right is a tall order for citizens. The provision is an integral part of Chapter 2 CFRN which has been made unenforceable by virtue of Section 6 (6) (c) CFRN. Arguments have been advanced to establish a nexus between the right to live in a degradation-free environment and the human right of life,[4] as contained in Section 33 CFRN which is enforceable.[5]

Relating this statement to the present situation of Covid-19, it is compelling to agree that section 33 can constitute a ground to protect people's right of a clean environment. Nigerians are fond of improper disposal of wastes notwithstanding the widespread knowledge of the infectious nature of Covid-19 infected solid waste materials. It is also common to find scavengers picking up certain waste materials which are usually sold to people who are interested in reusing or recycling these materials.[6] Using an infected nose mask or other

1 World Health Organization, 'Coronavirus Disease (Covid-19) Outbreak', (The World Health Organization 2020). <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov>.

2. HB Sharma and others,'Challenges, Opportunities and Innovations for Effective Solid Waste Management during and post Covid-19 Pandemic' (2020) Resource, Conversation & Recycling 2, 7.

3 The Consitution of Federal Republic of Nigeria 1999 (as amended) s 20.

4 A O Okukpon, 'The 1999 Constitution of Nigeria and the Protection of the Right of Citizens to a Clean Environment', in L Atsegbua (ed.), Selected Essays on Petroleum and Environmental Laws 32.

5 T U Akpoghome, 'Managing Domestic Waste in Nigeria: Legal Framework, Problems and Solutions' (2014) 4 (6) International Journal of Environment, Ecology, Family and Urban Studies 10.

6 P Alam & K Ahmade, 'Impact of Solid Waste on Health and the Environment' (2013) 2 (1) International Journal for Sustainable Development and Green Economics 168.

Covid-19 infected waste, may evoke another phase of the pandemic in the country. At this particular point, the right to life of the general public becomes threatened. However, the enforcement of the right to a clean environment as a fundamental right to life would remain elusive until Nigerian courts emulate the activist disposition of Indian Supreme Courts in interpreting this right.[7]

In view of its obligation to ensure environmental protection, the National Assembly enacted the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007, wherein NESREA was created as the agency responsible for the creation of environmental standards, regulations, rules, policies and guidelines.[8] The agency is also empowered to ensure compliance with environmental standards, regulations and policies on environmental health and sanitation.[9] It is specifically required to ensure a proper municipal waste management and the environmental sanitation in Nigeria.[10] Subject to ministerial approval NESREA also has the responsibilities to establish guidelines and regulations for the sorting, the storage, the collection, the transportation, the processing, the resource recovery, the recycling and the disposal of all forms of municipal waste, generated in Nigeria.[11] Pursuant to this power, the National Environmental (Sanitation and Waste Control) Regulations (NESWC) 2009 and the Covid-19 Guidelines were established.

Apart from the NESREA Act and its regulations, similar laws and institutions for waste management abound at the state level which are to be enforced within the individual states. The reason for this is that the subject of environment is not a matter that is within the exclusive legislative competence of the federal government. It is within the remit of federal, state, and local government to regulate issues of environment and waste management. Hence, various states of the federation have legislated on this matter.[12] Specifically, Lagos State enacted the Lagos State Environmental Protection Agency (LASEPA) Law 2017. The law established LASEPA, which is conferred with the function of monitoring and controlling all forms of environmental degradation, disposal of solid gaseous and liquid waste generated by both government and private facilities in the state.[13] Pursuant to the Lagos State Waste Management Authority (LAWMA) Law, LAWMA was established as the state government agency solely responsible for the management of solid waste, which entails waste collection, transportation treatments and disposal services for all residential, industrial and commercial facilities all over the state. They have the power to make regulations for the standard collection and the disposal of waste. They also have the power to approve and monitor all the solid waste disposal systems in the state.[14]

The National Environmental (Sanitation and Waste Control) Regulations, 2009 adopted sustainable and environmentally friendly practices in environmental sanitation and waste management to minimise pollution within the state. Section 3 of the regulation prohibits refuse dumping in undesignated litter bins. Occupants of premises and vehicles have a duty to prevent the discharge of litter therefrom into the public sphere and undesignated areas.[15] As impressive as this provision may be, it is not self-enforcing. Certain measures must be established to bring them to fruition. Indeed, actual compliance with these provisions is considerably low in Nigeria. This is evidenced in the indiscriminate visible display of mountainous waste along the streets and highways of urban areas across the country. It is equally observed that most Nigerians are fond of discarding refuse from moving vehicles along the road without any form of reprimand meted out to defaulters.[16]

7 See, M. C. Mehta v. Union of India [1987] SCR (1) 819, AIR 1987 965; Shela Zia v. Water and Power development Authority (WAPDA), [1994] PLD A16.

8 The National Environmental Standards and Regulations Enforcement Agency Act (NESREA Act) 2007, s 1.

9 ibid.

10 ibid 8(k).

11 N Ikpeze, 'Safe Disposal of Municipal Waste in Nigeria: Perspectives on Rights Based Approach' (2014) 3 (1) Afe Babalola University Journal of Sustainable Development Law and Policy 79.

12 See for instance, Kaduna State Environmental Protection Authority (Substitution) Law, 2009.

13 LASEPA Law 2017 s. 166.

14 LAWMA Law s. 63.

15 ibid.

16 Akpoghome (n 5) 10.

Waste generators are required to procure the services of licensed waste handlers for the purpose of transportation and disposal of waste in designated facilities.[17] This provision of the law is well thought out. The reason is that the essence of granting licenses to people or companies to carry out waste disposal services is to ensure easy identification and regulation of their services in order to guarantee compliance with environmental standards in the course of performing their functions. However, the compliance level with this provision of the law remains to be seen. It has been observed that residents still have the habit of disposing of their waste by illegal means, in order to avoid or reduce payment of refuse collection fees. People would rather engage the services of unregistered waste collectors, who end up disposing of refuse in undesignated places.[18] On the other hand, there is an insufficient number of licensed waste management service providers which can efficiently cover the length and breadth of the state, these leave people with no other option than to resort to the alternative of unlicensed waste disposal service providers. When solid waste is mostly disposed by unlicensed entities, it becomes difficult for waste management authorities to ensure compliance with safety measures put in place to avoid the spread of Covid-19.

Generally, solid waste handlers are also required to have waste treated in accordance with NESREA prescribed standards before its discharge into the environment.[19] Towards this end, anti-pollution technology which meet the criteria of technological soundness, economic viability and prescription of NESREA are to be installed at the premises of all waste management facility for the waste treatment.[20] Similar obligation applies to entities who handles contaminated waste.[21] Default in ensuring that people involved in the handling, treatment and disposal of wastes are appropriately geared with protective equipment is an offence[22] punishable with either or both N200,000 fine and one year jail term.[23]

Impressively, Part IV of the NESWC Regulations 2009 specifically addresses issues about Health Care Waste (HCW). HCW is waste produced in the course of health treatment for humans or animals; or waste generated by health facilities.[24] HCW is categorised into the following: infectious waste, pathological waste, sharps, pharmaceutical waste, genotoxic waste, chemical waste, heavy metallic content waste, pressurised containers, general solid waste, and microorganisms.[25] While all these categories of clinical waste are potentially Covid-19 contaminable because of them being generated in health care facilities where Covid-19 patients are being cared for, infectious, pathological, microorganisms and general solid waste are the more likely source of clinical waste to aid the spread of the virus. For instance, infectious waste includes amongst others, laboratory cultures, swabs, waste generated from quarantine wards, soiled plaster, materials that have had contact to the blood of diseased patients, etc. Pathological waste comprises body parts, tissues, fluids, blood, and cadavers of animals and humans. Microorganisms comprise biological elements which have the capacity to multiply or transmit genetic materials.[26]

The Regulation provides guidelines on how HCW and other hazardous waste are to be handled. Handlers of HCW are required to package it in colour-coded bags[27] according to their categories and clearly label the containers in English. Information that is required to be scribbled include: identity of the waste, the generator and the means of contact; means of waste storage; active elements and their percentage components; words or pictogram of caution; advice on the first aid measures that should be taken in case of contact that is likely to exposed such person to harm.[28] While the

17 Regulation 4 National Environmental (Sanitation and Waste Control) Regulations 2009.
18 E Amasuomo & J Baird, 'Solid Waste Management Trends in Nigeria' (2017) 5 (6) British Journal of Environmental Sciences 28/29.
19 Regulation 34.
20 NESWC Regulation r 33 (1).
21 ibid r 37(1).
22 ibid r 71 (r).
23 ibid r 95.
24 ibid r 106.
25 ibid Schedule XVI.
26 ibid Schedule XVI.
27 ibid r 59.
28 ibid Schedule XV.

foregoing is a well-thought-out measure, it is, however, noted that the literacy rate in Nigeria was pegged at 62.02 per cent in 2018.[29] 2019 The National Commission for Mass Literacy had reported that 35 per cent of Nigerians are illiterate.[30] This accounts for over 60 million Nigerians who lack the ability to 'read and write simple statements on their everyday life'.[31] Also, it is common practice for the refuse dump to be sited in rural communities and areas inhabited by poor dwellers,[32] which constitute a large ratio of the illiterate population. Due to these factors, the requirement of the regulation that HCW be packaged and labeled would yield greater results if the same information is required to also be written in at least one of the dominant dialects of the locality where the hazardous waste is to be disposed of.

The essence of waste treatment is to diminish the waste of its contagious properties or effect.[33] The treatment methods for various categories of HCW, as contained in the Regulation, range from grinding, incineration, steam sterilization, and formaldehyde decontamination depending on the category of the health care waste.[34] To enable their operation, the owners of an HCW treatment facility need a license from NESREA,[35] while permits must be obtained to enable transport of HCW, which must be carried in designated vehicles.[36] HCW generating facilities must also be registered entities with relevant regulatory bodies.[37] It, therefore, means that every hospital and pharmacy, for instance, must be registered with the Hospital Management Board and Pharmaceutical Society of Nigeria, respectively. Health care facilities are required to separate HCW into their various categories[38] and ensure its onward treatment in accordance with Schedule 17 of the Regulation.[39] HCW handlers are to submit environmental audit reports on a triennial basis to NESREA,[40] while waste management reports are to be submitted to their industry regulators every quarter.[41] While NESREA may be aware and well alive to its responsibilities regarding the management of HCW, it is uncertain whether the industry regulators of health care facilities are aware of their responsibilities of ensuring that their licensees comply with the environmental protocols. This would require NESREA to embark on awareness creation and collaboration with the applicable licensing bodies.

The regulation also contains a host of offenses concerning HCW. People involved in HCW handling, treatment and disposal must ensure the adornment of personal protective equipment while at it.[42] Only approved treatment technique is permitted.[43] Breach in any of the provisions regarding HWC and hazardous waste are offenses under the regulation.[44] The general punishment for breach of offenses pertaining to this is N250,000 fine and/or 18 months' imprisonment.[45] On the other hand, violation of the provisions of the regulation on hazardous waste[46] is an offense punishable with N5,000,000 fine and/or five years jail term upon conviction.[47]

Unfortunately, most of the mountains of waste found on the roadsides, highways are far from being treated, in contradiction to the provision of the regulation. Most of the (unlicensed) waste collectors simply collect waste from waste generators and transport it to any available space found around the bush or secluded

29 Macrotrends, Nigerian Literacy Rate 1991-2020 <https://www.macrotrends.net/countries/NGA/nigeria/literacy-rate>, <nigerianstat.gov.ng>.

30 All Africa, 'Nigeria: The Challenge of Illiteracy in Nigeria' (2019) <http://allafrica.com/stories/201908010204.html>.

31 'The Growing Illiteracy in Nigeria' (12 April 2019).

32 A A Adekunle, Critical Notes on Environmental Justice and Sustainable Development (2018) 10 (3) International Journal of Sociology and Anthropology Review 21, 23.

33 NESWC Regulation r 106.

34 ibid Schedule XVII.

35 ibid r 55.

36 ibid r 56.

37 ibid r 56.

38 ibid r 57.

39 ibid r 58.

40 ibid. r 61.

41 ibid r 62.

42 ibid r 71 (r).

43 ibid r 80.

44 See, ibid r 80, 86-93.

45 ibid r 104.

46 ibid r 78-85.

47 ibid r 103.

areas. It could be observed that contrary to the provision of the regulation, it is uncommon to find receptacles around most market areas. Even where there are receptacles the designated waste collectors are not timely in picking up the wastes.[48] It has also been found that most waste generators are not careful about separating their waste into various categories but indiscriminately dispose of their wastes.[49] It has been noted with dismay that implementation of these regulations in Nigeria has been rather poor due to the lack of proper enforcement agencies. The regulation is not being effectively enforced in order to command the compliance of waste generators.

3 COVID-19 GUIDELINES FOR WASTE MANAGEMENT

At the international level, it has been recognised that waste generated at the behest of prevention, management and treatment of the pandemic have Covid-19 infectious tendency and capacity. Hence, the International Solid Waste Association reckons a three-action plan for solid waste management amidst the pandemic. This includes: the need to make sure that waste recycling, treatment, and disposal centers continue in their smooth operation such that public health is not put at risk due to waste mismanagement; necessary precautionary measures are infused into waste recycling undertakings such that would not result in a transfer of infections; and take steps to safely manage, treat and displace medical waste at an infections and pollution reduced manner.[50] Given the pandemic status of the virus, civilised nations of the world are expected to set up policies and legal instruments that underlie these standards in the management of solid waste generated within the period of the pandemic.

In response to the outbreak, the Nigerian governments at the federal and state levels have set up regulations, directives, and guidelines to prevent and control the spread of the virus. Part of these instruments are targeted at waste management. The National Centre for Disease Control (NCDC), being the central coordinating and superintending institution tasked with the duty of prevention and control of contagious disease, is at the forefront of making directives on the virus and allied matters.[51] Hence, the NCDC established the National Interim Guidelines for Clinical Management of COVID-19. This guideline is of general nature such that it touches on every possible aspect of endeavour that is affected by the pandemic. Apart from the clinical management aspect of the virus, some segment of the regulation touches on the environmental perspective of the virus. The focus of this paper is restricted to the environmental dimensions of the virus.

The NCDC directive requires health centers providing care for people infected with Covid-19 to make provision for sealed containers for disposal of waste generated from the facilities. Bedcovers should be regularly subjected to steam sterilization, while wastes of patient are to be burnt. The incineration treatment should be extended to PPE worn by officers who provide care for patients. Medical personnel, caregivers, and support staff who come in contact or are responsible for handling the waste evacuation and transport process from such facilities must be clad in their full protective gear. It is the duty of tertiary health care centers to take delivery of these infectious waste for disposal according to the standard procedure. The essence is to ensure that the infectious solid waste is given safe management in a controlled environment. This is particularly as Covid-19 isolation centers are products of emergency set up, hence they are unlikely

48 B Onu and Others, 'Solid Waste Management: A Critique of Nigeria's Waste Management Policy', (2012) 11 The International Journal of Knowledge, Culture, & Change Management 17.

49 Akpoghome (n 5) 12.

50 MD Vaverková and Others, 'Municipal Solid Waste Management under COVID-19: Challenges and Recommendations' Environmental Geotechnics 1, 3. <https://doi.org/10.1680/jenge.20.00082>.

51 P K Oniemola, 'National Response to COVID-19 and the Question of Institutional Governance in Nigeria', Perspectives, Impacts & Policy Responses to COVID-19 Pandemic, 425/424.

to have waste incineration facilities. This implies the need for the isolation centers to collaborate with contiguous health care centers that possess waste incinerators.[52] There are other environmentally conscious standards which people making their exit from Covid-19 isolated centers are expected of complying. For instance, PPE worn within the premises of those centers must be taken off and dislodged in designated waste containers under the closed watch of a trained colleague. PPE of one-time use is not to be recycled, while reusable equipment is to undergo sanitization before it can be submitted for recycling.[53]

While NCDC is a general coordinating body with respect to Covid-19 related matters, they do not have a special mandate on waste and environmental management. This puts them in a restrictive position in how well they can coordinate such activity amid their other mandates which have national spread. Secondly, they lack the prowess to enforce compliance with environmental standards. This is a power statutorily conferred on NESREA.[54] The forgoing obviates the need for inter-governmental corroboration with sister agencies with specialised mandate and competence in dealing with specific issues such as this. This is where the services of NESREA come in handy.

On its part, NESREA created guidelines on the management of infectious waste. On the 16th of April 2020, NESREA created two Covid-19 related guidelines. These are the guidelines for handling chemicals used for disinfecting surfaces against Corona virus (Covid-19) and guidelines for handling infectious medical waste generated from the treatment of Covid-19. The guidelines address allied issues such as chemical handling and spraying, preparation of disinfectant solutions, collection and storage of chemical waste, and disposal of spent containers. The handling guidelines provide procedures on how chemicals used for Covid-19 disinfectant purposes should be handled. It provides that containers used to store such chemicals should be adequately labeled. Personal protective equipment to be used for handling the chemical for disinfectant purposes should be chemical and water-resistant. Non-reusable PPEs should be disposed of immediately after use. Protection equipment should be worn to cover the hands and eyes when preparing the disinfectant chemicals. Upon application of those chemicals on surfaces, a period of ten minutes should be allowed within which time the virus should be terminated. Chemical waste should be collected in an area with good ventilation. Liquid waste would be collected in labeled containers. The names of the chemicals must be written in full and not an abbreviation of the chemical name. The disposal guidelines require that chemical containers should be separated from other waste and should be handled only by hazardous waste managers.[55]

The second NESREA guidelines[56] recognise that tendency for an increase in a medical waste generation which is generally classified as 'infectious waste'. Unless adequate measures are taken to effectively dispose of these wastes, they are likely to serve as a channel for the continuous spread of the virus. The guidelines highlight that in order to contain the spread of Covid-19, waste handlers should wear appropriate PPE. Waste generators are responsible for packaging such waste for transport to treatment facilities. Health care workers should also ensure 'environmentally sound management'. This requires providing sealed receptacles for waste materials, disposable PPE used by care workers and other infected materials should be incinerated. Tertiary health care facilities are also obliged to receive the infectious wastes for incineration from isolation centers.[57]

52 Nigeria Centre for Disease Control, 'National Interim Guidelines for Clinical Management of COVID-19 Version', (3 June 2020) 7. <https://covid19.ncdc.gov.ng_National_Interim_Guidelines_for_-Clinical_Management_of_COVID-19_v3.pdf>.

53 ibid 10.

54 NESREA Act 2007 s 7 (a); see also, MT Ladan, 'Review of NESREA Act 2007 and Regulations 2009-2011: A New Dawn in Environmental Compliance and Enforcement in Nigeria' (2012) 8 (1) Law, Environment and Development Journal 118, 122.

55 National Environmental Standards and Regulations Enforcement Agency, 'NESREA Guideline for Handling Chemicals used for Disinfecting Surfaces against Corona Virus (Covid-19)' <https://www.nesrea.gov.ng/wp-content/uploads/2020/02/Handling_Chemicals_-Guidelines.pdf>.

56 NESREA Guidelines for Handling Infectious Medical Waste Generated from the Treatment of Covid-19.

57 ibid.

4 COMMENTARY

Notwithstanding the lofty provisions of NESREA directions, their practical realisation remains questionable given the inadequate facilities to give life to these directives. A study of the medical waste disposal system of Taraba state shows the lack of waste management facilities to effectively handle infectious waste, even in tertiary healthcare centers. The incinerator facility which was donated by the WHO to the Taraba State Specialist hospital has outlived its functional purpose. Hence, the hospital was left with the option of resorting back to its 172km journey to the state capital of Adamawa, a neighbouring state to dispose of the waste properly. However, the hospital preferred the option of local management of the waste by having them burnt and buried within the hospital premises, contrary to laid down guidelines.[58]

These guidelines stipulated are quite impressive, but the level of effectiveness is very low. The reason is that Nigeria lacks waste disposal facilities, most incinerators in tertiary health care hospitals are non-functional. Hence, the common practice of medical waste disposal in Nigeria has been by landfilling and open dumping.[59] Another challenging issue is the inefficiency of medical waste collection. As pointed out by a medical practitioner, the medical waste arm of LAWMA, are ineffective in the evacuation of medical wastes. There are more effective in obtaining stipulated fees from hospital management than their main assignment.[60]

The Chinese government did not only build new medical facilities for Covid-19 treatment, new medical waste plants, and more mobile waste treatment facilities were also put in place to manage medical wastes.[61] The Nigerian government is yet to appreciate the fact that mismanaged medical waste is a potential means of Covid-19 spread; hence efforts would have been directed in this regard.

Other flaws with the guideline are that despite its recognition of the environmental and waste management crisis orchestrated by the advent of the virus, which necessitate the dire services of waste handlers, the guidelines failed to recognise waste disposal agents as essential workers. The curfew and lockdown measures imposed by the government were comprehensive in some states. Movements were generally restricted except for essential workers. In a press release, the chairman of the Presidential Task Force on Covid-19 had issued a guideline to the effect that, 'essential workers, include our indefatigable, medical personnel, diligent journalist, courageous fire service personnel, telecommunications workers'.[62] The Police were mandated to set up roadblocks to enforce compliance with these directives. Unlike the case of Kenya where public-spirited individuals approach the courts to get an order that legal practitioners should be recognised as essential workers,[63] this was not possible in Nigeria, as the courts were also locked down and inaccessible.

The use of guidelines does not serve as an effective legislative tool for environmental protection and waste management regulation. This is because of their weak legal status. Guidelines are policy frameworks and do not command coercive legal influence. In other words,

58 E D Oruonye & Y M Ahmed, 'Covid-19 and Challenges of Management of Infectious Medical Waste in Nigeria: A Case of Taraba State' (2020) 10 (3) International Journal of Waste Resources 1, 4.

59 ibid 2; O Awodele, A A Adewoye, & C O Aruba, 'Assessment of Medical Waste Management in Seven Hospitals in Lagos, Nigeria' (2016) BMC Public Health 1, 6.

60 T Igomu, 'Mismanagement of Medical Waste can Aid COVID-19 Spread in Nigeria –Experts' (Punch, 18 July 2020) <https://healthwise.punchng.com/mismanagement-of-medical-waste-can-aid-covid-19-spread-experts/>.

61 Oruonye & Ahmed (n 58) 3; N Singh, Y Tang & C Zheng, 'COVID-19 Waste Management: Effective and Successful Measures in Wuhan China' (2020) Resource, Conversation and Recycling 6. W Gong & M Li, 'Advice of Medical Waste Management after Covid 19 Pandemic from Wuhan' (2020). <https://www.iswa.org/home/news/news-detail/article/guest-blog-advice-of-medical-waste-management-after-covid-19-pandemic/109/>.

62 A Onwuzoo, 'Curfew: Essential Workers Remain Exempted – SGF' (Punch 21 May 2020) <https://healthwise.punchng.com/curfew-essential-workers-remain-exempted-sgf/>.

63 Law Society of Kenya v. Hillary Mutyambai Inspector General, National Police Service & Ors. (2020) EKLR.

they are not legally enforceable. Hence, actions carried out pursuant to the Covid-19 environmental guidelines are very unlikely to receive the blessing of the court when subjected to a legal crossfire. The Supreme Court confirmed this position in the election petition case of between Wike v. Peterside & Ors.,[64] where it refused to uphold the INEC Guideline on the use of electronic card readers. In the case of George v. FRN,[65] where the appellant was convicted for the offense of 'contract splitting' based on the offense created in an intergovernmental circular, the Supreme Court also set aside the conviction and the sentence of both lower courts.

It is understood that since the advent of the Covid-19 pandemic, there has been an increase in the usage of medical items such as tissues, face masks, hand gloves, tissue, hand sanitizer, etc. in households and open places. This implies that medical waste that has been exposed to Covid-19 infections are generated in uncontrolled environments where they are unlikely to get special care and treatment to detoxify this waste because of the potential as conductors of Covid-19 infections. The restriction on movement implies that most of this waste is kept within inhabited environments, with the potential of attracting rodents and other disease vectors.[66] There is a need to create further regulations and guidelines which focus on the health care related waste that is generated in other places than health care facilities.[67]

5 CONCLUSION

This study examined the legal framework for solid waste management in response to the environmental impact of Covid-19. Findings revealed that the direct legal response to the environmental challenges of Covid-19 has mostly been in the form of guidelines. Guidelines are held not to be effective instruments to address this situation, given its weak legal status of not being legally enforceable. However, it is a common occurrence to see police officers and other law enforcement agencies exert zealous enforcement actions based on guidelines and directives from executive bodies. For instance, the police harassed and arrested people who failed to comply with the stay-at-home directive which was made pursuant to some of these covid-19 guidelines. These actions may amount to illegality if it infringes on the rights of citizens that could entitle them to huge damages should they resort to legal action. This would imply that the relevant Minister in charge of environment NESREA should take expedite steps to transform the guidelines to one of its regulations pursuant to its subsidiary legislative powers in Section 34 NESREA Act 2007.

64 2016 NGSC 137.

65 (2014) All FWLR (Pt. 718) 879.

66 O Olowoporoku & S Oanrewaju, 'Household Sanitation and Waste Disposal Practices during COVID-19 Pandemic in South-West Nigeria' (2020) 15.

67 Institute of Global Environmental Strategies, 'Waste Management during the Covid-19 Pandemic: From Response to Recovery' (United Nations Environment Programme/International Environmental Technology Centre Report, 2020) 45 <https://reliefweb.int/sites/reliefweb.int/files/resources/WMC-19.pdf>.

LEAD Journal (Law, Environment and Development Journal) is jointly managed by the
Law, Environment and Development Centre, SOAS University of London
soas.ac.uk/ledc
and the International Environmental Law Research Centre (IELRC)
ielrc.org