

DISPLACEMENT AND ENVIRONMENTAL PROTECTION: LEGAL CONCEPTIONS OF A PLUMAGE*

Abstract

Environmental protection has in recent times taken the centre stage nationally and internationally. Access to clean and healthy environment is now seen as not only a privilege but a right; a fundamental human right. In another development, oppression, torture, inhuman and degrading treatment, ethnic, religious and political crises and other violations of human rights have caused people to flee their homelands. These reasons have forced people to seek asylum in other countries or in parts of their countries of origin, thereby making them refugees or foreigners even in their own countries. These persons again, through their anthropogenic activities exacerbate the problems of environmental protection. The national and international communities are confronted with the monumental task of controlling, eradicating the causes of displacement and protecting the displaced. These responsibilities must be juxtaposed with the need to prevent environmental degradation, ensure protection of the environment and sustain a clean and healthy environment. The problem however has been that displacement and environmental protection present a vicious cycle which today has been unattended. This is the crux of the present research. The writer critically examines the Nigerian laws and policies on displacement with specific inquisition into the extent to which the laws and policies address issues of displacement and environmental protection.

Keywords: *Displacement, environmental protection, Law, Plumage*

1. Introduction

Every life depends upon a wholesome and well-functioning ecosystem and the resources of the earth, although not limited but however not unlimited, must be shared proportionately by all living things. Human beings disobey the law of nature at their risk while human success results from co-operation with nature, fitting into the web of life.¹ It is trite that one of the greatest challenges facing humanity today is environmental degradation. Therefore, the need for a clean or unpolluted environment or less polluted environment cannot be overemphasized.² Environmental challenges occur as a result of unguarded activities of human beings in the exploitation of natural resources especially in the area of sourcing for energy supply³ which the present writer refers to as urbanisation. Also, at other times the environmental challenges are as a result of natural disasters such as earthquakes, erosion, volcanic eruptions, desertification etc. Thus, issues of environmental protection *viz-a-viz* investment and development remain one of the greatest concerns of human beings globally.⁴

This urbanization which most often result in conflicts, ethnic violence, communal rife and clashes, and incessant tussle for natural and artificial resources, has also contributed to the displacement of persons.

* **By Obinna MBANUGO, LL.M, B.L**, Lecturer, Department of International Law and Jurisprudence, Faculty of Law, Nnamdi Azikiwe University, Awka, Anambra State, Nigeria. Cell - +2348037749145, Email – obinnambanugo@gmail.com, o.mbanugo@unizik.edu.ng

¹ H. A Akinsola, *A-Z of Community Health in Medical, Nursing and Health Education Practice* (Ibadan: College Press Publishers Ltd) p. 3

² O.V.C. Ikpeze, E. Osaro and N.G Ikpeze, “Analysis of Energy Sources, Impact on Environment and Sustainable Development Referencing Landmark Cases in the USA, South Africa and Nigeria” in *Journal of Environment and Earth Science* Vol. 5 No. 18, 2015 p.147 available at www.iiste.org accessed on 27 April 2016

³ A. Oladeji, ‘Environmental and Health Implication of Processing, Harvesting, Distribution and Using Both Renewable and Non-Renewable Energy Sources’ in *Journal of Energy; Technologies and Policy* ISSN. 2224-3232 (Paper) ISSN 2225-0573 (Online) Vol. 5 Nos. 7, 2015

⁴ O. V. C Ikpeze *et al*, *Op. Cit* at p. 146

These persons who are either refugees or internally displaced persons (IDPs) face grave dangers outside or in their own countries. The trauma of being uprooted from their homes and of becoming separated from family members adds to the terrifying experiences that many refugees undergo before and during their flight. Lack of language skills and unfamiliarity with new surroundings, coupled with fear and concern about events back home, create added burdens. At the very root of displacement lies the obvious problem of detachment and eviction from established environments thus making the displaced susceptible to economic, social and political hardship. This puts emphasis on the need to survive at whatever cost. Basically, the displaced lacks the basic amenities of life having been cut from their employment. Often they are left with little or no means of livelihood and could hardly feed themselves talk more of their relatives. Even where asylum or refugee status is granted, they are still in lack as the resources at their disposal can hardly sustain them. The very next victim of the situation in which the displaced has found him or herself is the environment on which energy is exerted to ensure survival. This causes the pronouncement of environmental problems.

Environmental problems can be considered as nothing new in the world. It exists in both the developing world and the developed world as well. It is stated that environmental problems existed in human societies as early as the first century B.C when the drinking waters of Rome were reported to be polluted.⁵ Environmental problems can be classified here into two-fold characteristics, substantive and procedural which influences the range of solutions as well as planning and management strategies.⁶ Substantive environmental problem according to Olokesusi⁷ relate to the intrinsic nature of the environmental system which have linkages with land, the intensity of its usage, demographic characteristics and socio-economic variables, which each have impacts on the environment. Consequently these impacts determined the nature and intensity of environmental degradation. The present writer is of the considered view that displacement affords a substantive environmental problem but has over the years been unaddressed.

Before highlighting and discussing the challenges of environmental protection with reference to issues of displacement, the basic principles of environmental protection must first be considered.

2. Basic Principles of Environmental Protection

There are a number of principles that are at the core of most environmental protection systems, whether at the international or at the national level. Familiarity with these principles can offer an insight into the purpose and thrust of the various legal mechanisms that have been built around them. They are influential in most legal systems, although they sometimes may be applied differently.

Prevention

Experience and scientific expertise demonstrate that prevention must be the Golden rule for the environment, for both ecological and economic reasons. In some instances, it can be impossible to remedy environmental injury once it has occurred: the extinction of a species of fauna or flora, erosion, and the dumping of persistent pollutants into the sea create intractable, even irreversible situations. Even when harm is remediable, the cost of rehabilitation is often very high. In many instances it is impossible to prevent all risk of harm. In such instances, it may be judged that measures should be taken to make the risk 'as small as practically possible' in order to allow necessary activities to proceed while

⁵ L. E Ruff, 'The Economic Common Sense of Pollution' in R. Dorfman (ed) *Economics of Environments* (New York: W.W Norton & Company Inc.1993) p. 15

⁶ A. Olokesusi, 'Characteristics of Environmental Problems in Nigeria', *The Environmentalist* Vol. 1 No. 1

⁷ *Ibid*

protecting the environment and the rights of others. This was the position of the court in *Solothurn v. Aargau, Switzerland Bundesgericht*⁸.

The issue of prevention is complex, owing to the number and diversity of the legal instruments in which it occurs. It can perhaps better be considered an overarching aim that gives rise to a multitude of legal mechanisms, including prior assessment of environmental harm, and licensing or authorisations that set out the conditions for product or process standards, the use of best available techniques (BAT), and other similar techniques can all be seen as applications of prevention.

Prevention is also linked to the notion of deterrence and the idea that disincentives such as penalties and civil liability will cause actors to take greater care in their behaviour to avoid the increased cost, thus preventing pollution from occurring. In addition to prevention as a generalised goal of international or national environmental law, the notion of ‘pollution prevention’ includes the concept that pollution may be reduced, or prevented, at its source, by changing raw materials or production techniques or technologies. Often ‘pollution prevention’ and ‘source reduction’ are conceived as goals of voluntary efforts that complement ‘command and control’ or ‘end-of-pipe’ environmental regulations that limit the amount of pollution that may be emitted. Pollution prevention sometimes produces economic benefits for industries in terms of increasing efficiency, reducing waste, and reducing liability. Governments may engage in strategies or programs to educate the regulated community and encourage it to implement pollution prevention techniques, in addition to their efforts to promote and enforce compliance with mandatory regulations.⁹ Pollution prevention¹⁰ is also a core concept in a variety of environmental projects and regulatory actions, such as the Great Lakes Action Plan for the Great Lakes in the United States.

Precaution

While there is no single agreed formulation or ‘principle’ of precaution that is used in all contexts, and precaution has not acquired generally accepted status as a legal principle in its own right or as customary international law, there is a basic concept of precaution that animates much of modern environmental protection regimes – the notion that environmental regulators often have to act on the frontiers of knowledge and in the absence of full scientific certainty. Precaution has variously been associated with the ideas that: 1. Scientific uncertainty should not be used as a reason not to take action with respect to a particular environmental concern; 2. Action should affirmatively be taken with respect to a particular environmental concern; 3. Those engaging in a potentially damaging activity should have the burden of establishing the absence of environmental harm; and 4. A State may restrict imports based on a standard involving less than full scientific certainty of environmental harm.¹¹

Properly viewed the concept of precaution operates as part of a science-based approach to regulation, not a substitute for such an approach, and in practice, the concept is multi-faceted. Samplings of some of the ways different facets of precaution are expressed in different instruments are as follows:¹²

⁸ (Federal Tribunal), 1 Nov. 2000

⁹D. Shelton and A. Kiss (eds) *Judicial Handbook on Environmental Law* (Nairobi: United Nations Environment Programme 2005) at p. 20

¹⁰ Case law discussing the concept of prevention includes: *Greenpeace Australia Ltd v. Redbank Power Company Pty. Ltd and Singleton Council* 86 LGERA 143 (1994 Australia); *Leatch v. National Parks and Wildlife Service and Shoalhaven City Council* 81 LGERA 270 (1993, Australia); *Vellore Citizens Welfare Forum v. Union of India* AIR 1996 SC 2715; *Shela Zia v. WAPDA* Vol. XLVI All Pakistan Legal Decision 693.

¹¹ D. Shelton and A. Kiss (eds) *Op. Cit.* at p. 20

¹² *Ibid*

- a. The likelihood of environmental harm (e.g., the Rio Declaration Principle 15 uses ‘where there are threats’; the 1996 Protocol to the London Dumping Convention, Article 3 uses ‘reason to believe [dumping] is likely to cause harm’).
- b. The extent of environmental harm (e.g., Biosafety Protocol Articles 10 and 11 use ‘potentially adverse effects’; UN Framework Convention on Climate Change Article 3 uses ‘threats of serious irreversible damage’).
- c. Level of scientific certainty or uncertainty needed for precautionary action (e.g. Rio Principle 15 references a lack of ‘full’ scientific certainty; Article 5.7 of Sanitary and Phytosanitary Agreement (SPS) references ‘insufficient’ relevant scientific evidence).
- d. Whether cost-effectiveness of measures is relevant (e.g. the UN Framework Convention on Climate Change article 3 contemplates cost effective measures; the Straddling Fish Stocks Agreement Article 6 does not).
- e. Whether precaution applies to individual parties or to one of the treaty’s institutions (such as the Conference of the Parties or a scientific/ technical body in its decision-making).
- f. Whether precaution is being applied in an environmental context to encourage action (e.g. SPS Article 5.7)

The so-called ‘precautionary approach’ is relatively recent, dating from the late 1980s. The 1992 Rio Declaration, Principle 15, formulates it thus:

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental degradation.

Because of its many permutations and facets, precaution is at once both useful as a flexible tool or ‘approach’, and difficult to capture in the context of a generally applicable legal ‘principle’ or standard. This being said, it has found reference in a number of judicial cases. An Argentinean court, for example, required immediate suspension of efforts to establish an electricity grid until defendant prepared a report with the participation of concerned persons, addressing the impacts and preventive or mitigation measures to avoid the potentially negative effects of the electromagnetic field to be created by the project. The court explicitly stated that it was applying the precautionary principle embodied in the law and several international environmental instruments. *Asociacion Coordinadora de Usuarios, Consumidores y Contribuyentes v. ENRE-EDESUR*, Federal Appellate Tribunal of La Plata (2003). The European Court of Justice has likewise been influenced by the concept, particularly in respect to environmental risks that pose dangers to human health. The court held that the European Commission had not committed manifest error when banning the export of beef during the so-called ‘mad-cow’ crisis¹³. The ECJ said in the NFU case:

At the time when the contested decision was adopted, there was great uncertainty as to the risk posed by live animals, bovine meat and derived products. Where there is uncertainty as to the existence or extent of risks to human health, the institutions may take proactive measures without having to await the reality and seriousness of those risks to become fully apparent.¹⁴

¹³ Case C 180/96, *United Kingdom v. Commission*, [1996] ECR I-3903, para. 83; Case T-76/96 R, *National Farmers’ Union (NFU)* [1996] ECR II-815, para. 88.

¹⁴ *NFU Case* at para. 63

In a European Free Trade Association case, the court held that it was appropriately precautionary to presuppose identification of potentially negative consequences and a comprehensive evaluation of the risk based upon the most recent scientific information.¹⁵ According to the Court, where the insufficient, inconclusive or imprecise nature of relevant scientific conclusions make it impossible to determine risk or hazard with any certainty, but the likelihood of significant harm persists, the decision to take restrictive measures is justified. The criteria cited by the court are as follows:

Such restrictive measures must be non-discriminatory and objective, and must be applied within the framework of a policy based on the best available scientific knowledge at any given time. The precautionary principle can never justify the adoption of arbitrary decisions, and the pursuit of the objectives of ‘zero risk’ only in the most exceptional circumstances.

Polluter Pays

The ‘polluter-pays’ principle was originally enunciated by the Organisation for Economic Cooperation and Development (OECD) to restrain national public authorities from subsidizing pollution control cost of private firms. Instead enterprises should internalise the environmental externalities by bearing the cost of controlling their pollution to the extent required by law.¹⁶ Historically, pollution control cost has been born by the community at large, rather than by those who pollute. Community assumption of the costs can be demonstrated using the example of an industry that discharges pollutants into a river. There are at least three possible ways for the community to assume the economic cost of the pollution.¹⁷

1. The river can remain polluted and rendered unsuitable for certain downstream activities, causing the downstream community to suffer an economic loss;
2. The downstream community can build an adequate water treatment plant at its own cost;
3. The polluter may receive public subsidies for controlling the pollution.

In each case, the affected community bears the cost of the pollution and of the measures designed to eliminate it or to mitigate its effects. The polluter pays principle avoids this result by obliging the polluter to bear the cost of pollution control, to ‘internalise’ them. In most cases the enterprise will in fact incorporate the costs in the price of the products to some degree and pass them on to the consumer. The polluter pays principle is therefore a method of internalising externalities. Those who benefit from air made cleaner have a positive externality if they do not pay for the cleanup. Where air is fouled by a producer who bears no cost, it is a negative externality; those who buy the products also are free riders if the fouling is not reflected in the price of the goods. Internalisation requires that all the environmental costs be borne by the producer/consumer instead of the community as a whole. Price will reflect the full cost if regulatory standards or taxes on the production or product correspond to the true cost of environmental protection and damage.¹⁸ The principle can be applied most easily in a geographic region subject to uniform environmental law, such as a state or a regional economic integration organisation. The polluter can be defined as one who directly or indirectly damages the environment or who creates conditions leading to such damage.¹⁹

Generally, polluters should pay for the cost of pollution control measures, such as the construction and operation of anti-pollution installations, investment in anti-pollution equipment and new processes, so

¹⁵ Case E-3/00, *EFTA Surveillance Authority v. Norway*, paras. 16,21.

¹⁶ D. Shelton and A. Kiss (eds) *Op. Cit.* at p. 20

¹⁷ *Ibid*

¹⁸ D. Shelton and A. Kiss (eds) *Op. Cit.* at p. 21

¹⁹ *Ibid* at p. 22

that a necessary environmental quality objective is achieved. Other means of ensuring the polluter pays principle are through taxes and charges. Application of the principle may be difficult in practice where identifying the polluter proves impracticable because the pollution arises from several simultaneous causes or from several consecutive causes, or where the polluter has become financially insolvent. In such instances, there may be no alternative to community assumption of the costs of remediation.

National courts may define and elaborate on the implications of the polluter pays principle. In *Marlene Beatriz Duran Camacho v The Republic of Colombia* (Sept. 26, 1996), the Constitutional Court, in reviewing the constitutionality of some environmental legislation, approved provisions that impose a special economic burden on those who contribute to the deterioration of the environment and impose on those who take advantage of natural resources the cost of remedying the negative effects that their actions have on the environment. The Indian Supreme Court has said that once an activity carried on is hazardous or inherently dangerous, the person carrying on that activity is liable to make good the loss caused to any other person by the activity.²⁰

3. Displacement and Environmental Protection: Problems and Challenges

Urbanisation

Urbanisation is caused by displacement through the mass influx (rural-urban migration) of persons who although have been forced out of their immediate communities or countries of origin but are searching for greener pasture leading to high population growth rate. It invariably undermines efforts put in place to ensure safety of the environment. Urbanisation is therefore characterized by city slums with serious environmental consequences.²¹ The problem has been described as acute and exemplifies the inability of development measures to keep pace with the rate of migration and population growth.²² Environmental conditions in cities have gradually deteriorated due to the rapid growth of the cities and the attendant inability of social services and infrastructures to keep pace with the rate of growth. Inadequate storm drains, dumping of refuse in drainage lines and construction of houses close to and even on the natural water channels have been shown to be responsible in that order for the increasing cases of flood in the urban centres especially within Nigeria.²³ Environmental problems associated with the increasing growth of urban slums including overcrowding in squalid housing conditions, poor quality or unavailability of basic infrastructure and social services, such as water and sewage facilities and even lack of access routes.²⁴

Overpopulation

Population is a major factor in all environmental and displacement-related issues. Overpopulation resulting from mass influx of displaced persons causes stress on the environment. Environmental problems such as overpopulation resulting from forced migration, degradation, erosion, desertification etc are, apart from natural disasters, caused by man's misuse of environmental resources. Until very recently, Nigerians for example regard their 'large population size' as a symbol of greatness, power and prestige and tend to resist attempts to reduce it drastically.²⁵ It is only just becoming clear, that

²⁰ *Indian Council for Environmental Legal Action v. Union of India*, AIR 1996 SC 1446 (1996), 2 SCR 503, 3 SCC212 (1996).

²¹ S.I Omofonmwan and G.I Osa-Edoh, 'The Challenges of Environmental Problems in Nigeria' in *J. Hum. Ecol.*, 23 (1): 53-57 (2008) at p. 53

²² *Ibid*

²³ S.I Omofonmwan and G.I Osa-Edoh Op. Cit. at p. 54

²⁴ NEST, 'The Challenge of Sustainable Development in Nigeria'. Pp. 152-172 An NGO Report prepared for the United Nations Conference on Environment and Development, Rio de Janeiro, Brazil June 1-12 (1992).

²⁵ S.I Omofonmwan and G.I Osa-Edoh Op. Cit. at p. 54

overpopulation is forcing traditional societies to abandon age old production systems and resource management techniques that allowed them to produce enough food for themselves at minimal impacts on the environment. There is evidence everywhere of rapid decline in environmental quality and human living conditions occasioned by rapid increase in human numbers. Considering the situation in Nigeria, Mabogunje²⁶ reasoned that because of the economic emergency that was declared in the country, the next few years will be witnessing tremendous efforts at increased production and enhanced productivity in the country. Under such stressful situation, 'it will be easy for people to become so exigent, worrying only about what to get out of the environment for their own immediate needs and uses, without caring very much for the consequence, especially for succeeding generations.'²⁷ Inherent in Mabogunje's assertion is the issue of displacement which in the view of the present writer exacerbates the pressure mounted on the environment. Further, the Federal Government of Nigeria in its National Policy on Population for Development observed that the rate of our population growth is already contributing substantially to the degradation of the ecology of the country. It observes that land fragmentation, over-farming and over-grazing, and deforestation have led to soil erosion and desertification and that overcrowding has led to the spread of shanty towns and urban blight, all of which would worsen if the present population growth vide forced migration continues.²⁸

Deforestation

Forests are large areas of land with trees and are noticeable in areas with sub-equatorial and monsoon types of climates. The importance of the forest to man cannot be overemphasized. They act as sanctuary for rare and/or endangered animals. Forests act as storm breakers thereby protecting the towns and villages from destruction. They provide useful products such as wood and charcoal for fuel, fibre for paper and textiles, medicine from the bark and leaves of some plants, breeding ground for animals, check erosion and as supply of materials for building houses.²⁹ Deforestation is a process whereby trees are felled for several purposes, but without replanting to replace the ones that are felled. Deforestation is dangerous to man, animal and property. It leads to the erosion of the soil and storm, which can cause destruction of properties, flora and fauna life. When forests are cleared, the soil is exposed to erosion devastation, floods occur, and rivers and lakes, are filled up with silt. The water becomes dirty and impure for mankind. The removal of tree canopies (particularly the leaves) has effect on the rainfall of that area as there is less leaf surface area for the transpiration of water, which in turn affect the relative humidity of the atmosphere. The repeated cultivation of crops on cleared area of land tends to exhaust the soil of its mineral content.³⁰

Deforestation in general – for agricultural development, displacement, forced migration and urban growth, industrial expansion and pressure from an increasing population – has militated against effective environmental protection procedure. Commenting on the Nigerian situation the Food and Agricultural Organisation (FAO) estimated that Nigerians destroy about 600,000 hectares of her forest every year through careless exploitation and husbandry.³¹ Such careless exploitation of the forest

²⁶ A.L Mabogunje, 'The Debt to Posterity: Reflections on a National Policy', in P.O Sada and F. O Oemerho (Eds) *Environmental Issues and Management in Nigeria* (Ibadan: Evan Brothers Nigeria Publishers, 1988) p.17

²⁷ *Ibid*

²⁸ NEST, 'The Challenge of Sustainable Development in Nigeria'. *Op. Cit* at p.153

²⁹ S.I Omofonmwan and G.I Osa-Edoh *Op. Cit.* at p. 54

³⁰ O. Omiegbe, 'Bush Burning and its Effect in Africa: A Case Study of Nigeria', *Benin Journal of Environment Education*, 1(1): 10-20 (1999)

³¹ F. C. Okafor, 'Rural Development and Environment: Degradation versus Protection' in P. O Sada and F. O Odemerho (Eds) *Environmental Issues and Management in Nigeria Development* (Ibadan: Evans Brothers Nigeria Publishers Limited, 1988) p.104

resulting also from displacement has been implicated in a number of worsening environmental problems in the country including soil erosion and infertility, desertification and flooding.

Desertification

Deserts are barren lands waterless sand treeless and often covered by sand such as the Sahara desert which spread across the African continent. Desertification therefore is the encroachment of the desert on land that was hitherto fertile. Desertification can be induced either by natural processes or by the actions of man. Natural hazards such as drought and sand deposits and winds are prime factors in the desertification process. In Nigeria for example, desertification is more pronounced in the Northern part of the country where the Sahara desert has eaten deep into the once fertile land. The Lake Chad basin which is situated in the area is not left out of desertification. The lake basin has diminished from a water surface area of about 24,000 sq kilometres as far back as 1963 to about 3,000sq kilometres in 1984.³² This is due to natural hazards (drought and sand particles transported by winds to the area) and man's unwise use of the lake environment. Desertification is dangerous to man. It leads to famine, diseases, and destruction of crops, livestock and man and even displacement. Desertification can be controlled through irrigation, terrace ploughing and planting of trees and grasses.

Pollution

Environmental pollution can be categorized into three groups. These are air or atmospheric pollution which is perhaps the earliest form of pollution,³³ aquatic or water pollution and land or surface area pollution. The World Health Organization (WHO)³⁴ defined air pollution as 'limited to situation in which the outer ambient atmosphere contains materials in concentrations which are harmful to man and his environment'. Man's activities on the earth surface have largely degraded the quality of the lower atmosphere. The growth and development of industries and urbanization resulting from displacement and population growth has contributed greatly to the excess carbon monoxide produced by combustion and other human activities. Carbon monoxide reacts with the blood vessel and prevents it from taking up oxygen and the people are suffocated.³⁵ Rural communities that had in the past enjoyed fresh and dry air are currently experiencing air pollution problems.³⁶ This is due to industrialisation process and expansion in human activities. Aquatic or water pollution is the discharge of unwanted biological, chemical and physical materials into water bodies from man's environment. The pollutants are usually chemical, physical and biological substances that affect the natural condition of water. This incidence is responsible for the wide spread water contamination in most Nigerian cities. Also solid wastes have equally flooded the water ways in these urban centres. Land surface pollution is the occurrence of unwanted materials or waste on land. The commonest pollutant on land is the waste products that are often scattered on land area in the cities. According to Onwioduokit³⁷ most environmental problems are due to production or consumption of goods whose waste products translates easily into pollutant.

³² Daily Times, May 21, 1985

³³ I. L. Nwokike, 'Pollution under international Environmental Law', A Ph.D Seminar paper presented to the Faculty of Law Nnamdi Azikiwe University Awka 2016 at p.7

³⁴ World Health Organisation: The Impact of Development Policies on Health. Pp. 21-40 in A Diana and D. Cooper (eds) *A Review of the Life Nature*(WHO: Geneva 1990)

³⁵ S.I Omofonmwan and G.I Osa-Edoh Op. Cit. at p. 55

³⁶ *Ibid*

³⁷ E. A Onwioduokit, An Alternative Approach to Efficient Pollution Control in Nigeria, Proceedings of the Annual Conference of Environmental Protection Society of Nigeria (University Ilorin, Ilorin Nigeria 1998) p.27

Ayeni³⁸ and Sada³⁹ believed that the emergence of urbanization resulting from displacement and population growth is responsible for the rapid accumulation of solid waste. Generally it would appear that the growth of urbanisation and industrial development coupled with improper waste management control have added a great dimension to land area pollution especially in Nigeria.⁴⁰

4. The Nigerian Framework for the Protection of the Environment and Displaced Persons

In Nigeria, there are some institutional and legal framework for the protection of the environment and displaced persons. The first is the National Environmental Standards Regulatory and Enforcement Agency (NESREA) created by the National Environmental Standards Regulatory and Enforcement Agency Act. NESREA is charged with the responsibility of enforcing all environmental laws, guidelines, policies, standards and regulations in Nigeria. It also has the responsibility to ensure compliance with the provisions of international agreements, protocols, conventions and treaties on the environment. The vision of the agency is to ensure a cleaner and healthier environment for all Nigerians, while the mission is to inspire personal and collective responsibility in building an environmentally conscious society for the achievement of sustainable development in Nigeria.⁴¹ Secondly, there is for displaced persons who are either refugees or internally displaced persons, the National Commission for Refugees (NCR) established by the National Commission for Refugees, etc. Act Cap N21 Laws of the Federation 2004. The Commission was created with a view to protecting and safeguarding the interests of refugees in Nigeria. By virtue of section 3 (1)⁴² of the NCFR Act, the Commission is to operate under the supervision of the Secretary to the Federal Government. The Commission shall be constituted by a Chairman who shall be appointed by the President; a representative of the Secretary to the Federal Government as Vice Chairman; the Federal Commissioner for Refugees or his representative, the Permanent Secretary of the Ministry of Foreign Affairs or his representative; the Permanent Secretary of the Ministry of Internal Affairs or his representative and the representative of the United Nations High Commissioner for Refugees in Nigeria, as observer to be invited by the Commission from time to time to the meetings of the Commission where the matters to be deliberated upon have international dimensions. For internally displaced persons, the only national authority saddled with their protection is the National Emergency Management Agency. It is responsible for providing direct material assistance to displaced persons in Nigeria. It offers material assistance to repatriated Nigerians and IDPs no matter the cause of displacement. The agency came into existence through the instrumentation of the National Emergency Management Agency (Establishment, etc.) Act of 2004.⁴³ The Agency was established under section 1 of the Act. The functions of the Agency are outlined in section 6(2) of the Act as follows:

- a) Formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level;
- b) Co-ordinate and promote research activities relating to disaster management at the national level;

³⁸ M. O Ayeni, *Patterns, Process and Problems of Urbanisation in Nigeria: Geography of National Developments* (Ibadan: Heineman Education Books Ltd 1978) p. 15

³⁹ P. O Sada and F. O Odemerho, *Environmental Issues and Management in Nigeria Development* (Ibadan: Evans 1988) p. 75

⁴⁰ *Ibid*

⁴¹ 'National Environmental Standards Regulatory and Enforcement Agency (NESREA)', Internet material obtained from <https://environment.gov.ng> accessed on 05-08-2017

⁴² The establishment section.

⁴³ Cap. N34 Laws of the Federation 2004. Hereinafter to be called "the new Act".

- c) Monitor the state of preparedness of all organisations or agencies which may contribute to disaster management in Nigeria;
- d) Collate data from relevant agencies so as to enhance forecasting, planning and fields operation of disaster management;
- e) Educate and inform the public on disaster prevention and control measures;
- f) Co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call;
- g) Co-ordinate the activities of all voluntary organisations engaged in emergency relief operations in any part of the Federation;
- h) Receive financial and technical aid from international organisations and non-governmental agencies for the purpose of disaster management in Nigeria;
- i) Collect emergency relief supply from local and foreign sources and from international and non-governmental agencies;
- j) Distribute emergency relief materials to victims of natural or other disasters and assist in the rehabilitation of the victims where necessary;
- k) Liaise with State Emergency Management Committees established under section 8⁴⁴ of this Act to assess and monitor, where necessary, the distribution of relief materials to disaster victims;
- l) Process relief assistance to such countries as may be determined from time to time;
- m) Liaise with the United Nations Disaster Reduction Organisation or such other international bodies for the reduction of natural and other disaster;
- n) Prepare the annual budget for disaster management in Nigeria; and
- o) Perform such other functions which in the opinion of the Agency are required for the purpose of achieving its objectives under this Act.

Looking at the above frameworks, it is observed that the aim and objectives of all of them is centered on the same issue – ensuring a cleaner and healthier environment while safeguarding the rights of the displaced. At the risk of holding that the frameworks are proliferated, the present writer is of the considered view that the problems, challenges and mischief sought to be cured by the frameworks revolve round the same issue, again the issue of ensuring a cleaner healthier environment and protecting displaced persons.

5. Conclusion and Recommendations

In conclusion, the foregoing presents some of the linkages between the issues of displacement and environmental protection with highlights on the challenges thereto. It is the continued existence of the problems and challenges outlined above that has hampered the much desired progress in the area of protecting displaced persons but with particular reference to protecting the environment. This issue of Environmental Impact Assessment (EIA) which is quite new and environmental actors and stakeholders merely grappling with it has also exacerbated the problems environmental protection. In the final analysis the present writer makes recommendations with respect to how best challenges of displacement and environmental protection can be curbed or ultimately cured.

The challenges/problems of displacement and environmental protection have become serious issues nationally and internationally in the last few decades. Also national and international concerns at

⁴⁴ Section 8 provides for the establishment of State Committees

reducing, stemming, protecting, safeguarding and or mitigating the consequences of displacement and environmental degradation are very recent. The various international instruments, treaties, conventions and protocols, national legislation targeted at protecting the displaced and the environment, curbing environmental degradation and addressing the causes of displacement are quite commendable. However, to achieve greater success towards eradicating or reducing environmental degradation and invariably the causes of displacement certain basic ideas about environmental management have to be conceptualized. Before modernization, communities of the world especially African communities were tied intricately to their environment. They had the local technology of utilizing the resources within the environment and protecting same from despoliation thereby checkmating and guarding against some preventable natural disasters. For example in Nigeria, farmers adopted the technology of shifting cultivation in order to protect the soil. This practice is highly recommended. The environmental protection mechanisms and techniques should be taken down to the local communities in order to enlighten the rural dwellers on modern methods and techniques of environmental protection which to a great extent will reduce the increase in displacement.