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# Role of Environmental Impact Assessment Act in Achieving Sustainable Cities and Communities in Nigeria

Stephen I. Ilesanmi\*

## Abstract

Nigeria is a country endowed with cities and communities of great resources. Making these cities and communities sustainable in all ramifications, the environmental impact assessment (EIA) act 2004 is one of the legal instruments that has to be adhered to strictly. Initial moves of stakeholders on world concerns on the utilising environmental resources justly called for international conferences from World Summits from Stockholm to Nairobi to Rio and to Johannesburg. These international conferences have set paces for most nations of the world on the need to adopt and implement the concepts and policies of sustainable development. Nigeria was among States in the United Nations World summit where seventeen (17) sustainable development Goals were adopted in September, 2015 in New York, United States of America (USA). These goals are targeted towards eradicating unpleasant social, economic and environmental problems in all nations of the world by year 2030. Goal eleven (11) of the Sustainable Development Goals precisely provides for sustainable cities and communities. This article considers the essence of the Nigerian Environmental Impact Assessment Act to achieving goal eleven of among the seventeen SDGs. The articles considers the conceptual frameworks of both

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Environmental Impact Assessment and Sustainable development as well as the international frameworks on these concepts. This article further considers the development of EIA and SDGs in Nigeria together with peculiar nature of the country and its cities and community. The provisions of the EIA and other related legal frameworks are examined to harness their essence with achieving the sustainable cities and communities. Impediments to enforcing the provisions of the EIA towards achieving sustainable cities and communities are considered. The article also juxtapose EIA in three jurisdictions with Nigeria's efforts to implement the EIA provisions with aims of achieving sustainable cities and communities. This articles concludes with observations and recommendations that will enhance enforcement of EIA towards achieving sustainable cities and communities in Nigeria.

**Keywords:** Environmental Impact Assessment, Sustainable Development Goals, Communities, Resources

## 1. Introduction

The article considers the importance of Environmental Impact Assessment (EIA) Act Cap. E12 Law of the Federation of Nigeria (LFN) 2010 (as amended)<sup>1</sup> to achieving goal eleven of the Sustainable Development Goals (SDGs). Goal eleven of the SDGs provides for sustainable cities and communities. Nigerian cities and communities are full of social, economic and environmental resources. This article finds that EIA Act 2010 is one of the important legal instruments to achieving the goals by year 2030. The article further explores needs for enforcement of the EIA and other ancillary legislations.

Other jurisdictions are considered in this article in order to juxtapose the climes with Nigeria's position to ensuring EIA facilitate sustainable cities and communities. Lagos, and other cities like

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<sup>1</sup> The Act amended the Environment Impact Assessment Act, Cap. E12, Laws of the Federation of Nigeria 2004 to strengthen the process of approvals and decision making on project inclusive and for other connected purposes.



Ibadan, Port Harcourt, Kano, Kaduna, Calabar and Abuja have been growing very rapidly as commercial and administrative centres in Nigeria.<sup>2</sup> In the other hand, the communities in Nigeria are growing very rapidly as well. Challenges of these cities and communities on enforcement of EIA are considered in this article. Provisions of EIA Act 2010 are considered in order to harness them with achieving the sustainable cities and communities' goal in Nigeria by year 2030. The Act specifically provides for certain projects that must be subjected to EIA assessment procedures. These projects are:

Agriculture, Airport, Drainage and irrigation, Land reclamation, forestry, fisheries, housing, industry, housing , industry, infrastructure ports, mining, petroleum, power generation and transmission, Quarries, railway, transportation, Resort and recreational development, Waste treatment and disposal and water supply.<sup>3</sup> These projects provided in the EIA Act 2010 are carried out both in the cities and communities in Nigeria. There is need to adopt the objective concept of sustainable development in all the projects listed in the EIA Act. Sustainable development recognise that 'there are natural linkages between environment and development and both are connected in terms of their causes, dynamics, and resolution'.<sup>4</sup>

The article concludes with observations from challenges with implementations and/or enforcements of the EIA Act and its ancillary legislations in Nigeria. Recommendations on how to utilise the provisions of EIA Act to achieve goal eleven (sustainable cities and

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<sup>2</sup> Oladepo Oladimeji (2014), 'Healthy Cities Approach to Combating Urban Slums,' *Environmental Health Science Distinguished Lecture Series*. Godson R. E. E. Ana & 1 Or, Ed. Volume 1, 2013-2016. (Ibadan: Department of Environmental Sciences, Faculty of Public Health, College of Medicine, University of Ibadan). P. 72.

<sup>3</sup> Schedule (Section 12) of the EIA Act 2010 provides detail of these projects.

<sup>4</sup> Erinosh, Bolanle T., (2015) *Environmental Law in Africa*, (Kraft Books Limited, Ibadan. P. 42. The author quoted, French, D. (2005) *International Law and Policy of Sustainable Development*. Manchester: Manchester University Press.

communities) of the sustainable development goals in Nigeria on or before year 2030.

### **Conceptual Definitions**

The definitions and -concepts of environmental impact assessment, sustainable development goals and sustainable cities and communities are essential to be clarified. These definitions and concepts make the aim and objectives of this article clearer.

### ***Environmental Impact Assessment***

EIA is an important technique, or process, for ensuring that the likely environmental effects of new development are fully understood and taken into account before the development is allowed to happen.<sup>5</sup> It is, therefore, an environmental management tool, which, if carried out properly, should become a key element in an environmental management programme.<sup>6</sup> Although there appears to be no universally acceptable definition of EIA, it has generally been defined to mean the examination, analysis and assessment of planned activities with a view to ensuring environmentally sound and sustainable development.<sup>7</sup> The history of EIA begins in the United States of America (USA).<sup>8</sup> The first piece of legislation in this area was the National Environmental Policy Act 1969.<sup>9</sup> The next development was the United Nations Conference on the Environment 1972 in Stockholm.<sup>10</sup> This conference really started the ball rolling around the world, with increasing

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<sup>5</sup> Jack Rostron, ed. (2001), *Environmental Law for the Built Environment*. Cavendish Publishing: London. P. 61. The author explains EIA rather than defining it.

<sup>6</sup> Ibid.

<sup>7</sup> Amokaye, G.O. (2014), *Environmental Law and Practice in Nigeria*, 2nd ed. MIJ Professional Publishers Ltd: Lagos. P. 802. The author refers to Decision 14/15 of the Governing Council of United Environmental Programme (UNEP) of 17 June, 1997.

<sup>8</sup> Jack Rostron. Op. cit. at p. 63.

<sup>9</sup> Ibid. The Act here refers to the USA.

<sup>10</sup> Ibid.



environmental awareness being promulgated among the populations and among governments.<sup>11</sup>

EIA was first recognized in Nigeria's Fourth National Development Plan (1981-1985) which requires that "feasibility studies for all projects, both private and government, shall be accompanied by an environmental impact assessment."<sup>12</sup> The provisions of Section 1 (a) to (c) of the EIA Act,<sup>13</sup> provide that:

1. The objectives of any environmental Impact assessment (hereafter in this Act referred to as "the Assessment") shall be –

(a) to establish before a decision taken by any person, authority corporate body or unincorporated body including the Government of the Federation, State or Local Government intending to undertake or authorise the undertaking of any activity that may likely or to a significant extent affect the environment or have environmental effects on those activities shall first be taken into account;

(b) to promote the implementation of appropriate policy in all Federal Lands (however acquired) States and Local Government Areas consistent with all laws and decision making processes through which the goal and objective in paragraph (a) of this section may be realised;

(c) to encourage the development of procedures for information exchange, notification and consultation between organs and persons when proposed activities are likely to have significant environmental effects on boundary or trans-state or on the environment of bordering towns and villages.

### ***Sustainable Development***

Gro Harlem Brundtland, the chairman of the Report of the World Commission on Environment and Development: Our Common

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<sup>11</sup> Ibid.

<sup>12</sup> Amokaye, G. O. op. cit. p. 806.

<sup>13</sup> Cap. E12. Op. cit.



Future<sup>14</sup>, defines Sustainable Development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. In a more holistic definition of the concept of sustainable development, it may be seen as the facilitator for balancing the conservation of nature's resource with the needs for development.<sup>15</sup> The concept of sustainable development is comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.<sup>16</sup>

### *Sustainable Cities and Communities*

The Sustainable Development Goals (SDGs), otherwise known as the Global Goals, are a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity.<sup>17</sup> The notion of sustainable cities and communities premises on integral approach towards other SDGs. The main objective of sustainable cities and communities make cities inclusive, safe, resilient and sustainable. More than half of the world's population now live in urban areas. By 2050, that figure will have risen to 6.5 billion people – two-thirds of humanity. Sustainable development cannot be achieved without significantly transforming the way we build and manage our urban spaces.<sup>18</sup> The rapid growth of cities in the developing world,

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<sup>14</sup> The Report was presented to the UN General Assembly in 1987, this Report has become the Template on the general principles of Sustainable Development.

<sup>15</sup> Atsegbua, L. & 2 Ors (2004), *Environmental Law in Nigeria Theory and Practice*. Ababa Press Ltd: Lagos. P. 54.

<sup>16</sup> *Ibid.* at P. 58. The authors quote Ajai, W.

<sup>17</sup> United Nations Development Programme (UNDP) As the lead UN development agency, UNDP is uniquely placed to help implement the Goals 17 Goals expected to be achieved by all nations on or before 2030.

<sup>18</sup> The Sustainable Development Goals Fund (SDG Fund) is an international multi-donor and multi-agency development mechanism created in 2014 by the United Nations to support sustainable development activities through integrated and multidimensional joint

coupled with increasing rural to urban migration, has led to a boom in mega-cities. In 1990, there were ten mega-cities with 10 million inhabitants or more. In 2014, there are 28 mega-cities, home to a total 453 million people.<sup>19</sup> Extreme poverty is often concentrated in urban spaces, and national and city governments struggle to accommodate the rising population in these areas. Making cities safe and sustainable means ensuring access to safe and affordable housing, and upgrading slum settlements. It also involves investment in public transport, creating green public spaces, and improving urban planning and management in a way that is both participatory and inclusive.<sup>20</sup> Nigerian is currently faced with various challenges in its cities as well as rural settlement.

### ***National Legal Framework***

The Nigerian EIA Act is not a lone legislation on sustainable development. There are ancillary federal, state and local government legislations. This article limits itself to few federal legislations, without undermining the other legations. The first legislation is the *1999 Constitution*,<sup>21</sup> Section 20 of the Constitution provides that, ‘*The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.*’ The constitutional provision is under the fundamental objectives and directive principles of state policy which has become subject of debates on its justiciability. Regardless of the debates, the cities and communities of Nigeria are the environment the State shall protect and improve upon.

It is essential to note that Section 12 of the 1999 Constitution empowers the National Assembly to implement treaty which are relevant to sustainable cities and communities. Another salient legislation the National Environmental Standards and Regulations

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programmes. Assessed 27 April, 2018 from:  
<http://www.sdgfund.org/goal-11-sustainable-cities-and-communities>

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Of the Federal Republic of Nigeria (as amended in 2010).



Enforcement Agency (NESREA) Act No. 25 of 2007.<sup>22</sup> The Act established the Agency (NESREA Agency), Section 2 of the NESREA Act provides that:

The Agency, shall, subject to the provisions of this Act, have responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.

Section 7 of the NESREA Act provides for holistic functions and powers of the Agency on the environmental protection and management.

Section 39 of the Nigerian Urban and Regional Planning Act<sup>23</sup> provides making the acceptance of a land development plan contingent on proof it would not harm the environment or constitute nuisance to the community. That provision is in tandem with the concept of sustainable cities and communities.

Land Use Act<sup>24</sup> provides in its preamble that:

An Act to Vest all Land compromised in the territory of each State (except land vested in the Federal government or its agencies) solely in the Governor of the State , who would hold such Land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organisations for residential, agriculture,

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<sup>22</sup> Law of the Federal Republic of Nigeria. The Act repealed the Federal Environmental Protection Agency (FEPA) Act Cap F 10 LFN 2004.

<sup>23</sup> Cap N138, 2004 Law of Federation of Nigeria.

<sup>24</sup> Chapter L5 Laws of the Federation of Nigeria 2004.



commercial and other purposes while similar powers will with respect to nonurban areas are conferred on Local Governments.

The preamble indicates that the Act is directly and indirectly focuses on the concept of sustainable cities and communities. More importantly, the Act connects, in its provisions, with the concept of EIA. Environmental Impact Assessment Act 2004<sup>25</sup>

The provisions of Section one of the EIA Act provides that:

The objectives of any environmental impact assessment (in the Act referred to a "the assessment") shall be -

- (a) To establish, before a decision is taken by any person, authority, corporate body or

Unincorporated body, including the Government of the Federation, State or local government intending to undertake or authorise the undertaking of any activity, those matters that may likely or to a significant extent affect the environment or have an environmental effect on those activities and which shall first be take into account;

- (b) To promote the implementation of appropriate policy in all Federal Lands (however acquired) States and local government areas, consistent with all laws and decision-making processes through which the goal and objective in paragraph (a) of this section may be realised
- (c) To encourage the development of procedures for information exchange, and consultation between organs and persons when proposed activities are likely to have significant environmental effects on boundary or trans-State or on the environment of bordering town and villages.

The above provisions states the objectives of the Act. Institutionally the application of the EIA statute has been the responsibility of the Federal Environmental Protection Agency over most of the time since

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<sup>25</sup> CAP. E12 L.F.N. 2004.

1992.<sup>26</sup> This was an independent agency, attached to the Federal Presidency. Recent institutional changes have occurred which moved the agency into the Federal Ministry of the Environment, and in 2007 FEPA was abolished and replaced by the National Environmental Standards and Regulations Enforcement Agency (NESREA).<sup>27</sup> UNEP's work on assessments includes the further development and promotion of environmental impact assessment as an effective tool to integrate environmental considerations at the project, programme and policy levels to achieve sustainable development.

### ***International Legal Framework***

The international environmental law is becoming wide in its scopes and concepts. EIA is one of the concerns of the United Nations on the global environment has linkage with the EIA. The United Nations Environment Programme (UNEP) is the overall coordinating environmental organisation of the United Nations system. Its mission is to provide leadership and encourage partnerships in caring for the environment by inspiring, informing and enabling nations and people to improve their quality of life without compromising that of future generations.<sup>28</sup> One can submit that the guiding international instruments that controls and sustain the functions of the UNEP are indirectly having impact on the EIA policies of the UNEP.

### **Significant of EIA Act to Sustainable Cities in Nigeria**

By statute,<sup>29</sup> projects that are likely to have serious or significant environmental effects on the environment of Nigeria shall not be undertaken by the private or public sector without first undertaking

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<sup>26</sup> Nugent, C. 2009. Review of environmental impact assessment and monitoring in aquaculture in Africa. In FAO. Environmental impact assessment and monitoring in aquaculture. FAO Fisheries and Aquaculture Technical Paper. No. 527. Rome, FAO. P 100.

<sup>27</sup> Ibid.

<sup>28</sup> Abaza, Hussein and 2 ors (2004). Environmental Impact Assessment and Strategic Environmental Assessment : Towards an Integrated Approach. Accessed from: [https://unep.ch/etu/publications/text\\_ONU\\_br.pdf](https://unep.ch/etu/publications/text_ONU_br.pdf) on June 28, 2018.

<sup>29</sup> Section 2 of the EIA Act. Op. cit.



EIA.<sup>30</sup> Although not all projects that has to be subjected to EIA process. Section 14 of the EIA Act<sup>31</sup> provides that:

(1) An environmental assessment of a project shall not be required where- (a) in the opinion of the Agency the project is in the list of projects which the President or the Council is of the opinion that the environmental effects of the project are likely to be minimal; (b) the project is to be carried out during national emergency for which temporary measures have been taken by the Government; (c) the project is to be carried out in response to circumstances that, in the opinion of the Agency, the project is in the interest of public health or safety.

(2) For greater certainty, where the Federal, State or local government exercises power or performs a duty or function for the purpose of enabling projects to be carried out, an environmental assessment may not be required if- (a) the project has been identified at the time the power is exercised or the duty or function is performed; and (b) the Federal State, or local government has no power to exercise any duty or perform functions in relation to the projects after they have been identified.

The cities in Nigeria are faced with different environmental challenges sequel to their physical, social and economic settings. For instances, Lagos, Kano, Port Harcourt, Ibadan among other major cities in Nigeria are variously city challenged with pollution of various degrees, highly concentration of industrial estates, waste disposal among other salient factors. Even some of these cities are short of land for some projects or constructions of new infrastructures.

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<sup>30</sup> Amokaye, G. O. Op/. cit at p. 813.

<sup>31</sup> E18 LFN.



Therefore, it will be under the auspices of cities where we will succeed or fail in achieving our goals of poverty eradication, equality, climate change reduction, and ensuring healthy lives.<sup>32</sup> It will be the cities that determine if we achieve inclusive economic growth or yield to greater inequality. It is in cities where people will seek opportunities for higher education and employment. Also it will be cities that determine if we will continue our steadily increasing usage of the world's resources or if we can realize a more sustainable path.<sup>33</sup> The movement from the rural settlements to the cities are to enjoy most of the available resources available in the cities.

### The Scope of EIA Act Process

To achieve the goal 11 in Nigerian cities and community, strict adherence of the EIA Act should be adhered to. The EIA process entails the following four stages:

(1) EIA Reports Preparation. The EIA reports should clearly state:

- (a) The environmental effects associated with the project and its alternatives at the construction, operational and abandonment phases.
- (b) Mitigation measures and monitoring strategy for the entire life cycle of the project.
- (c) The post-closure care / reclamation of the environment should also be explicitly stated in the EIA Reports.<sup>34</sup>

(2) Public Participation / Independent Review

(a) The EIA report is presented to the public for comments. The public display affords the stakeholders and other interested members of the

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<sup>32</sup> Kristie Danie, Goal 11—Cities Will Play an Important Role in Achieving the SDGs, UN Chronicle (Magazine of the United Nations), Vol. LI No. 4 2014 April 2015. Assessed on 4 2018 from: <https://unchronicle.un.org/article/goal-11-cities-will-play-important-role-achieving-sdgs>

<sup>33</sup> Ibid.

<sup>34</sup> Sections 4, 21 & 24 of the EIA Act LFN, 2010.

public an opportunity to give their views on the environmental effects and observance of relevant procedures in respect of the EIA process. The comments arising from the public display of the EIA report are forwarded to the Independent Review Panel as part of the assessment process.<sup>35</sup>

(b) The EIA report is also subject to an impartial, scientific and independent review. The peer review should be independent of the regulatory body and the project proponent. The verification exercise by the independent review body ensures that the information in the EIA report is complete, correct and unbiased.

The Nigerian EIA Act recognises the 'Mediator' and the 'Review Panel' for the independent review. The EIA Act,<sup>36</sup> set out their duties in the EIA process.

- i) ensure that the information required for assessment is obtained and made available to the public;
- ii) hold hearing in a manner that offers the public an opportunity to participate in the assessment;
- iii) prepare a report setting out:-
  - the conclusions and recommendations relating to the environmental effects of the project and any mitigation measures or follow-up program;
  - a summary of any comments received from the public; and
- iv) submit the report to the council and the regulatory ministry.

Section 39 of the EIA Act places a requirement on the regulatory ministry to publish the report of the independent review body in any manner the council considers appropriate, and shall advise the public that the report is available.

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<sup>35</sup> Sections 7; 22 (3), 25 & 37 of the EIA Act.

<sup>36</sup> Sections 34 and 37 of the EIA LFN 2010.

### C) Final Decision-Making/Authorisation

In view of the relevant provisions of the EIA Act in sections 13 (1) & (2), 40 (1) & (2), 41 & 42, the outcomes of the final decision – making can be one of the following:

- a) The project or one of its alternatives is approved.
- b) Request for further study/modify for future consideration.
- c) The project is cancelled or rejected altogether.

Sections 9 and 41 of the EIA Act sum up, in respect of a project, the issues relating to final decision – making and those to be notified on the decision.

a) The decision of the regulatory ministry shall be in writing and include the following:

- i) Its course of action in respect of the project
- ii) The extent which the recommendations concerning mitigations for adverse environmental effects in the mediation and/or review panel's reports have been adopted
- iii) Any follow-up programme to be implemented with respect to the project

b) The regulatory ministry shall make the decision available to interested persons or groups

c) If no interested persons or groups request for the decision, the regulatory body shall publish the same in any manner by which members of the public and persons / groups interested in the activity shall be notified.

d) Post – Project Authorisation Activities. The regulatory body is required to carry out its statutory role of monitoring the follow – up programme for mitigations at the construction, operational and post-closure stages of the project.<sup>37</sup>

The UNEP's impact on the EIA of Ogoni Land is of great importance to this Nigerian Government and the affected areas in particular. The

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<sup>37</sup> Section 41 of the EIA Act LFN 2010.



Environmental Assessment of Ogoni land covers contaminated land, groundwater, surface water, sediment, vegetation, air pollution, public health, industry practices and institutional issues. This report represents the best available understanding of what has happened to the environment of Ogoni land – and the corresponding implications for affected populations – and provides clear operational guidance as to how that legacy can be addressed. Assessment process Involving desk review, fieldwork and laboratory analysis, the two year study of the environmental and public health impacts of oil contamination in Ogoni land is one of the most complex on-the-ground assessments ever undertaken by UNEP.<sup>38</sup>

UNEP recruited a team of international experts in disciplines such as contaminated land, water, forestry and public health, who worked under the guidance of senior UNEP managers. This team worked side-by-side with local experts, academics and support teams comprised of logistics, community liaison and security staff. The UNEP project team surveyed 122 kms of pipeline rights of way and visited all oil spill sites, oil wells and other oil-related facilities in Ogoni land, including decommissioned and abandoned facilities, that were known and accessible to UNEP during the fieldwork period, based on information provided by the Government regulators, Shell Petroleum Development Company (Nigeria) Ltd (SPDC) and community members in and around Ogoni land.<sup>39</sup> The thorough EIA undertaken by the UNEP and its teams pave laudable gesture of the Buhari's Administration to begin the Ogoni Cleaning Up. The Cities and Communities in the Rivers State will have a sustainable communities after the completion of the cleaning up in the Ogoni Land.

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<sup>38</sup> Environmental Assessment of Ogoniland. UNEP Document. Assessed from: [https://postconflict.unep.ch/publications/OEA/UNEP\\_OEA.pdf](https://postconflict.unep.ch/publications/OEA/UNEP_OEA.pdf) on 23 July, 2018.

<sup>39</sup> Ibid.

## Effects of Implementing EIA to Cities Projects in Nigeria

1. Building of Existing City Initiatives: A new healthy cities project should review relevant existing initiatives within the city and, whenever possible, integrate them into the cities activities.<sup>40</sup> It is essential that the developer carries out an environmental audit or inventory, a complete description of the environment as it exists and into which the project will be placed.<sup>41</sup>
2. Essentially, public participation is concerned with informing consulting and involving the public in project evaluation, project identification and EIA process.<sup>42</sup> To be effective, participation must be part of a process, which provides an opportunity, or more correctly, encourages the public to express their views.<sup>43</sup> The community involvement should be real, not token.<sup>44</sup> The involvement of the people give genuine impact of the proposed project in the community with holistic valuation touching the social, cultural, economic and physical impacts of the project in the community.
3. Effective government support, analysis, objectivity and openness will enhance the purpose of the EIA of any particular project in a community or city. The involvement of various governmental agencies like NESREA, ministry and department in the EIA process ensures having a sustainable cities and communities.
4. Experiences from cities have demonstrated that strong political support is critical to the implementation and sustainability of a healthy cities project without which the projects have little chance of achieving the organisational change, cooperation across sectors and re-allocation of resources.<sup>45</sup> Political support encompasses effective

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<sup>40</sup> Oladepo, O. 2014. Environmental Health distinguished Lecture Series. Op. Cit. p. 80.

<sup>41</sup> Jack Rostron, Ed. Op. Cit. P. 70.

<sup>42</sup> Amokaye, G. O. Op. Cit. P. 829.

<sup>43</sup> Ibid.

<sup>44</sup> Oladepo, O. 2014. Op. Cit. p.81.

<sup>45</sup> Ibid. p. 80.



leadership with active community participation and involvement including the various community leaders.<sup>46</sup>

5. Strong compliance and enforcement of the EIA Act and its ancillaries to attaining sustainable cities and communities becomes feasible. The primary goal of enforcement cannot be over emphasised- it is to correct violations, and create an atmosphere in which the regulated community is stimulated to comply with established rules.<sup>47</sup>

### **Challenges of Implementing EIA in Nigeria**

*Administration:* EIA procedure in Nigeria is characterized by conflict of roles, mandates and responsibilities among the different levels of governments; federal, state and local government authority. The conflicts revolve around overlaps, duplications, inconsistencies in the constitutional and legislative mandates and foundation that govern the relationship of the three tier of government. Apart from this conflict, accountability is a major setback in ensuring adherence to laws, norms, rules and procedures of EIA. Some scholars have looked at EIA effectiveness from the perspective of legal frameworks, stakeholder's participation, clarity of institutional mandates, adequate human and financial resources to perform EIA's, clear definition of objectives and purpose of EIA. (Sadler, 1996). Part of the problem is, also, the inability of the responsible agencies to have the courage to tell promoters and the government that certain decision cannot be taken prior to EIA on some projects for fear of being seen as anti – development and in some cases anti – government programme. At times, pure politics leads to efforts to get around EIA requirements. An illustrative case is the centenary city, Abuja project which has been a topical issue for some time now.<sup>48</sup>

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<sup>46</sup> Ibid.

<sup>47</sup> Stewart, F. Ngozi, 'Proposal of Reforms for Effective Environmental Management in Nigeria', *Ajayi Crowther University Law Journal*. Vol. 1 No. 1, 2016. P.94.

<sup>48</sup> Agbazue, V.E, Ehiemobi, M.C. The Challenges of the Environmental Impact Assessment Practice in Nigeria, *International Journal of Scientific Research Engineering & Technology (IJSRET)*, ISSN 2278 – 0882 Volume 5, Issue 6, June 2016. 342-3.



*Sensitization and Awareness:* It was observed that awareness on legal requirement was low among different decision makers in Nigeria. Some of the responsible authorities and practitioners of EIA have little knowledge of the environmental management laws and their requirements on EIAs for various project; the responsible authorities are expected to implement the laws as part of government's collective responsibilities.<sup>49</sup>

*Screening and Scoping:* These have been part of major conflict in EIA process. This is because EIAs are done on individual projects not on programmes or policies. The influence of EIAs will be better felt if applied at the level of programme i.e collection of individual projects such as a coordinated series of dams on an integrated set of research investigations. The term Strategic Environment Assessment (SEA) has been introduced to mean the application of EIA in strategic planning and policy making although Rosario Partidario, (1993) maintains that the concept of SEA still lacks a practical conceptualization. An EIA for programmes or policies prevents decision makers from missing out cumulative effects and also provides an opportunity to mitigate or abandon environmentally unsound concepts before they are turned into projects. In addition, programmatic EIAs enhance inter-agency coordination and yield efficiency.<sup>50</sup>

*Political Favouritism:* One of the salient challenges of the EIA is political favouritism. The political classes at every government levels often by-pass the provision and control measures of NESERA while embarking on public or private projects.

*Bribery and Corruption:* The bane of poverty, bribery and corruption in Nigeria has been eroding the necessity of implementing the provisions of EIA in Nigeria. Most often, a ministry with responsibility of effecting EIA on some projects would have marked some projects inappropriate to be constructed in certain places. The results would later be that staff in the ministry would have

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<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

compromised by receiving bribe then removing the embargo early placed on the proposed project.

### **Conclusion**

The EIA is a veritable tool to sustainable communities and cities in Nigeria. The Nigerian governments at every level have to take proactive measures towards ensuring that the EIA policies are carried out. Also, it is imperative that public awareness should be made across the country for proper and adequate orientation for all citizens and institutions. The EIA should be reviewed. According to Onyedika-Ugoeze, “We expect that review process will lead to an EIA law that provides greater clarity on the roles and responsibilities of the three tiers of government, the project developer, host communities, increase harmonization with international performance standards and broaden social assessment and management of emerging environmental and social risks”.<sup>51</sup> The bane and societal vices like corruption, political favouritism and the like should be strictly be jettisoned in Nigeria in order to pave way for adequate implementations of EIA Act on every project covered by the law. Without proactive measures to sustain the use of EIA, achieving sustainable cities and communities will be mirage in 2030.

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<sup>51</sup> Nkechi Onyedika-Ugoeze, Abuja 08 June 2015. The Guardian Newspaper.