



Appraisal of organisational liability for environmental crimes

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Abstract

It is a trite position that the commission of an environmental crime whether by an individual or an organisation has a far reaching consequences both on the environment and natural persons. Such crimes are clearly defined and punitive measures prescribed by the legal framework. The procedural formalities are also known for purposes of instituting judicial or administrative proceedings to invoke the prescribed sanction on offenders be it corporations or natural persons if found culpable. Consequently, this paper argues that despite the plethora of legal frameworks for the protection and preservation of the environment, several violation of these frameworks abound in a sustained manner by organisations in the course of carrying out their activities as corporate citizens and stakeholders in the Nigerian state. Unfortunately, this state of affairs continues unabated as the institutional frameworks for the enforcement of environmental laws lacks the capacity to enforce environmental laws and bring offenders to book. Furthermore, this paper contends that the attendant consequences of organisational liability for environmental crimes if left unchecked will continue to fast track notable environmental health related hazards and render the prescribed sanctions only existing in isolation and kept in perpetual abeyance. This paper therefore recommends among others a proactive enforcement machinery to effectively/efficiently enforce the legal frameworks for environmental protection and ensure the punishment of offenders.

Keywords: appraisal, organisational liability, environmental, crimes

Introduction

Globally, the extent and scope of damage that is being done to the environment by corporate entities has necessitated a resort by many countries to enact laws and policy framework to bring within the scope of liability organisations criminally liable for violation of environment laws. Such approach is aimed at protecting and safeguarding the environment and society generally. In Nigeria, the hitherto position in *Pear's Gunston and Tee Ltd v Ward*,^[1] which excludes corporation from criminal liability has changed by the promulgation of the Harmful Waste (Special Criminal Provisions, etc.) Act.^[2] Section 7 of the Act provides that, *where a crime has been committed by a body corporate and it is proved that it was committed with the consent or connivance of or is attributable to any neglect on the part of (a) a director, manager, secretary or other similar officers of the body corporate, or (b) any other person purporting to act in the capacity of a director, manager, secretary or other similar officers, he as well as the body corporate, shall be guilty of the crime and shall be liable to be proceeded against and punished accordingly*^[3] The offences under the Act are strict and a body corporate (organisations, companies and corporations) shall be punished accordingly for any act of violation of the statute regardless of intent. From the foregoing, the *mens rea* required to sustain the conviction of a corporation is the same standard of guilty mind on the part of a person(s) purporting to represent the corporation when the offence is committed. However, it should be noted that several factors abound which operate to hinder the effective enforcement of environmental regulations including the fact that big corporate entities and manufacturing companies employ

huge resources at their disposal to neutralize attempts to control their behaviours. Despite this hiccup, lessons from other developed jurisdictions on tackling environmental crimes committed by corporations can be a useful standard to expand the frontiers of environmental protection in Nigeria by holding all stakeholders accountable.

Conceptual Perspectives

The term environment appears to be an ambiguous term: accordingly it raises a great task in defining it because it is difficult to precisely identify and restrict the scope of such term which will be used to encompass anything from the whole biosphere to the habitat of smallest creatures or organism on the surface of the earth. The Environmental Impact Assessment Act^[4] defined the term environment to include;

- a. Land, water and air, including all layers of the atmosphere;
- b. All organic and inorganic matter and living organisms; and
- c. The interacting natural systems that include components referred to in paragraphs (a)-(b).

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- b. all layers of the atmosphere
- c. all organic and inorganic matter and living organisms, and
- d. the interacting natural systems that include components referred to in paragraphs (a)-(d)^[5]

The Black's Law Dictionary^[6] defined environment as the

totality of physical, economic, cultural aesthetic and social circumstances and factors which surround and affect the quality of people's lives; the surrounding conditions influences or forces which influence or modify.

This definition was quoted with approval, and adopted in the Supreme Court case of *Attorney General of Lagos State v Attorney General of the Federal Republic of Nigeria and 35 Ors.* ^[7] In the same vein, environment may be defined as a combination of water, air, land, the flora and the fauna that inhabit in water and on land, the inorganic and organic matter, the atmosphere and the interplay, interaction and the relationship that exist among them.

An organisation or corporation is suggestive of a body formed and authorised by law to act as a single person although constituted by one or more persons and legally endowed with various rights and duties including the capacity of succession. What constitute crime differs in scope and context depending on the jurisdiction the crime is committed, mischief that is criminalised and the outcome of such criminal conduct.

Environmental crime presupposes an illegal act which directly endangers or harms the environment. Acts or activities which affect the environment negatively and are prohibited by law and punishment for violations prescribed are environmental crimes. International bodies such as G8, Interpol, European Union, United Nations Environment programme, United Nations Interregional Crime and Justice Research Institute, have recognised the following environmental crimes.

- a. **Wildlife Crime:** Illegal wildlife trade in endangered species in violation of the convention on International Trade in Endangered Species of Fauna and Flora also known as Washington Convention. It is a multilateral treaty to protect endangered plants and animals. It was drafted as a result of a resolution adopted in 1963 at a meeting of members of the International Union for Conservation of Nature (IUCN). The Convention came into force on 1st July 1975.
- b. **Illegal Mining:** Smuggling of ozone depleting substances (ODS) in contravention to the 1987 Montreal Protocol on Substances that deplete the ozone layer.
- c. **Pollution Crime:** Dumping and illicit trade in hazardous waste in contravention of the 1989 Basel Convention on the Control of Trans-boundary Movement of Hazardous Waste and other Waste and their disposal.
- d. **Illegal Fishing:** Illegal, unreported and unregulated fishing in contravention to the controls imposed by various regional Fishers' Management Organisation.
- e. **Illegal Logging:** Illegal logging and associated trade in timber in violation of national laws ^[8].

Environmental crime makes up almost a third crime committed by organisation such as; corporations, partnerships, unions among others. Although these crimes are liable for prosecution, most countries lack the requisite effective enforcement capacity of the national and international environmental legal frameworks.

Organisational Liability is the liability incurred by an organisation, corporation and companies as a result of certain acts of its members or officers. Organisational liability is anchored on the principle that corporations or companies are legal personalities distinct from the persons

who compose or comprise them ^[9] This means that there is a great divide between the company and the shareholders or persons who own it. To that extent, a corporation or company being a legal person can engage in all transaction of the law in its own name. It can sue and be sued in its corporate name.

Liabilities for acts of a company or corporate entity in civil matters generally fall under nuisance, negligence and the rule in *Ryland v Fletcher* ^[10] The basic remedies available in this regard are damages and injunction. Generally speaking, organisation have no criminal liability for any act done on the environment. This principle is based on the maxim, "*an act does not render one guilty unless the mind is guilty*". Since a body corporate is not a physical being with body and mind, it is incapable of committing any act at all except through its officers or agents. The decision in *Pear's Gusion and Tee Ltd v Ward* ^[11] gave strength to the aforesaid position. However, the above position is no longer the law. In Nigeria, the Criminal Code Act, ^[12] the Constitution, ^[13] the Harmful Waste (Special Criminal Provisions, etc.) Act ^[14] have made provisions criminalising certain acts done by companies against the environment. The offences created under the Harmful Waste (Special Criminal Provisions etc) Act is strict and corporate body shall be liable and be punished for any act of infraction of the statute regardless of *mens rea*.

Nature of Environmental Crime

A crime may be classified into two main groups, namely *crimes mala in se and crimes mala prohibita*. While the former embraces acts that are immoral or wrong in themselves e.g. murder, burglary, rape, the later embraces things prohibited by statute as infringing on the right of others ^[15] though no moral turpitude may attach. This later group constitutes crime only because they are so prohibited by statute and it is this realm environmental crimes fall. In *Shaw v Director of Public Prosecutions*. ^[16] Viscount Simonds explained the reason why the law sometimes seek to extend the frontiers of crime thus: '*In the sphere of criminal law I entertain no doubt that there remains in the courts of law a residual power to enforce the supreme and fundamental purpose of the law, to conserve not only the safety and order but also the moral welfare of the state, and that it is their duty to guard it against attacks which may be the more insidious because they are novel and unprepared for*:'

Highlighting the possible sociological justification for the above views, His Lordship further noted that" "*The law must be related to the changing standard of life not yielding to every shifting impulse of popular will but having regard to fundamental assessments of human values and the purpose of society*". It should be noted that in the absence of a guilty mind not many would feel comfortable applying criminal sanctions. With respect to environmental crimes, it is often hard to attach responsibility on particular individuals or even apply what is today regarded as statutory intent e.g. willful conduct, recklessness, and negligence ^[17] in respect of individual offenders.

In a case involving series of complex transactions carried out by individuals at various levels of an organisation; not all the individuals will be expected to know the details of the transaction in question. In line with the principle of division of labour, they are entitled to rely on each other's competence and decision. At the end of it all, it is difficult

to ascertain on whom a guilty intent rest on, as a result complicating the prosecution's task. *Mens rea* deals with intent, yet there are several situations when a conduct is not intentional but reckless. Most environmental crimes fall within this category, thus, *mens rea* may not be required as an element of the offence.

Under the Harmful Waste (Special Criminal Provision) Act, *mens rea* is not element for those charged with offences of carrying, depositing, dumping, transporting, importing, selling or buying Harmful Waste. The Act merely provides that those involved in such activities without lawful authority shall be punished.

Consequently, the courts have consistently adopted two lines of approach. One approach is to evaluate whether the public is best served by upholding the traditional principles of Criminal Law which will favour the defendant in organisational setup. In the other approach the Judge concentrates upon the fact that the legislature is seeking to outlaw certain conduct, the accused has committed it and no more is required.^[18]

Legal Framework for Environmental Crimes in Nigeria

The following are some of the legislations in Nigeria containing provisions on environmental crimes or offences.

The Criminal Code Act^[19]

The Criminal Code Act, Sections 243 to 247 created offences against Public Health in Nigeria, exposing for sale things unfit for food or drink, adulteration of food or drinks intended for sale, dealing in deceased meat, fouling water, burial in houses and noxious acts which vitiate the atmosphere and endanger the health of persons are all offences under the Act and punishment prescribed. The highest punishment imposed by the Act for the violators of the offences against Public Health is six months imprisonment.

The Quarantine Act^[20]

It is the primary legislation which provides for preventing the introduction into and spread in Nigeria and the transmission from Nigeria, of dangerous Infections diseases. Dangerous infections disease means cholera, plague, yellow fever, smallpox and typhus, and includes any disease of an infections or contagious nature which the president may, by notice, declare to be a dangerous infectious disease within the meaning of the Act^[21].

The Agriculture (Control of importation) Act

The Agriculture (Control of Importation) Act^[22] contains provisions for regulating the importation of articles for the purpose of controlling plant disease and pest. Any person who: hinder or molests any authorized officer in the exercise of any of his duties or powers under the Act; or without lawful excuse, fails to comply with any order lawfully given under the Act; or without lawful excuse, fails to furnish any information lawfully demanded under the Act or furnishes information which he knows to be false in a material particular or does not believe to be true; shall be guilty of an offence and liable on conviction to a fine of N400 and imprisonment for one year^[23].

The Oil in Navigable Waters Act

The Oil in Navigable Waters Act^[24] is an Act domesticated to implement the terms of the International Convention for

the prevention of pollution of the sea by Oil and has provisions for such prevention in the Navigable Waters of Nigeria. It is an offence under the Act to discharge oil into waters of Nigeria. If any oil or mixture containing oil is discharged into waters from any vessel, or from any place on land, or from any apparatus used for transferring oil from or to any vessel (whether to or from a place in land or to or from another vessel), subject to the provision of the Act.

- a. if the discharge is from a vessel, the owner or master of the vessel, or
- b. if the discharge is from a place or land, the occupier of that place; or
- c. if the discharge is from apparatus used for transferring oil from or to a vessel the person in charge of the apparatus is guilty of an offence under this section^[25].
- d. All other waters (including inland waters) which are within those limits and are navigable by sea-going ships^[26].

Also, it is an offence under the Act to discharge certain oil into prohibited sea areas by a Nigerian ship^[27]. By Section 6, a person who contravenes the provisions of Section 1 to 3 of the Act will on conviction be liable to a fine not exceeding N2000. Similarly, failure to keep record or keeping of misleading record attracts a fine of N1000 or imprisonment for a term of 6 months or to both^[28].

The Petroleum Act

The Petroleum Act^[29] permits the Minister of Petroleum Resources to make regulations for the prevention of pollution of water courses and the atmosphere^[30]. According to Etikerentse^[31] *"It is in furtherance of this that all current oil mining leases contain standard provisions, which enjoins leases to adopt all practicable precautions in their operations for the prevention of environmental pollution. Such standard provisions are common to grants covering land, territorial waters as well as continental shelf areas. The environmental areas covered by the anti-pollution provisions, therefore includes the atmosphere and inland waterways, rivers, water courses, ponds, banks, shorelines, Nigeria's territorial waters and the super adjacent waters of the continental shelf"*. For section 13(1) & (a)-(b) and subsection (3) of the Act,^[32] it is an offence to obstruct or to interfere with the holder of a license or lease in the exercise of the right conferred by the license or lease and the offender shall be guilty of an offence and on conviction be liable to a fine not exceeding N200 or to imprisonment for a period not exceeding six months. Also, any person who: contracts or operates a refinery in Nigeria without license granted under the Act; or in any land

1. explores for petroleum without oil exploration license or
2. prospects for petroleum without an oil prospecting license
3. win or work petroleum otherwise without a license
4. does, without a license any act which a license is required under the Act is guilty of an offence and shall be liable on conviction to a fine not exceeding N2000

From the foregoing therefore, it is explicit that the operators or owners of local refineries in the creeks of the Niger Delta popularly known as *kpo-fire* operators have been violating the provisions of the Act aforesaid. There has been untold pollution of land, water, and the atmosphere by the illegal

operations of these *kpo-fire* operators. The punishment provided for by the Act for these violators, to say the least is laughable – a fine of N2000 upon conviction?

The Harmful Waste (Special Criminal Provision etc) Act 1988

The Harmful Waste (Special Criminal Provisions) Act ^[33], was a spontaneous response to the koko incident. The Act makes it an offence the carrying, depositing and dumping of harmful waste on any land, territorial waters and matters incidental thereto without lawful authority.

Organisational Culpability for Environmental Crimes

The law describes every corporation, an independent identity which bestows upon it the capacity to have a name of its own, to sue and be sued, and to have the right to purchase, sell, lease and mortgage its property in its own name ^[34]. In fact the right to sue and be sued presupposed that a company may sue or be sued for both civil or criminal liabilities ^[35]. There is the aged long principle that a company (organisation) is different and distinct from its shareholders and would be treated as an independent entity with perpetual succession. This principle was established in *Solomon v Solomon* ^[36]. It also buttressed the principle in company law that a company is responsible for its acts disregarding that these acts were done through human instrumentation. In certain jurisdictions, ^[36] corporations are held to be criminally liable for corporate killings and are charged for offences such as manslaughter or murder ^[37]. The legal system in England in 1924 is a replica of the views of academics such as Thurlow, who refused to accept corporate criminal liability, citing that corporations have neither bodies to be punished, nor souls to be condemned; they can therefore do as they like ^[37]. It is submitted that even in England, like Nigeria, legislations have changed the views held by Thurlow aforesaid.

Organisational Liability for Environmental Crimes in Nigeria

In Nigeria, organisations can be held criminally liable for offences committed by it against the environment. The doctrine that organisations cannot be subject to criminal liability because they are artificial persons is no longer the position of the law in Nigeria. Those who share the view that organisations cannot be held criminally liable have it that organisations are incorporeal; they cannot act; they cannot have criminal intent; and they cannot be incarcerated. However, the Harmful Waste (Special Criminal Provisions etc.) Act has it that “*where a crime under this Act has been committed by a body corporate and it is proved that it was committed with the consent or connivance of or is attributable to any neglect on the part of:*

- a. a Director, Manager, Secretary or other similar officers of the body corporate; or
- b. any other person purporting to act in the capacity of a director, manager, secretary or other similar officers, he as well as the body corporate shall be guilty of the crime and shall be liable to be proceeded against and punished accordingly ^[38]. The offences created by the Act is what any person who without lawful authority.
- a. carries, deposits, dumps or cause to be carried, deposited or dumped, or is in possession for the purpose of carrying, depositing or dumping, any harmful waste

on any territorial waters or contagious zone or Exclusive Economic Zone of Nigeria or its inland waterways; or

- b. transports or causes to be transported or is in possession for the purpose of transporting any harmful waste; or
- c. imports or cause to be imported or negotiates for purpose of importing a harmful waste; or
- d. sells, offers for sale, buys or otherwise deals in any harmful waste, shall be guilty of a crime.

Laws such as the Endangered Species (Control of International Trade and Traffic) Act, ^[39] the Factories Act, ^[40] the Exclusive Economic Zone Act ^[41]. The Associated Gas Re-Injection Act ^[42]. The Petroleum Act ^[43] of the Petroleum Product and Distribution (Anti-Sabotage) Act, ^[44] the Environmental Impact Assessment Act, ^[44] and the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act have provisions criminalising certain acts against the environment and punishment for violators prescribed. In most cases, the punishment prescribed by the laws against violators of the offences are payments of meager fines or low terms of imprisonments.. It is observed that the quantum of punishment for violators of environmental crimes in Nigeria is not enough to stop or deter the continuous destruction of the environment by individuals and corporate bodies. There is the urgent need to amend laws on environmental crimes in Nigeria to include stiffer punishment

Comparative Analysis

United States of America

The major agency saddled with the responsibility of protecting the environment in the United States of America is the United States Environmental Protection Agency. It was established in 1970. It is an agency of the United States Federal Government whose mission is to protect human and environmental Health. The EPA is responsible for creating standards and laws promoting the health of individuals and the environment. It regulates the manufacturing, processing, distribution, and use of chemicals and other pollutants. The Agency enforces its findings through fines, sanctions, and other procedures. It oversees programs to promote energy efficiency, environmental stewardship, sustainable growth, air and water quality, and pollution prevention. The EPA is led by an administrator, a cabinet-level post nominated by the President and confirmed by the Senate. The EPA enforces all environmental laws including but not limited to the Clean Air Act 1970, the Federal Environmental Pesticide Control Act 1972, Clean Water Act 1973 among others.

Nature of Environmental Crime in the United States of America

In the United States, Environmental Crimes are no different than other crimes. They require proof that the defendant committed the prohibited act (the *actus reus* or act requirement) and did so with the requisite intent (*mens rea* or mental state requirement) ^[45]. Congress has therefore defined criminal conduct under environmental laws in two ways, as it does in other areas of the law. First, congress can specify the acts or violations that are egregious enough to warrant the moral and social opprobrium of criminal prosecution. Second, congress specifies the mental state or

intent that a defendant must possess to be held criminally liable. With regard to the act requirement, congress identified some of the conduct that it viewed as criminal when it includes criminal provisions in each of the major environmental laws. For instance, congress included language in the Clean Water Act (CWA), the Resources Conservation and Recovery Act (RCRA), and Clean Air Act (CAA) among others, making it a crime to knowingly make false statements in documents required under relevant law and any implementing regulations ^[46].

The mental requirement goes further than the act requirement distinguishing criminal from civil and administrative violations, at least as a matter of statutory construction. For most felony violations of the Clean Water Act, Clean Air Act among others. The government must show that the defendant acted knowingly ^[47]. Criminal violations of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) are limited to situation where the defendant acted knowingly ^[48]. Similarly, the misdemeanor provisions of the Clean Water Act apply only when the defendant acted negligently ^[48]. Conversely, civil and administrative violations of the environmental law do not require the government to prove a culpable mental state, they are strict liability violations, so the government must prove only that the defendant committed the prohibited act ^[49].

Organisational and Individual Liability for Environmental Crimes in the United States of America

Criminal enforcement of the environmental laws in the United States largely focuses on corporate wrongdoing and with it the prosecution of corporations/organisations and responsible individual within those companies. In the United States of America both the corporation and the individuals involved are prosecuted and punished jointly. Environmental crime has pernicious effects in the American communities that warrant the use of all available tools to address egregious violations of environmental laws.

Organisations in the United States are criminally liable for the acts of their employees or agents, committed within the scope of the employment or agency, for the benefit of the organization ^[50]. The organisation or corporation must act with mental state required by the statute in question, which involves inputting the mental state of the individual employee or agent to the corporation. In cases where no corporate employee or agent possesses the requisite mental state, however, criminal liability must be imposed based on the collective knowledge of the corporate employees or agents. It is not a defense for a corporation or organisation to argue that the conduct was not authorised by the board or officers of the corporation. Nor is it a defense to argue that the conduct was prohibited by official policies of the corporation or instructions of supervisors.

United Kingdom

There are a plethora of environmental laws in the United Kingdom meant to protect the environment. Such laws cover subjects like pollution, climate, change, littering, conservation, fly-tipping, wildlife, noise and planning. These laws are enacted to cover three (3) broad areas that are environment related. Thus, conservation, wildlife and pollution constitute the three categorised areas of environment deserving protection by the UK environmental laws.

The UK Environmental Crime Directive provides a snapshot of the key aspects of European Union on the protection of the environment through criminal law. It also covers aim and objectives, implementation, offences and penalties and liabilities. A prominent feature of the statutory environmental offences is that the vast majority of offences require no proof of intent, recklessness, dishonesty or any other mental element in respect of any part of the *actus reus* ^[51]. Therefore, in order to sustain criminal liability, it is only the act or omission which forms part of the offence that requires proof thereby making such offences strict liability offences. Notwithstanding the fact that environmental crimes are committed by individuals and corporations, the most significant crimes in the UK are committed by companies because of the scale of their operations. Therefore, companies would be liable for the criminal acts of their employees where the purposes of environmental legislation would be defeated if the company could not be prosecuted ^[52]. By section 78M of the Environmental Protection Act ^[52], a company shall be liable to prosecution where it failed to comply with a remediation notice. The prosecution of the offence is to be carried out by the Environmental Agency and Local Authority. Section 80(4) also makes it a punishable offence for a company not to comply with the issuance of an abatement notice before embarking on an abatement efforts. By Section 65(2) of the Ozone Protection Act, applicable in the UK, the following guidelines would render an organisation liable in relation to environmental crime where the organisation by policy.

- a. Expressly or impliedly authorises or permits the commission of the offence or an offence of the same type;
- b. Fail to take reasonable precautions or to exercise the diligence to prevent the commission of the offence or an offence of the same type;
- c. Fail to comply with a reactive duty to take preventive measures in response to having committed the external elements of the offence or
- d. Fail to take reasonable precautions or to exercise due diligence to comply with a reactive duty to take preventive measures in response to having committed the external elements of the offence.

South Africa

Section 24 of the South African Constitution remains the key reference to environmental rights and protection of the people. That section gives everyone the right to an environment which is not harmful to their health or wellbeing and a protected environment for the benefit of the present and future generations through reasonable legislative and other measures that;

- a. Prevent pollution and ecological degradation
- b. Promote conservation; and
- c. Secure ecologically sustainable development and the use of natural resources while promoting justifiable economic and social development.

The above provision of the law is given effect to through the National Environmental Management Act ^[53] which is an umbrella act, and a suite of sector-specific environmental acts. The obligations and liability provisions in these acts are broad and far-reaching, particularly for directors of companies in pollution-intensive industries.

The National Environmental Management Act places an

overarching duty of care on every person who causes, has caused or may cause significant pollution or degradation of the environment to; take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, insofar as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment^[54].

Corporate environmental liability for environmental crimes in South Africa is governed by Section 33 2(1) of the Criminal Procedure Act which allows for imposition of criminal liability on a company for an offence under any law, or common law. In the case of *The Blue Platinum Ventures*, the Court charged and sentenced to five years imprisonment the company and the owner for commencing with an activity under 1(e) of listing notice 2 of 2006 which states that; the construction of facilities or infrastructures, including associated structures or infrastructures, for any process or activity which requires a permit or licence in terms of legislation governing the generation or release of emissions, pollutions, effluent or waste which has not been identified in listing Notice I of 2006 without first obtaining the necessary environmental authorisation as is obliged to do in terms of Section 24 of NEMA^[55].

Conclusion

Organisations are regarded as artificial persons or legal entities separate from and capable of surviving beyond the lives of their members. They are independent entities which have the capacity to have names of their own, sue and be sued, and have the right to sell, buy, lease, mortgage, employ, and so on in their own names. They do almost all the things a natural persons would ordinarily do including committing crimes. Before now, organisations were not criminally liable, because they have no mind, body and soul. This was also because in criminal law, *mens rea* and *actus reus* were the traditional elements of an offense and it was inconceivable for an abstraction like organisations to have mind that will be guilty or have body that will put in motion to commit an offence. Accordingly, they were not criminally liable generally, however, as a result of industrialisation and the roles organisations play in the modern world, in manufacturing, production of goods and services, extraction of mineral resources among others they commit crimes through their officers including crimes against the environment. It was as result of this, that most countries and international organisations have laws criminalising certain act done by organisations against the environment. In Nigeria and in different parts of the world, organisations are criminally liable for the violation of environmental crimes. In most cases, the organisations and their officers are jointly liable and punished accordingly. There are enough legislations and institutions on environmental protection in Nigeria, but the environment is being polluted and degraded on daily basis without the violators arrested and punished. Animals and plants lives' are the victims. Corruption and inefficient enforcement machinery are some of the reasons violators (including organisations) are inadequately punished or not punished at all.

Recommendations

1. Environmental crimes/offences as contained in the various legislations in Nigeria be amended to

incorporate more stringent punishments.

2. Effective enforcement of environmental laws should be promoted by providing regulatory agencies with full arrays of enforcement mechanisms and sanctions against all violators of environmental laws whether they are individuals or organisational offenders. If criminal prosecution and sanctions are the most drastic of those options, they should be available against all offenders.
3. All tiers of government should assert stringent enforcement of environmental laws in Nigeria with the aim of punishing adequately all defaulting organisations.
4. Corruption should attract life imprisonment, so that the regulatory or enforcement agencies and their officers will be fair in doing their work particularly when it concerns enforcement of environmental laws.
5. *Mens rea* and *actus reus* being the traditional characteristics of an offence should be introduced as elements of the various environmental offences in our laws and input the guilty mind of the officers of the organisation on the organisation, as well as the officers themselves, to make the prosecution of environmental crimes and the adjudication of environmental matters in line with the way and manner other crimes are mostly handled.

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48. D. M. Uhlman, Protection of the Environment through Criminal Law: An America Perspective (Law Review 2016) (2) 2, July-December 4
49. 33 USC, s. 1319(c) (1) (212) (Knowingly make any False Material Statement, Representation, or Certification in any Application, Record, Report, Plan, or other Documents filed or required to be maintained under the CWA). Also 42 USC s. 6928(d) (3), 2012 (“Knowingly Omits Material Information or make any False Material Statement or Representation in any Application, Label, Manifest Record, Report, Permit or other Documents filed, maintained or used for purposes of Compliance with RCRA...”), 42 USC s. 7413(c) (2) (A) (2012).
50. 33 USC s. 1319 (C) 42U, S.C. s. 6928 (d) (2012); 42 USC 57413 (C) (2012)
51. 42 USC s. 9603 (b) (2012)
52. 33 USC s. 1319 (C)
53. 33 USC s. 1319 (b), 42 USC s 6928 (C), 42 USC s 7413 (b)
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