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# Effective Enforcement of Environmental Sanitation Laws: A Tool for Eradicating Open Defecation in Nigeria

Halimat Tope Akaje\*

## Abstract

*The practice of Open defecation is a major environmental and public health problem in Nigeria. Nigeria has been adjudged the first Country in Africa in the practice of Open Defecation. According to the National Outcome Routine Mapping of Water, Sanitation and Hygiene Service Levels (WASH-NORM) Report of 2018, about 47 million Nigerians defecate in the open, which represents 24 percent of Nigeria's population. This paper therefore seeks to discuss negative impacts of open defecation in Nigeria. The paper adopts a doctrinal research methodology. This paper relies on information from textbooks, journals, newspapers and internet materials. This paper finds that the persistent practice of Open Defecation in Nigeria is caused by many factors but it notes that the weak enforcement of environmental sanitation laws is a major cause. The paper finds that the consequences of open defecation are detrimental to public health safety and also counterproductive. This paper concludes that effective enforcement of environmental sanitation laws will help in reducing the practice of Open Defecation in Nigeria. The paper recommends that the enforcement of environmental sanitation laws should be effective. The paper also recommends other measures to be taken to reduce the practice of open defecation in Nigeria. These are compliance monitoring and promotion, adequate funding of environmental agencies, regular training of environmental officers, judges, police etc.*

**Keywords:** *Open defecation; Sanitation; Enforcement; Environmental*

## 1. Introduction

The practice of open defecation is prevalent in the third world countries<sup>1</sup> and consistently increasing in sub-Saharan Africa. This is as a result of the explosive population growth<sup>2</sup> without corresponding sanitation facilities. In Nigeria, Open Defecation is a scourge that continuously threatens the wellbeing of its citizens. Nigeria has been adjudged the first country in Africa and globally in the practice of open defecation<sup>3</sup> after India which occupied that position and has exited the status completely on October 2nd

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<sup>1</sup>Ngwu U.I, 'The Practice of Open Defecation in Rural Communities in Nigeria: A Call for Social and Behaviour Change Communication Intervention', (2017) 7 (3) *International Journal of Communication Research*, 201.

<sup>2</sup>UNICEF Press, 'Water, Sanitation and Hygiene (WASH)' <[https://www.unicef.org/media/media\\_45481.html](https://www.unicef.org/media/media_45481.html)> accessed 15 February 2021.

<sup>3</sup> Water Aid, 'Clean Nigerian Campaign'<[https://www.wateraid.org/ng/get-involved/clean-nigeria\\_campaign#:~: text=Nigeria%20ranks%20first%20among%20countries,implement%20to%20address%20the%20crisis.&text=According%20to%20the%20findings%20from,in%20Nigeria%20practice%20open%20defecation.](https://www.wateraid.org/ng/get-involved/clean-nigeria_campaign#:~:text=Nigeria%20ranks%20first%20among%20countries,implement%20to%20address%20the%20crisis.&text=According%20to%20the%20findings%20from,in%20Nigeria%20practice%20open%20defecation.)> accessed 3 March 2021.

2019.<sup>4</sup> The National Outcome Routine Mapping of Water, Sanitation and Hygiene Service Levels in Nigeria (WASH-NORM) Report of 2018 indicated that 47 million Nigerians defecate in the open.<sup>5</sup> This statistics represents 24 percent of Nigeria's population<sup>6</sup> and the country also loses a whopping sum of N455 billion (equivalent to US \$1.3 billion) annually as a consequence of poor sanitation.<sup>7</sup>

This unwholesome practice has resulted into many negative consequences. Among them are contamination of drinking water, outbreak of epidemic diseases, increased mortality rate in children less than five years of age, economic losses and many others. It is pertinent to note that despite all efforts to eradicate open defecation in Nigeria, the practice continues unabated.<sup>8</sup> The situation is a national embarrassment which has ridiculed the country before the world and reflected the failure of the government to provide basic sanitation facilities to its citizens. Different Surveys conducted by national, regional and international organisations indicated that Nigeria is experiencing a massive decline in sanitation and increase in open defecation.

Although, Successive Nigerian Governments and International Organisations such as WHO, the World Bank, African Development Bank, European Union, United Nations, UK, UNICEF, Water Aid and so on, have designed programmes and policies such as National Water Policy, National Road Map to Making Nigeria Open Defecation Free by 2025, Community-Led Total Sanitation (CLTS) Policy, MDGs, SDGs at different times to improve access to sanitation in Nigeria. However, they have not yielded much in giving an average Nigerian access to sanitation and hygiene. The recently launched National Road Map to Making Nigeria Open Defecation Free by 2025 is the latest policy of the Nigerian Federal Government to eradicate open defecation. The various states in Nigeria have also made efforts to enhance access to sanitation and reduce open defecation by enacting laws for the establishment of Waste Management, Water Sanitation and Environmental Protection and Regulation Agencies.<sup>9</sup> These agencies are saddled with the responsibility of ensuring sanitation and hygiene in the various states. But the laws have not minimised open defecation in Nigeria because no state is free of open defecation in Nigeria.<sup>10</sup>

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<sup>4</sup>Asian News International (ANI), 'Budget 2019-20: India will be open-defecation free on October 2 this year, says Sitharaman' *Business Standard* (05 July 2019) <[https://wap.business-standard.com/article-amp/news-ani/budget-2019-20-india-will-be-open-defecation-free-on-october-2-this-year-says-sitharaman-119070500468\\_1.html](https://wap.business-standard.com/article-amp/news-ani/budget-2019-20-india-will-be-open-defecation-free-on-october-2-this-year-says-sitharaman-119070500468_1.html)> accessed 3 March 2021.

<sup>5</sup>UNICEF 'National Outcome Routine Mapping of Water, Sanitation and Hygiene Service Levels in Nigeria 2018' <[http://www.washpmp.com/files/report\\_file/1\\_5d4c82ef-4c3c-4f8a-92a1-52519f458993.pdf](http://www.washpmp.com/files/report_file/1_5d4c82ef-4c3c-4f8a-92a1-52519f458993.pdf)> accessed 15 February 2021.

<sup>6</sup> Ayodele A, 'Nigeria Needs 2 Million Toilets to Exist Open Defecation- UNICEF Expert,' *The Guardian* (Ado Ekiti 28 July 2019) <<https://m.guardian.ng/features/nigeria-needs-2million-toilets-yearly-to-exit-open-defecation-unicef-specialist/>> accessed 3 February 2021.

<sup>7</sup>Chioma O, 'Why Nigeria Ranks Second Worst Open Defecating Country in the World-Report' *Vanguard* (30 September 2018) <<https://www.vanguardngr.com/2018/09/why-nigeria-ranks-second-worst-open-defecating-country-in-the-world-report/amp/>> accessed 3 February 2021.

<sup>8</sup> Ngwu U.I, (n.1) 205.

<sup>9</sup>Compilation of List of National and State Environmental Protection Institutions and Waste Management Legislative/Regulatory Frameworks<[www.elcri-ng.org](http://www.elcri-ng.org)> accessed 3 March 2021.

<sup>10</sup> Sahara reporters 'Nigeria Set to Overtake India in Open Defecation Ranking' *Sahara reporters* (New York, 24 March 2019) <<http://saharareporters.com/2019/03/24/nigeria-set-overtake-india-open-defecation-ranking>> accessed 3 March 2021.

There should be definite measures to arrest the alarming increase of open defecation in Nigeria if Nigeria really wants to be open defecation free by 2025. Open defecation is causing Nigeria more losses and considering the fact that different people practice open defecation for different reasons, the best tool to achieve an open defecation free Nigeria and ensure compliance with environmental sanitation laws is enforcement. There are no doubts about the existence of Environmental Sanitation Laws in Nigeria but the problem is the compliance with the laws because there is weak enforcement.

If Nigeria can embrace the effective enforcement of Environmental Sanitation Laws, it will ensure compliance with environmental laws, rules, regulations and agreements. Effective Enforcement of environmental laws will also facilitate penalties or criminal sanctions for violation of environmental laws.<sup>11</sup> Enforcement of environmental laws will help to reduce open defecation and increase access to sanitation and hygiene. It will also improve environmental and public health quality in Nigeria.<sup>12</sup> This paper therefore discusses how effective enforcement of environmental sanitation laws can help to eradicate open defecation in Nigeria.

## 2. Concept and Practice of Open Defecation

Open Defecation is an unimproved sanitation<sup>13</sup> that has been given different definitions. It is the practice of defecating in open fields, waterways and open trenches without any proper disposal of human excreta.<sup>14</sup> It has also been defined as the emptying of bowels in the open without the use of properly designed structures built for handling of human wastes such as toilets.<sup>15</sup> Open Defecation is defined as the practice of defecating in fields, forests, bushes, bodies of water or other open spaces.<sup>16</sup> It is a risky practice that threatens public health safety<sup>17</sup> and a major cause of mortality in children below five years.<sup>18</sup> Open Defecation could be motivated by choice or compulsion.<sup>19</sup> It is by choice when it is practiced as an enjoyable outdoor habit, but when Open Defecation is necessitated by lack of sanitation facilities, it is then motivated by compulsion.<sup>20</sup>

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<sup>11</sup>Ladan M.T, 'Legal Issues in Environmental Sanitation and Waste Management in Nigeria: Role of Environmental Courts'(A Paper Presented at a 3 Day National Seminar for Magistrates on Environmental and Sanitation Laws in Nigeria Organised by the National Judicial Institute, Abuja between 5-8 October 2015) 24.

<sup>12</sup> *ibid.*

<sup>13</sup> WHO press 'WHO/UNICEF Progress on Drinking Water and Sanitation 2017 Update: 2017' <<https://www.who.int/mediacentre/news/releases/2017/launch-version-report-jmp-water-sanitationhygiene.pdf>> accessed 3 March 2021.

<sup>14</sup> Mahrukh S. et.al, 'Health and Social Impacts of Open Defecation on Women: A Systematic Review', (2019) 19 (158) *BioMed Central Public health*, 1.

<sup>15</sup> What is Open Defecation?<<https://www.conserve-energy-future.com/how-open-defecation-affect-human-health-environment-and-solutions.php>> accessed 4 March 2021.

<sup>16</sup>WHO/UNICEF, 'Joint Monitoring Program (JMP) Article on Open Defecation' <<https://washdata.org/open-defecation>> accessed 4 March 2021.

<sup>17</sup>OpenDefecation<[https://ipfs.io/ipfs/QmXoyvizjW3WknFiJnKLwHCnL72vedxjQkDDP1mXWo6uco/wiki/Open\\_defecation.html](https://ipfs.io/ipfs/QmXoyvizjW3WknFiJnKLwHCnL72vedxjQkDDP1mXWo6uco/wiki/Open_defecation.html)> accessed 4 March 2021.

<sup>18</sup> WHO: 'The World Health Report: 2005: Make Every Mother and Child Count'. Geneva: World Health Organization; 2005, UNICEF: 'Pneumonia and Diarrhoea - Tackling the Deadliest Diseases for the World's Poorest Children'. New York: United Nations Children's Fund; 2012.

<sup>19</sup>Navin B. et.al, 'What Motivates Open Defecation? A qualitative Study from a Rural Setting in Nepal'(2019) 14 (7) *PLOS ONE*, 9<<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0219246>>accessed 4 March 2021.

<sup>20</sup> *ibid.*

The term ‘Open Defecation’ gained popularity in the Water, Sanitation and Hygiene sector following the Joint Monitoring Programme for water Supply and Sanitation (JMP) in 2008.<sup>21</sup> The United Nations also created more awareness about Open Defecation by declaring 2008 as the UN International Year of Sanitation.<sup>22</sup> The concept of unwholesome Open Defecation subsequently came into limelight globally and the term was used widely to draw attention to its negative consequences. In creating more awareness about Open Defecation, the United Nations for the first time officially celebrated the UN World Toilet Day in 2013.<sup>23</sup>

Nigeria is rated as the first in Africa and globally in the practice of open defecation.<sup>24</sup> Many people in Nigeria, especially the rural dwellers defecate in the open and water bodies.<sup>25</sup> Only 11 of Nigeria’s 774 Local Governments were declared free from open defecation<sup>26</sup> following the Community Led Total Sanitation (CLTS) Programme jointly organised by the Federal Ministry of Water Resources, UNICEF and United Purposes.<sup>27</sup> The practice of open defecation is witnessed in almost every parts of the country, both rural villages and urban cities are not spared by Open Defecation. While some people engage in Open Defecation as a result of compulsion, others engage in the practice as a choice.<sup>28</sup> Faeces are found in walkways, dumpsites, under bridges, bushes, river banks, streams, drainages, uncompleted/abandoned buildings etc.<sup>29</sup> Almost every Nigerian has engaged in the practice at one time or the other.<sup>30</sup>

Many urban dwellers, especially those in shanty areas live in houses without toilet facilities or inadequate sanitation facilities, which compels them to defecate in dumpsites, river banks and stream.<sup>31</sup> Some even engage in defecating in polythene bags and flinging same on the roadside<sup>32</sup> or uncompleted buildings.

The situation is worst in rural areas which accounts for the larger proportion of Open Defecation in Nigeria.<sup>33</sup> Most rural houses are built without provision for toilet facilities<sup>34</sup> and Open Defecation is

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<sup>21</sup>Open Defecation (n. 20).

<sup>22</sup> United Nations General Assembly Session 61 Resolution 192. A/RES/61/192 page 2. 20 December 2006.

<sup>23</sup>Open Defecation (n.20).

<sup>24</sup> Water Aid, (n.3).

<sup>25</sup> Ngwu U.I, (n.1) 201.

<sup>26</sup>Development Africa ‘Health Opinion: How Nigerian Communities Become Open Defecation Free’ <<http://www.developmentafrica.net/2019/06/10/how-nigerian-communities-become-open-defecation-free/>> accessed 3 March 2021.

<sup>27</sup>UNICEF ‘Only 11 of Nigeria’s 774 LGAs are free from open defecation’ <<https://www.premiumtimesng.com/news/top-news/331271-only-11-of-nigerias-774-lgas-are-free-from-open-defecation-unicef.html/amp/>> accessed 3 March 2021.

<sup>29</sup>The Tide ‘The Open Defecation Policy’ *The Tide* (1 February 2019)<<http://www.thetidenewsonline.com/2019/02/01/the-open-defecation-policy/amp/>> accessed 3 March 2021.

<sup>30</sup> *ibid.*

<sup>31</sup>New Telegraph ‘Nigeria: One Huge Field Where People Defecate Without Shame’<<http://www.newtelegraph.ng.com/2017/12/nigeria-one-huge-field-people-defecate-without-shame/>> accessed 3 March 2021.

<sup>32</sup> *ibid.*

<sup>33</sup> Abubakar I.R., ‘Exploring the Determinants of Open Defecation in Nigeria Using Demographic and Health Survey Data’ (2018) 637-638C *Science of the Total Environment*,1462.

<sup>34</sup> Ngwu U.I, (n.1) 205.

practised as culture and tradition in some rural communities.<sup>35</sup> Some rural dwellers even indulge in the practice for the enjoyment of the natural breeze that caresses their bodies when defecating in the open.<sup>36</sup> Travellers plying the Nigerian highways are also not exempted from Open Defecation. It is not uncommon to find commuters defecating in bushes.<sup>37</sup>

The practice has accounted for several deaths, especially of children below five years,<sup>38</sup> and economic loss in Nigeria.

### **3. Factors Responsible for Open Defecation in Nigeria**

Many factors have been linked to the practice of Open Defecation in Nigeria; some of them are discussed below:

#### **i. Poverty**

Poverty is linked to Open Defecation because most people that engage in Open Defecation are poor and low income earners<sup>39</sup> that consider building toilet facilities a luxury which should only be left to the wealthy. This category of people embraces Open Defecation as the cheapest means of relieving themselves when pressed without any extra financial burden.

#### **ii. Lack of Formal Education/ Poor Health Education**

Most people that engage in Open Defecation are not formally educated. As a result of this, , some of them lack the basic sanitation knowledge. In addition, a larger proportion of open defecators are rural dwellers<sup>40</sup> that live in remote villages. This prevents them from having access to NGOs that may give them basic health sensitization and sanitation education. Children also engage in Open Defecation because of poor health education. They lack the requisite health knowledge to realise the negative effects of Open Defecation.

#### **iii. Hasty Urbanisation/Poor Housing**

Nigeria current population is 213, 653,801 people in 2021,<sup>41</sup> this exponential growth has led to massive movement of people to urban cities from rural areas.<sup>42</sup> This rapid urbanisation in Nigeria is mainly demographically driven without commensurate socio-economic dividends and benefits to the urban

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<sup>35</sup> Ngwu U.I, (n.1) 201.

<sup>36</sup>The Tide (n.32).

<sup>37</sup> New Telegraph (n.34).

<sup>38</sup> WHO (n.21), UNICEF (n.21).

<sup>39</sup> Stanley O., 'FCT: Tackling Menace of Unending Open Defecation' *Peoples Daily* (4 March 2014) <<https://www.google.com/amp/s/peoplesdailyng.com/fct-tackling-menace-of-unending-open-defecation/amp/>> accessed 3 March 2021.

<sup>40</sup> Abubakar I.R., (n. 36) 1462.

<sup>41</sup> Worldometer ' Nigeria Population (Live) <<https://www.worldometers.info/worldpopulation/nigeria-population/#:~:text=The%20current%20population%20of%20Nigeria,the%20latest%20United%20Nations%20data>> accessed 26 November 2021.

<sup>42</sup>Alhaji A.A and Lawal A., 'Urbanization, Cities, and Health: The Challenges to Nigeria – A Review' (2017) 16 (4) *Annals of African Medicine*,149.

environment. This has occasioned poor housing in many urban areas without basic utilities and sanitation facilities, thereby leading to the practice of Open Defecation by the dwellers. A larger proportion of these hasty urban areas are turned into shanty settlements and slums.

#### **iv. Cultural beliefs**

Open Defecation is also being practiced as an acceptable cultural norm.<sup>43</sup> The practice in many rural areas is ritualised and bound in tradition.<sup>44</sup> The practice of Open Defecation is being religiously held to because some people see it as their ancestral way of life which they cannot do without. Some even hold the erroneous view that it a healthier means of defecating than using toilet facilities.<sup>45</sup>

#### **v. Poor Sanitation Facilities /Lack of Sanitation Facilities**

This is another major contributory factor to the practice of Open Defecation in Nigeria. Open Defecation is being practiced in Nigeria because of poor sanitation facilities / lack of sanitation facilities. When a person is pressed and he could not find a toilet/ hygienic toilet facility to ease himself, he may resort to Open Defecation. Most public places in Nigeria like schools, market places, government offices, library complexes, eateries, shopping malls, hospitals, stadium, motor parks, etc were built without sanitation and toilet facilities and the very few that have basic sanitation and toilet facilities are poorly managed. Hence, visitors, clients, students and staff in these public places will opt for Open Defecation when left with no other option. Travellers plying the Nigerian highways, who could not access sanitation facilities to relieve themselves also practice Open Defecation.

#### **vi. Weak Environmental Regulation by Government Agencies**

This factor also motivates Open Defecation in Nigeria. Most environmental regulatory agencies are poor in regulating the Nigerian environment. Most of them lack the basic facilities to bring open defecators to book. Environmental regulatory agencies are faced with many challenges like lack of fund<sup>46</sup>, lack of professionalism, poor monitoring and control techniques, corruption, poor technology in implementing effective sanitation methods and eradicating Open Defecation. As a result of this, many people engage in Open Defecation because they are confident that no regulatory agency will sanction them or bring them to book.

### **4. Consequences of Open Defecation in Nigeria**

Open Defecation has many negative impacts in Nigeria. Some of these negative consequences are examined below:

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<sup>43</sup> Ngwu U.I, (n.1) 202.

<sup>44</sup>Water Aid 'Towards Total Sanitation Socio-cultural Barriers and Triggers to Total Sanitation in West Africa' *Water Aid Report* 2009, 4.

<sup>45</sup> Ngwu U.I, (n.1) 202.

<sup>46</sup> Ijaiya H., 'The Legal Framework for Solid Waste Disposal and Management in Kwara State, Nigeria' (2013) 4 *Journal of Environmental Protection*;1243.

### **i. Threatening Public Health Safety**

The indiscriminate deposit of faeces in our surroundings through Open Defecation causes outbreak of diseases like cholera, diarrhoea, polio, typhoid etc. These diseases account for high mortality in Nigeria<sup>47</sup>, especially in children below five years of age.<sup>48</sup> The diseases also cause stunted growth in children<sup>49</sup> and may cause chronic diseases such as High blood pressure, cardiovascular diseases etc in adulthood.<sup>50</sup> Extreme exposure to diarrhoea disease hinders the development of brain and reduces intelligence,<sup>51</sup> Polio disease leads to paralysis in the legs<sup>52</sup> and mobility impairment.<sup>53</sup>

Open Defecation causes worm infestation as a result of the ingestion of faecal contaminated water. Worm infestation leads to anaemia, which negatively affects productivity in adults and hinders development in children.<sup>54</sup> Anaemia also leads to the birth of underweight babies by anaemic pregnant women<sup>55</sup>, and maternal and infant mortality.

### **ii. It causes Environmental Pollution**

Open Defecation leads to the release of toxic elements into the environment. These toxins pollute the air, water and soil. They are detrimental to the environment and the ecosystem.

#### **a. Air pollution**

Faeces deposited into the environment through Open Defecation releases methane –a greenhouse gas into the air.<sup>56</sup> Methane pollutes the air and is one of the major contributors to climate change.<sup>57</sup> It is also injurious to health and ecosystem.<sup>58</sup>

#### **b. Water Pollution**

Faecal contents deposited through Open Defecation are usually washed into streams and rivers when it rains.<sup>59</sup> This causes contamination of water<sup>60</sup> and poses danger to water bodies and water inhabitants. Faeces also sink into soil and contaminate ground water and boreholes which causes diseases when ingested.<sup>61</sup>

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<sup>47</sup>Public Health in Nigeria, Threatened by Open Defecation <<https://nigeriathinknow.com/public-health-threatened-open-defecation/>> accessed 22 March 2021.

<sup>48</sup> Abubakar I.R., (n.36) 1461.

<sup>49</sup> Duncan M, 'The Elimination of Open Defecation and Its Adverse Health Effects: A Moral Imperative for Governments and Development Professionals' (2017) 7 (1) *Journal of water, Sanitation and Hygiene for Development*,5.

<sup>50</sup> *ibid*, 6.

<sup>51</sup> *ibid*.

<sup>52</sup> Polio and Prevention <[www.cput.ac.za/~/blogs/disability/2015/10/15/polio-and-prevention](http://www.cput.ac.za/~/blogs/disability/2015/10/15/polio-and-prevention)>accessed 22 March 2021.

<sup>53</sup>Grimby G. 'Disability in Poliomyelitis Sequelae' <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.852.7212&rep=rep1&type=pdf>> accessed 22 March 2021.

<sup>54</sup> Duncan M., (n.52) 6.

<sup>55</sup> Public Health in Nigeria, Threatened by Open Defecation (n.50).

<sup>56</sup> *ibid*.

<sup>57</sup>Methane: The Other Important Greenhouse Gas <<https://www.edf.org/climate/methane-other-important-greenhouse-gas>> accessed 22 March 2021.

<sup>58</sup>What is Methane, Anyway? <<https://www.google.com/amp/s/www.popularmechanics.com/science/environment/amp28858699/what-is-methane/>> accessed 22 March 2021.

<sup>59</sup> Ngwu U.I; (n.1) 203.

<sup>60</sup> *ibid*.

<sup>61</sup> Public Health in Nigeria, Threatened by Open Defecation (n.50).

c. Land Pollution/Soil contamination

Open Defecation causes Land/soil contamination. Faeces indiscriminately defecated on the soil permeate the soil. Soil contamination leads to increased soil-transmitted helminthiases, which cause impaired cognition, anaemia and death.<sup>62</sup>

**iii. It leads to Economic loss**

Open Defecation costs Nigeria a sum of N455 billion (equivalent to US \$1.3 billion) annually.<sup>63</sup> The sum accounts for US\$20 per person in Nigeria per year or equivalent to 1.3% of the national GDP.<sup>64</sup> The economic losses are estimated with different cost indices. Open Defecation leads to loss of precious time while looking for a convenient place to defecate,<sup>65</sup> which account for US\$243 million lost each year in access time. The sum of US\$13 million is also lost each year due to productivity losses and time absent from work or school while receiving treatment from a hospital.<sup>66</sup> Economic losses also result from premature deaths and the money spent on accessing healthcare for treating diseases.<sup>67</sup>

It should be noted that the economic losses resulting from the consequences of Open Defecation are largely suffered by the poor.<sup>68</sup> In addition, the losses are only estimated and there is every likelihood that it can be more than the estimated. This is because other costs like epidemic outbreak costs, funeral costs etc were not valued.<sup>69</sup>

**iv. It threatens physical safety**

Open Defecation exposes people to many dangers and violence, especially children and women. They are more susceptible to attacks when they go to the bush, dark or hidden places to defecate. Women can be raped, sexually assaulted or killed. Children can also be kidnapped or murdered by undesirable elements.<sup>70</sup> Wild animals can also injure or kill Open Defecators, especially at night.

**v. Hinders Dignity and Privacy**

Open Defecation puts a lot of burden on open defecators and threatens their privacy and dignity. Most of them, especially women risked being intruded upon when defecating in the open by men.<sup>71</sup> In addition, open defecators may also suspend defecating when being approached by people or oncoming vehicles<sup>72</sup>

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<sup>62</sup> Duncan M; (n.52) 3-4.

<sup>63</sup> Chioma O., (n.7).

<sup>64</sup> IRC International Water and Sanitation Centre 'Economic Impacts of Poor Sanitation in Africa 2012' <<https://www.ircwash.org/resources/economic-impacts-poor-sanitation-africa-nigeria>>accessed 24 March 2021.

<sup>65</sup> *ibid.*

<sup>66</sup> *ibid.*

<sup>67</sup> *ibid.*

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> Ngwu (n.1) 204.

<sup>71</sup> Mahrukh (n.17) 9.

<sup>72</sup> *Ibid.*

and start scampering for a more suitable hidden place to continue defecating.<sup>73</sup> This is not dignifying<sup>74</sup> and burdensome.

## **5. Legal and Policy Frameworks on Environmental Sanitation in Nigeria**

The Government at different levels in Nigeria have put in place laws, policies and programmes to enhance environmental sanitation in Nigeria. These laws, policies and programmes seek to end Open Defecation in Nigeria by stipulating the provision of toilet and sanitation facilities as a duty imposed on every owner of premises in Nigeria.<sup>75</sup> These laws made deviants failure to provide sanitation facilities and maintain clean toilets an offence.<sup>76</sup> The policies also provides principles and guidelines for achieving sound environmental sanitation and ending Open Defecation in Nigeria.<sup>77</sup> Some of the laws, policies and programmes at different levels of Government in Nigeria are discussed.

### **i. Federal**

The importance of sound environmental sanitation is well recognised by the Federal Government in Nigeria and the need to end Open Defecation cannot be over emphasised. This has led to the enactment of legislations and regulations which led to the development of policies and programmes to end Open Defecation in Nigeria.

#### ***a. National Environmental Standards and Regulations Enforcement Agency Act***

This Act established *the* National Environmental Standards and Regulations Enforcement Agency in Nigeria.<sup>78</sup> The Agency is saddled with the responsibility of protecting the Nigerian environment from pollution and degradation. Section 7 of the Act stipulates the functions of the Agency. One of which is to enforce *compliance with laws, guidelines, policies and standards on environmental matters. Section 25 (1) of the Act gives the Agency the power to make regulations for environmental sanitation and public health safety, Section 25 (2) criminalizes the violation of such regulation.*

#### ***b. National Environmental (Sanitation and Waste Control) Regulations, 2009***

By virtue of Section 34 of the NESREA Act, the Minister of Environment is empowered to make regulations for the purpose of giving effect to the functions of the National Environmental Standards and Regulations Enforcement Agency under the Act. In addition, *the Agency has the power to make regulations for environmental sanitation and public health.*<sup>79</sup> It is against this backdrop that these Regulations were

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<sup>73</sup>Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> National Environmental (Sanitation and Waste Control) Regulations, 2009, S.10 (1) (a-c) of S.1. 28 of 2009.

<sup>76</sup> Environmental Sanitation Law of Kwara State, S. 17, CAP E4.

<sup>77</sup> National Environmental Sanitation Policy 2005 of Nigeria, The National Road Map to Making Nigeria Open Defecation Free by 2025.

<sup>78</sup> NESREA Act, s. 1.

<sup>79</sup> NESREA Act, S. 25 (1).

made to apply to environmental sanitation and waste control in Nigeria.<sup>80</sup> The Regulations impose some obligations on owners<sup>81</sup> and occupants<sup>82</sup> of premises or properties in Nigeria. Owners of premises must make provision for water supply for the premises<sup>83</sup> and adequate toilet facilities for the occupants of the premises.<sup>84</sup> Owners must also construct and maintain septic tank, soak away pit or other on site sanitation facilities.<sup>85</sup> They must dislodge and dispose untreated sewage and contents of septic tank safely<sup>86</sup> while ensuring that such contents are not channelled into public roads and drainages.<sup>87</sup> Occupants of premises must ensure that all rooms within the premises including the toilets and bathrooms are clean.<sup>88</sup> Occupants must also maintain good hygiene and sanitation around the premises.<sup>89</sup>

### **c. Water Sanitation Policy**

This policy was developed by the Federal Ministry of Water Resources and adopted by the Federal Government in 2004<sup>90</sup> to tackle the enormous serious public health issues caused by poor sanitation practices and inadequate sanitation facilities. This policy seeks through active participation of the Government and other stakeholders to ensure that all Nigerians have access to adequate, affordable and sustainable sanitation that will guarantee effective hygiene practices and proper handling and disposal of excreta, liquid and leachates as it affects water sources.

In relation to Open Defecation, this policy recognises the need for all governments at all levels to give communities and individuals lists of technology options of toilet facilities that suit their conditions in order to improve sanitation, enhance hygiene and end Open Defecation.

### **d. National Environmental Sanitation Policy**

This policy was approved by the Federal Government in 2005<sup>91</sup> for the purpose of achieving environmental sanitation in Nigeria. The Policy was developed by the Federal Ministry of Environment to promote, stimulate and strengthen environmental sanitation and public health safety.<sup>92</sup> It also stipulates the need to harmonise the efforts of all stakeholders in Environmental Sanitation.<sup>93</sup> The policy specifically noted that Open Defecation is a common practice which threatens public health safety in Nigeria.<sup>94</sup> Hence the need for excreta and sewage management.<sup>95</sup>

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<sup>80</sup> National Environmental (Sanitation and Waste Control) Regulations, S. 1.

<sup>81</sup> Ibid, S.10 (1) (a-g).

<sup>82</sup> Ibid, S.10 (2) (a-c).

<sup>83</sup> Ibid, S. 10 (1) (a).

<sup>84</sup> Ibid, S. 10 (1) (b).

<sup>85</sup> Ibid, S. 10 (1) (c).

<sup>86</sup> Ibid, S.10 (1) (g).

<sup>87</sup> Ibid, S. 10 (1) (f).

<sup>88</sup> Ibid, S.10 (2) (a).

<sup>89</sup> Ibid, S.10 (2) (c).

<sup>90</sup> Centre for Health Ethics Law and Development 'National Water Sanitation Policy' <<https://cheld.org/2012/04PDF>> accessed 23 March 2021.

<sup>91</sup> Lohor J., 'Nigeria: Approves Environmental Sanitation Policy' *AllAfrica* (25 January 2005) <<https://allafrica.com/stories/200501270035.html>> accessed 23 March 2021.

<sup>92</sup> National Environmental Sanitation Policy in Nigeria <<https://tsaftarmuhalli.blogspot.com/2011/07/national-environmental-sanitation.html?m=1>> accessed 23 March 2021.

<sup>93</sup> *ibid.*

<sup>94</sup> *ibid.*

<sup>95</sup> *ibid.*

The policy was reviewed in 2015 to meet international best practices<sup>96</sup> and also in 2018 to meet emerging sanitation needs, such as new sanitation technologies, innovations and sanitation issues.<sup>97</sup>

#### **e. National Road Map to Making Nigeria Open Defecation Free by 2025**

This Road Map was developed by the Federal Ministry of Water Resources and endorsed by the National Council on Water Resources in 2016 to eliminate Open Defecation in Nigeria by 2025.<sup>98</sup> This action plan presents the strategies, investments and plans to meet the target by 2025. While recognising some of the past efforts and programmes of the Government to improve access to sanitation and end Open Defecation in Nigeria, this Road Map re-emphasized the need to have access to toilet and sanitation facilities not within households and communities but also within other public places. The Road Map stipulates that the Federal Ministry of Water Resources will coordinate and work with other stakeholders to achieve the set targets by 2025.<sup>99</sup>

The Federal Government also designed programmes mostly in collaboration with international organisations to eliminate Open Defecation in Nigeria. The Community-led Total Sanitation (CLTS) approach is an example, this approach was embraced by Nigeria in 2005-2006 but gained popular adoption in 2008.<sup>100</sup> This approach empowers communities to resort to self- help<sup>101</sup> in order to become Open Defecation free, by adopting triggering exercise. Triggering is the initiation of a sense of shame and disgust about the enormity and negative impacts of Open Defecation.<sup>102</sup> It allows the communities to know the enormity of the public health challenges and economic losses associated with Open Defecation and assist them in taking appropriate steps collectively in order to proffer solutions to the problems of unimproved sanitation and end Open Defecation.<sup>103</sup>

#### **ii. State**

Various states in Nigeria have also put in place legal mechanisms for combating open defecation within their respective states. For example, Kwara State has Environmental Sanitation Law and Environmental Protection Agency Law. The Kwara State Environmental Protection Agency Law<sup>104</sup> was enacted in 1992<sup>105</sup> for the purpose of establishing the Kwara State Environmental Protection Agency (KWEPA). The Agency is saddled with the responsibility of ensuring a clean environment in Kwara State.<sup>106</sup> It also discharges the duty of preventing and controlling different dimensions of pollution in the State. It also enforces environmental sanitation laws in the State.<sup>107</sup> The Environmental Sanitation Law of Kwara State

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<sup>96</sup>The Guardian Editorial Board 'Reviewing Environmental sanitation policy' *The Guardian* (12 May 2015) <<https://m.guardian.ng/opinion/reviewing-environmental-sanitation-policy/>> accessed 23 March 2021.

<sup>97</sup>Adekunle D., 'Nigerian Government Commences Review of National Environmental Sanitation Policy' *PM News* (4 October 2018) <<https://www.pmnewsnigeria.com/2018/10/04/nigerian-govt-commences-review-of-national-environmental-sanitation-policy/amp/>> accessed 23 March 2021.

<sup>98</sup>UNICEF 'Making Nigeria Open Defecation Free by 2025: A National Road Map' <<https://www.unicef.org/nigeria/reports/making-nigeria-open-defecation-free-2025-national-road-map>> accessed 23 March 2021.

<sup>99</sup>ibid.

<sup>100</sup> ibid.

<sup>101</sup> Sample E. D., et.al; 'Understanding the Drivers of Sanitation Behaviour in Riverine Communities of Niger Delta, Nigeria: The Case of Odi and Kaiama communities.' (2016) 6 (3) *Journal of Water, Sanitation and Hygiene for Development*, 493.

<sup>102</sup> UNICEF (n. 102).

<sup>103</sup> ibid.

<sup>104</sup> CAP K Laws of Kwara State.

<sup>105</sup> Ijaiya H., (n.49)1241

<sup>106</sup> ibid.

<sup>107</sup>Murtala M.G., 'An Appraisal of the Laws on Protection of Environment in Nigeria' (2015) <[https://works.bepress.com/murtala\\_ganiyu/1/](https://works.bepress.com/murtala_ganiyu/1/)> accessed 12 May 2021.

which was enacted in 2004<sup>108</sup> stipulates in Sections 1(2) that every owner and occupier of a tenement shall make provision for toilet facilities for the occupiers. Section 1 (3) also provides that all owners and operators of schools, night clubs, restaurants, hospitals etc shall ensure that all toilet facilities and bathrooms in their premises are clean. Section 17(1) criminalizes the contravention of the provisions of the Environmental Sanitation Law and anyone convicted shall be liable to fine.<sup>109</sup>

The Lagos State House of Assembly also enacted the Lagos State Environmental Management and Protection Law in 2017<sup>110</sup> to consolidate all the laws and regulations that were applicable to the protection of the Lagos State's environment.<sup>111</sup> Sections 111, 112 and 113 of the Law specifically stipulate that owners/occupiers/operators of any building, restaurant, night club, hotel, school, must provide toilet facilities within their premises and ensure the cleanliness of same.

### **iii. Local Government**

Various Local Government Areas have Sanitation Bye Laws to ensure healthy and clean environment within their Local Government Areas. These Bye Laws are enforced by the Environmental Health Unit of the Local Government Authority within their respective Local Government Areas.

## **6. Enforcement of Environmental Sanitation Laws**

Enforcement can be defined as the measures taken to compel compliance with laws, rules and regulations.<sup>112</sup> It could also be defined as the actions taken to obtain sanctions for criminal violations.<sup>113</sup>

Therefore, enforcement of environmental sanitation laws in Nigeria will be the actions taken to obtain compliance with the extant environmental sanitation laws and regulations. It could also mean the measures taken to obtain sanctions and penalties for violating environmental sanitation laws in Nigeria.

However, the Courts<sup>114</sup> and Environmental Law Enforcement Agencies/Bodies have serious roles to play to ensure the enforcement of Environmental Sanitation Laws in Nigeria. In most states in Nigeria, the Magistrate Courts, Area/Customary Courts, Environmental Courts or Mobile Sanitation Courts may entertain environmental matters.<sup>115</sup> At the national level, the State or Federal High Court may have jurisdiction in environmental matters.<sup>116</sup> The National Environmental Standards and Regulations Enforcement Agency is the enforcement body for environmental laws and the national level, while the various states of the federation have their respective Environmental Protection Agencies for the enforcement of their environmental laws. For example, Lagos established the Lagos State Environmental Protection Agency (LASEPA), Kwara State has Kwara State Environmental Protection Agency (KWEPA), Bauchi State has Bauchi State Environmental Protection Agency (BASEPA) and other states in Nigeria have similar agencies. The Environmental Health Unit of the Local Government Authority

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<sup>108</sup> CAP E4, Laws of Kwara State (slightly amended by Environmental Sanitation (Amendment) Law, 2015.

<sup>109</sup> First and Second Schedules to the Environmental Sanitation Law of Kwara State.

<sup>110</sup> Oserogho Associates, 'Recent Environmental, Waste and Effluent Law and Regulations' <<https://www.oseroghoassociates.com/articles/207-recent-environmental-waste-and-effluent-law-regulations-legal-alert-may-2017>> accessed 12 May 2021.

<sup>111</sup> *ibid.*

<sup>112</sup> Ladan M. T., (n.14) 23.

<sup>113</sup> *ibid.*

<sup>114</sup> Ladan M.T. Natural Resources and Environmental Law and Policies for Sustainable Development in Nigeria (Ahmadu Bello University Press Ltd, Zaria, Nigeria, 2015); 325.

<sup>115</sup> The Environmental Sanitation Law of Kwara State, S. 26 (1) CAP. E4.

<sup>116</sup> NESREA Act, S. 37

- a. The presence of nuisances/ pollution in their premises, streets, locality or industries that must be removed;
- b. The nature of the nuisance/ pollution;
- c. Steps that must be taken to remove the nuisances/ pollution; and
- d. The time within which to remove the said nuisances/ pollution.

An abatement notice is only served while the nuisances or pollution is still in existence, where it has already occurred and it is likely to occur or has occurred repeatedly in the past, then a prohibition notice would be the appropriate notice to be served.

iii. **Court Action:** This stage succeeds the abatement/ Prohibition Notice stage. Legal proceedings are commenced in Courts when the occupiers/ managers of premises that have been served with abatement notice/ prohibition notice fails to comply or fully comply with the Notices as authorized by the appropriate Enforcement Agency/ Unit. Court proceedings may also be commenced where there is reoccurrence or likelihood of reoccurrence of pollution or nuisance after it has been abated. Proceedings for the enforcement of Local government sanitation Bye Laws and States' Environmental Sanitation Laws are instituted in Area courts, Magistrate courts, Mobile sanitation courts.<sup>118</sup> A Magistrate court is a permanent court that entertains criminal environmental violations through summons. The Mobile Sanitation Court on the other hand is a temporary special court that sits only on designated sanitation days for the summary trial and immediate conviction of environmental sanitation offenders. An offender upon conviction by a Magistrate court or Mobile court may be liable to fine or/and imprisonment and community services like sweeping of streets and public spaces.

The State or Federal High Court will have the power to hear and determine matters that relates to the violation of national environmental laws.<sup>119</sup> The State or Federal High Court can sentence an offender to terms of imprisonment or pay fine. The High Court can also give an Injunction Order to stop the polluter from continuing with pollution or give an order for the takeover of the concerned premises or property by the appropriate Environmental enforcement agency/unit for the purpose of abating the pollution and subsequent recovery of the incurred expenses for abatement from the concerned occupiers/ managers of the premises.

## **7. Conclusion and Recommendations**

The practice of Open Defecation is a serious public health problem in Nigeria and its negative consequences cannot be overemphasized. The extant environmental sanitation laws have also not been adequately enforced in combating the scourge. However, the problem is not of scarcity of requisite laws but rather of weak enforcement of environmental sanitation laws in Nigeria. This paper has discussed the consequences of Open Defecation in Nigeria and opined that the weak enforcement of environmental sanitation laws is a major reason for the continuous practice of Open Defecation in Nigeria.

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<sup>118</sup> The Environmental Sanitation Law of Kwara State, S. 26 (1) CAP. E4.

<sup>119</sup> NESREA Act; S. 37.

This paper therefore recommends effective enforcement of environmental sanitation laws This will help in reducing the practice of Open Defecation and improve environmental and public health quality in Nigeria. It will strengthen the credibility of environmental protection governance<sup>120</sup> in Nigeria and ensures fairness for those who do not practice Open Defecation in Nigeria. It will also reduce economic losses occasioned by Open Defecation.

The following measures are also recommended to enhance the effective enforcement of environmental sanitation laws in Nigeria:

- i. Monitoring of compliance with the environmental sanitation laws by establishing corps marshal of volunteers to police environmental compliance and enforcement <sup>121</sup> at all levels.
- ii. The environmental regulatory and enforcement bodies must have cordial synergy and there must be devolution of powers among them from the federal to the local government level.<sup>122</sup>
- iii. The regulatory and enforcement agencies must be provided with adequate funds, state of the art technology and expert staff to enhance the discharge of their duties.
- iv. Compliance promotion<sup>123</sup> can also be introduced by the Government to encourage compliance with the environmental sanitation laws and discourage the practice of Open Defecation. This entails creating public awareness about the dangers of Open Defecation in Nigeria, setting up task force to render technical assistance to environmental regulatory and enforcement bodies. Construction of toilet facilities can also be subsidized for the indigents and rewards can also be given to those that willingly comply with environmental sanitation laws.
- v. The Court can also strengthen the enforcement of environmental sanitation laws in Nigeria through their activism when adjudicating environmental matters. Judicial decisions and interpretations should always reflect the utmost necessity of maintaining a quality environment.
- vi. Bureaucracy, nepotism and corruption must be curbed in the environmental regulatory and enforcement agencies in Nigeria.
- vii. The regulatory and enforcement agencies/ bodies should conduct regular monitoring, evaluation and reporting of the environment at all levels. This will help in assessing the effectiveness of the environmental sanitation laws and the progress in ending Open Defecation.
- viii. Regular training of environmental enforcement officers, judges, police officers and other relevant officers should be done. This will enhance their capacity and aid cross fertilization of ideas.

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<sup>120</sup> Ladan M. T., (n.14) 25.

<sup>121</sup> Ibid, 50.

<sup>122</sup> ibid.

<sup>123</sup>ibid, 23.