

# DISSONANCE UNLEASHED: UNVEILING THE THREAT OF NOISE POLLUTION IN NIGERIA AND ANALYSING LEGAL REMEDIES

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## Abstract

*In Nigeria, the daily exposure of the average person to 85dB of noise surpasses the medically accepted level, posing risks like hearing loss and non-auditory health issues. While noise pollution might appear insignificant compared to other environmental concerns such as water pollution, soil contamination, and the likes, experts predict dire consequences if left unchecked. Applying the legal context theory, which emphasizes understanding the social, political, and economic context in which laws are created and implemented, several factors contributing to the challenges of addressing noise pollution in Nigeria are highlighted. These include ignorance, and ineffective enforcement of existing noise regulations due to a lack of resources, capacity, and political will. Limited public awareness about the health and environmental impacts of noise pollution has hindered efforts to address these issues effectively. This research delves into the impact of noise pollution and evaluates the effectiveness of the existing laws in addressing the issue. The study aims to raise awareness and propose solutions that take into account the socio-political and economic realities of Nigeria. Using a doctrinal legal approach, it analyzes current laws and regulations and assesses their efficacy. Additionally, it conducts a comparative analysis with jurisdictions excelling in noise regulation. Recommendations are made to overcome these hurdles, recognizing the law as a tool for social control and change. Finally, the study emphasizes the immediate requirement for actions to control noise pollution in Nigeria, to prevent escalating health and environmental problems occasioned by noise pollution*

**Keywords:** NESREA Act, Regulations, Noise Pollution, Challenges, Solutions

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## 1.0 Introduction

Noise, defined as unwanted or intrusive sound, poses a significant environmental challenge both on land and under the sea.<sup>1</sup> The National Environmental (Noise Standards and Control) Regulations 2009 categorises noise as any sound objectionable to human sensibilities or likely to harm health or the environment.<sup>2</sup> Recognized by the World Health Organisation (WHO)<sup>3</sup> as a serious health issue, noise pollution is an invisible yet pervasive presence in our daily lives.<sup>4</sup> Generators, stemming from irregular power supply in the country, notably stand out as a paramount contributor to this acoustic predicament.<sup>5</sup>

The repercussions of noise pollution extend beyond mere annoyance, impacting human health with potential consequences such as hearing loss, cardiovascular diseases, and mental health issues.<sup>6</sup> Despite its intangibility, noise demands attention due to its profound and far-reaching effects on human health, wildlife, and the broader environment. This study critically examines the legal landscape addressing noise pollution in Nigeria with a focus on national regulations. However, enforcement challenges persist, necessitating urgent and comprehensive reforms.

Against this backdrop, the study evaluates the effectiveness of the existing legal frameworks, explores the hurdles in implementing them, draws a comparison with other regions that have excelled in combating noise pollution, and suggests remedies. The paper is divided into five parts, starting from an introduction and an overview of noise pollution, moving on to an examination of the legal framework, a comparative analysis, and concluding with recommendations to ensure the efficient execution of noise pollution regulations in Nigeria.

## 2.0 An Overview of Noise Pollution in Nigeria

Noise pollution is the introduction of undesirable, irritating sound that interferes with the individual or individual's immediate environment and causes instability, disorder or discomfort to the individual or individuals.<sup>7</sup> In our daily lives, we encounter a variety of sounds, including human speech, animal noises, and

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<sup>1</sup> Morgan Stanley, 'Noise Pollution' *National Geographic* <<https://education.nationalgeographic.org/resource/noise-pollution/>> accessed 15 June 2023; Catherine P Ortega, 'Effects of Noise Pollution on Birds: A Brief Review of our Knowledge-Effectos de la Polucion Sonora en Aves: una Breve Revision de Nuestro Conocimiento,' *American Ornithological Society*, (2012) (74) (1) 6-22.

<sup>2</sup> Section 18 National Environmental (Noise Standards and Control) Regulations 2009.

<sup>3</sup> Jamalizadeh Z, Safari Variiani A, Ahmadi S, and Asivandzadeh E., 'Association of Road Traffic Noise Exposure and Driving Behaviors,' *Journal of Hum. Environmental Health Promotion*. (2018) (4) (3), 111-115.

<sup>4</sup> Jacyna M., Wasiak M., Lewczuk C., and Karon G., 'Noise and Environmental Pollution from Transport: Decisive Problems in Developing Ecologically Efficient Transport System,' *Journal of Vibroengineering*. (2017) (19) (7)5639-5655.

<sup>5</sup> Alexander Decker, 'Noise Levels and Noisiness of Some Power Generators' *Journal of Environment and Earth Science*. (2015) (5) (12) 2224-3216.

<sup>6</sup> Elizabeth Waddington, 'Noise Pollution and its Impact on Human Health', (2022), <<https://earth.fm/earth-stories/noise-pollution-and-its-impact-on-human-health/>>accessed December 10, 2023; Daphne Gloag, 'Noise: Hearing Loss and Psychological Effects,' *The British Medical Journal*, (1980) (281) (6251) 1325-1327.

<sup>7</sup> Emelie C I, 'The Place of Noise Pollution in Environmental Protection in Nigeria' <<https://globalacademicgroup.com>> accessed 29 June 2023.

machine sounds. Whether a sound is considered disturbing depends on certain factors such as volume, environment, individual sensitivity, time of day, and mood. Experts agree that sounds exceeding 85dB(A) are not conducive to the human ear. Concerns arise when there is regular and prolonged exposure to certain sound levels, but the extent of harm depends on the individual.

In essence, noise has both objective and subjective aspects. Regulations on acceptable noise levels are grounded on an objective standard, while the subjective element involves individual preferences and factors like time of day and location. What may be deemed acceptable in one context, such as daytime, could be considered excessive at night. Additionally, noise levels acceptable in an industrial zone may be unacceptable in residential areas.

A WHO report emphasizes that extensive epidemiological research strongly links public exposure to environmental noise with adverse health effects. This underscores the need to consider environmental noise not only as a source of irritation but also as a significant public health and environmental concern.<sup>8</sup> In addition, occupational or industrial noise pertains to the sound experienced by workers during an 8-hour workday,<sup>9</sup> encompassing the noise encountered in the course of their job duties. Many industrial activities, including textile production, bottling, aviation, mills, quarries, and more, involve the use of noisy machinery.

Research was conducted on workers in five distinct industries in Ilorin, involving mineral crushing, mills, soft drink bottling, beer brewing and bottling, tobacco making, and foam production.<sup>10</sup> Seventy-four (74) industrial machines were assessed for impulsive noise, revealing levels ranging from 105.9 dB(A) to 110.9 dB(A). The predominant contributors to these levels were activities such as crushing minerals and breaking bottles. The average equivalent continuous noise level fell within the range of 85.04-94-83 dB(A), surpassing the WHO's threshold and posing a serious risk to the health of workers. The researchers concluded that employees dedicating at least 8 hours a day for six days a week faced a heightened risk of developing noise-induced hearing loss (NIHL) and other health issues due to prolonged exposure to occupational noise.

A significant number of Nigerians remain unaware of the detrimental effects of noise on their health and general well-being. The majority of them grapple with poverty, struggling to meet their basic needs daily. Even if they possess knowledge about the impact of noise pollution, their primary focus tends to shift towards securing a livelihood rather than actively combating pollution with a mindset of accepting anything to make

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<sup>8</sup>Guidelines for Community Noise, Geneva, World Health Organization, (1999) <[Guidelines for community noise \(who.int\)](https://www.who.int/publications/i/item/9789241545734)> accessed 26 July 2023.

<sup>9</sup>Ochuko Felix Orikpete and others, 'Appraisal of Industrial and Environmental Noise Regulation in Nigeria an Its Impact on Sustainable National Development' International Journal of Scientific & Technology Research (2021) (10) (9) <[https://www.researchgate.net/publication/354748301\\_Appraisal\\_Of\\_Industrial\\_And\\_Environmental\\_Noise\\_Regulation\\_In\\_Nigeria\\_And\\_Its\\_Impact\\_On\\_Sustainable\\_National\\_Development](https://www.researchgate.net/publication/354748301_Appraisal_Of_Industrial_And_Environmental_Noise_Regulation_In_Nigeria_And_Its_Impact_On_Sustainable_National_Development)> accessed 29 June 2023.

<sup>10</sup> Olayinka O S and Abdullahi S. A., 'An Overview of Industrial Employees' Exposure to Noise in Sundry Processing and Manufacturing Industries in Ilorin Metropolis, Nigeria' *Industrial Health* (2009) (47) 123–133. <<https://www.researchgate.net/publication/24278175>> accessed 26 July 2023.

ends meet. The government is obligated to fulfil its duty to lift the standard of living, enhance the quality of life, and empower individuals to assert their legal rights to a healthy environment.

The impact of noise pollution extends to human health, wildlife, and the overall environment. The effects of noise pollution on humans can be divided into two categories: Auditory effects, which impact hearing and include issues like Noise-Induced Hearing Loss (NIHL) and Tinnitus, and Non-Auditory effects, which encompass conditions such as hypertension, cardiovascular disorders, sleep disturbance, anxiety, and cognitive impairment in children among others.<sup>11</sup>

The World Health Organization's research,<sup>12</sup> on the 'Burden of disease from environmental noise' in Europe, which explored the impact of noise on various health aspects revealed associations between environmental noise and issues such as cognitive impairment in children, tinnitus, annoyance, cardiovascular problems, and sleep disturbance. Specifically, it found a link between road traffic and aircraft noise exposure and an increase in hypertension and ischemic heart disease. Regarding cognitive impairment in children, the report indicated that noise adversely affects children's learning and memory. In 2010, the Lagos State government reported that over 60% of students in public schools experienced hearing impairment due to daily noise exposure.<sup>13</sup> This data underscores the serious impact of noise pollution on human health, emphasizing the need for significant attention and action.

Exposure to excessive noise can result in a range of physiological effects.<sup>14</sup> When a person is confronted with an unforeseen or undesirable noise, the pupils expand, the skin loses colour, mucous membranes become dry, there can be spasms in the intestines, and the adrenal glands release increased secretions.<sup>15</sup> The Health Protection Agency in the United Kingdom conducted a study on environmental noise in 2010.<sup>16</sup> According to its report, a 2008 study commissioned by the European Union found a significant association between exposure to night-time aircraft noise and daytime road traffic noise with increased blood pressure. The EU report further revealed that the risk of heart attack and heart disease was elevated by a factor of 1.09 due to exposure to road traffic noise and by a factor of 1.26 from exposure to aircraft noise.

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<sup>11</sup>Stansfeld S A and Matheson M P, 'Noise Pollution: Non-Auditory Effects on Health' <<https://academic.oup.com/bmb/article/68/1/243/421340>> accessed 26 July 2023.

<sup>12</sup> World Health Organization, 'Burden of Disease from Environmental Noise: Quantification of Healthy Life Years Lost in Europe' (2011) <<https://www.who.int/publications/i/item/9789289002295>> accessed 23 July 2023.

<sup>13</sup>Editorial, 'Nigeria: Noise Pollution in Lagos State' *Daily Independent Lagos* (2010) <[Nigeria: Noise Pollution in Lagos State - allAfrica.com](https://www.allAfrica.com)> accessed 10 August 2023.

<sup>14</sup> Kerse C S, *The Law relating to noise* (Oyez Publishing, 1975).

<sup>15</sup> *Ibid.*

<sup>16</sup> UK Health Protection Agency, (2010) 'Environmental Noise and Health in the UK: A Report by the Ad Hoc Expert Group on Noise and Health' (2010), <[http://www.hpa.org.uk/webc/HPAwebFile/HPAweb\\_C/1279888026747](http://www.hpa.org.uk/webc/HPAwebFile/HPAweb_C/1279888026747)> accessed 12 June 2023.

Intense noise levels also pose threats to inanimate objects, causing damage to landmarks and structural vibrations.<sup>17</sup> Orikpete and others<sup>18</sup> delved into the correlation between noise and sustainable national development in Nigeria. They found that noise, especially in urban areas, has negatively influenced the quality of life, impeding the nation's progress. The study highlighted that elevated noise levels contribute to health issues, limiting individuals' ability to actively contribute to the country's advancement.

Gloria Orié<sup>19</sup> highlighted the escalating issue of noise pollution in Nigeria, attributing it to population growth, urbanization, and increased equipment usage. She expressed concern about the lack of substantial progress in noise pollution management, attributing it to the inefficiency of the regulatory body responsible for enforcement. Orié emphasized the impact of noise pollution on sustainable living, asserting that increased noise levels could lead to health challenges and lower the standard of life for affected individuals.

Based on the available data on the effects of noise pollution on human health, it is crystal clear that noise pollution is nothing to trifle with. It should and must be given proper attention. Acknowledging its profound impact on well-being prompted this research on the effectiveness of the legal framework on noise pollution to abate its impact.

### **3.0 Legal Framework for Combating Noise Pollution in Nigeria**

#### **3.1 National Environmental Standards and Regulation Enforcement Agency (NESREA) Act 2007**

The National Environmental Standards and Regulation Enforcement Agency is the main body charged with the responsibility of protecting Nigeria's environment, created by the NESREA Act 2007,<sup>20</sup> and in line with section 20 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). NESREA is responsible for the enforcement of environmental standards, regulations, rules, laws, policies, and guidelines. The Agency is further charged with responsibility for the protection and development of the environment, biodiversity conservation, and sustainable development of Nigeria's natural resources, as well as environmental technology.<sup>21</sup> Enforcement of compliance with policies, standards, legislation, and guidelines on

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<sup>17</sup>Hakeem Ijaiya, 'The Legal Regime of Noise Pollution in Nigeria' *Beijing Law Review* (2014) (5) 3 <[https://www.researchgate.net/publication/272655919\\_The\\_Legal\\_Regime\\_of\\_Noise\\_Pollution\\_in\\_Nigeria](https://www.researchgate.net/publication/272655919_The_Legal_Regime_of_Noise_Pollution_in_Nigeria)> accessed 12 June 2023.

<sup>18</sup>Ochuko Felix Oríkpete and others, 'Appraisal of Industrial and Environmental Noise Regulation in Nigeria And its Impact on Sustainable National Development' *International Journal Of Scientific & Technology Research* (2021) (10) (9) <[https://www.researchgate.net/publication/354748301\\_Appraisal\\_Of\\_Industrial\\_And\\_Environmental\\_Noise\\_Regulation\\_In\\_Nigeria\\_And\\_Its\\_Impact\\_On\\_Sustainable\\_National\\_Development](https://www.researchgate.net/publication/354748301_Appraisal_Of_Industrial_And_Environmental_Noise_Regulation_In_Nigeria_And_Its_Impact_On_Sustainable_National_Development)> accessed 29 June 2023.

<sup>19</sup> Gloria Orié, 'The Legal Imperatives For Regulating Noise Pollution In Nigeria In The Quest For Sustainable Development: Lessons From India' *International Journal of Business and Applied Social Science* (2016) (2) (4) <<https://www.researchgate.net/publication/321146009>> accessed 25 July 2023.

<sup>20</sup> National Environmental Standards and Regulation Enforcement Agency (NESREA) Act No. 25 July 30, 2007.

<sup>21</sup> *Ibid*, section 7 (e).

environmental health and sanitation, which includes pollution abatement, is at its core functions,<sup>22</sup> which are directed primarily at the prevention of pollution and environmental degradation rather than remedying environmental harm that had already occurred.

As a regulator, the Agency focuses its regulatory work on individuals or organizations whose activities pose a threat to the environment. This is done through developing and enforcing environmental regulations and standards and implementing various environmental programs. Section 7 of the NESREA Act mandates the Agency to enforce compliance with the provisions of international agreements, protocols, conventions, and treaties on the environment and such other agreements as may from time to time come into force.<sup>23</sup> Once an international treaty on environmental law is ratified, Nigeria is under obligation to incorporate such laws as part of its municipal law to ensure its effective implementation.

To deliver on her directive, the immediate implementation strategies of NESREA include collaboration and partnership with various states in the country as well as other relevant agencies and stakeholders, among others.<sup>24</sup> As part of the collaborative strategy, NESREA has Zonal Headquarters in the six Geo-political Zones and, as of today, has established its presence in 22 states of the federation.<sup>25</sup> The partnership is to ensure the promotion of environmental awareness and consciousness to ensure a cleaner and healthier environment for the people of the state.

NESREA has created the Green Corps Initiative (GCI) to encourage individuals to actively participate in promoting the environment.<sup>26</sup> The GCI involves partnering with individuals through the principle of 'environmental volunteerism' and assigns specific roles and responsibilities to them. This initiative empowers individuals to render selfless service to their communities in the protection of the environment and to become watchdogs of their immediate surroundings.<sup>27</sup> Through the GCI, NESREA aims to promote individual responsibility towards achieving a cleaner and healthier environment in Nigeria.

A simple channel for reporting noise pollution under the Act is to file a letter of complaint addressed to the relevant NESREA agency in the state. A copy of the complaint is sent to the Environmental Monitoring Department, whose duty is to monitor and control noise and other nuisances. When such a complaint is received, the agency issues an abatement notice, and where that is not complied with, the equipment may be

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<sup>22</sup> *Ibid*, section 7 (d).

<sup>23</sup> Few environmental treaties have been domesticated in Nigeria such as the Convention on International Trade and Convention on the Prevention of Pollution by the Sea by Oil, and the African Charter on Human and Peoples Rights. Section 7 (c) of the NESREA Act is a leeway for the Agency to recognize the importance and relevance of international environmental law as a veritable source of Nigerian environmental law.

<sup>24</sup> Section 8 (o) NESREA Act.

<sup>25</sup> National Environmental Standards and Regulations Enforcement Agency (NESREA) <<https://www.nesrea.gov.ng/partnership/>> accessed 5 January 2024.

<sup>26</sup> Green Corps Initiative <<https://www.nesrea.gov.ng/green-corps/>> accessed January 5 2024.

<sup>27</sup> *Ibid*.

seized or the offender taken to court for prosecution.<sup>28</sup> NESREA has broad enforcement powers to enforce provisions of the Act. An officer, for instance, has the power to enter and search with a warrant issued by a court any premises, including land, vehicle, tent, vessel, and floating craft, which he reasonably believes carries out activities or stores goods that contravene environmental standards or legislation or to conduct an inspection, searches and takes samples for analysis.<sup>29</sup>

An officer, during his duty, may enter and search, upon presenting their certificate of designation, any premises reasonably suspected to violate environmental policies. They can do so with a warrant issued by a court to inspect, seize, detain, seal, or close down the premises.<sup>30</sup> A search warrant is essential to uphold the right to privacy protected by the 1999 Constitution.<sup>31</sup> It serves to prevent unauthorized and unreasonable searches and seizures of citizen's properties. Therefore, there must be reasonable grounds for searches or seizures based on the principles of privacy and compliance with the criminal justice system, which requires a warrant from a court of competent jurisdiction before embarking on searches.<sup>32</sup>

The NESREA Act confers extensive powers upon the Agency. An officer is authorized to suspend operations and seal or close premises, but such actions require a court order. The purpose of obtaining a court order is to prevent the arbitrary exercise of the Agency's powers.<sup>33</sup> The delay in court proceedings may, however, hinder the genuine intention of the Agency to enforce the provisions of the law where a warrant is required. To expedite court proceedings and obviate delays in enforcing the NESREA Act. A specialized environmental court or tribunal should be established to handle cases related to environmental laws. The court will be staffed with judges with expertise in environmental matters, ensuring a quicker resolution of cases.

This mode of complaint is too archaic and calls for a modernized way of detecting and reporting noise for urgent action to prevent future occurrences. Although NESREA has achieved a lot on paper and probably sanctions for defaulters, a lot still needs to be done to stop environmental pollution. The agency has neglected its responsibilities in some parts of the country, focusing attention on big cities, thereby undermining the rural areas. The country has also witnessed abuse of environmental standards where officers have failed to respond decisively to reported cases of environmental pollution, largely due to powers that be, stakeholders in environmental services as well as community leaders.<sup>34</sup> Majorly, it also seems that NESREA's focus is more on the generation of revenue rather than enforcement and regulation.

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<sup>28</sup> Section 8 (f) NESREA; Ifedayo Ogunyemi 'Agency Issues Abatement Notice Against Noise Pollution in Abuja' (2021) <<https://tribuneonline.ng/agency-issues-abatement-notice-against-noise-pollution-in-abuja/>> accessed 5 January 2024.

<sup>29</sup> Section 8 (g) NESREA Act.

<sup>30</sup> *Ibid*, section 30 (1) (a).

<sup>31</sup> Section 37 of the Constitution of the Federal Republic of Nigeria.

<sup>32</sup> Sections 74 Criminal Procedure Code applicable in Southern Nigeria.

<sup>33</sup> Section 30 (I) (g) NESREA Act.

<sup>34</sup> Murtala Muhammed, 'Leaders Indict NESREA over Environmental Pollution in Kano' *The Guardian* (2016) <<https://guardian.ng/property/leaders-indict-nesrea-over-environmental-pollution-in-kano/>> accessed 5 January 2024.

Section 34 (c) of the NESREA Act mandates the Minister to make regulations to give full effect to the functions of the Agency by providing effective enforcement of environmental standards, regulations, rules, laws, policies, and guidelines. This has led to twenty-four (24) Regulations, including, most importantly to this study, the National Environmental (Noise Standards and Control) Regulations 2009, whose provisions will be considered below.

### 3.2 National Environmental (Noise Standards and Control) Regulations 2009<sup>35</sup>

The NESREA Act established the National Environmental (Noise Standards and Control) Regulations 2009<sup>36</sup> with the main objective of ensuring the maintenance of a healthy environment for all people, the tranquillity of their surroundings, and psychological well-being by regulating noise levels and generally elevating the standard of living of the people by a) prescribing the maximum permissible noise levels a facility or activity to which a person may be exposed, b) providing for the control of noise and for mitigating measures for the reduction of noise, and c) generally for giving effect to the provisions of section 22 of the NESREA Act.<sup>37</sup>

Part 1 of the Regulation provides for maximum permissible noise levels from a facility, a factory, or workshop, from impulsive noise, from a construction site, from a public announcement system or address system or device, from a place of entertainment, from accelerating vehicles, from a quarry or mine, to which a person may be exposed to and noise over permissible levels.<sup>38</sup>

Part II made provision for the duty of the owner or occupier to control and mitigate noise. Owners or occupiers of an industry or facility must undertake measurements of noise levels within their facilities and the environment.<sup>39</sup> To ensure compliance, such measurements must be submitted periodically to the Agency at intervals to be determined by the Agency.

However, an owner or occupier of premises whose works or activities may likely emit noise over the permissible levels can apply to the Agency for a permit to emit noise over the allowable levels.<sup>40</sup> A noise permit or license contains requirements relating to how activities or works are to be carried out, including the hours during which such activities are to be carried out. The noise permit is subject to revocation if the officer of the Agency is satisfied that the conditions of the Permit have not been complied with or that the continuous emission of noise is detrimental to the environment or hazardous to human health.<sup>41</sup>

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<sup>35</sup> Regulations No. 35 of 2009.

<sup>36</sup> No. 35 2009; see also section 1 NESREA Act 2007.

<sup>37</sup> Regulation 1.

<sup>38</sup> *Ibid*, Regulation 2-6.

<sup>39</sup> *Ibid*, Regulation 4.

<sup>40</sup> *Ibid*, Regulation 7.

<sup>41</sup> *Ibid*, Regulation 9.

Enforcement under Regulation 2009 is similar to that under the Act. Any person may complain to the Agency in writing if such a person considers that the noise levels emitted, or likely to be emitted, may be higher than the permissible noise levels under Regulations or reaching disturbing proportions.<sup>42</sup> While this provision is a commendable step in ensuring citizens' engagement in environmental regulation, the reliance on the subjective judgment of individuals regarding what is considered disturbing or higher than permissible levels can lead to varying interpretations and potential misuse of the complaint mechanism. It could also lead to potential misuse by individuals, leading to frivolous complaints, such as complaints based on personal grievances rather than genuine concern about environmental impact, which could lead to an unnecessary burden on the Agency.

There is no provision for a mechanism for immediate response in case of urgent or severe noise pollution. This is necessary to ensure timely intervention to abate noise. There is a need for robust public awareness programs to educate citizens about the existence of the complaint mechanism, the relevant regulations, and the importance of reporting genuine instances of noise pollution. The advancement of technology has transformed the way individuals communicate and interact with various entities, including regulatory agencies. The traditional reliance on written complaints as the primary mode of communication is increasingly considered archaic in the contemporary era. Modern communication channels such as text messages, phone calls, emails, and online forms allow for almost instantaneous communication. This is particularly crucial when reporting time-sensitive issues, such as urgent instances of noise pollution, to enable regulatory agencies to respond promptly to emerging situations, improving their ability to address urgent matters effectively.

There is no requirement to prove personal loss, injury, or discomfort, which were requirements under common law. Upon receiving a complaint, the Agency, after due investigation and substantiation, takes reasonable steps to ensure abatement or control of noise as stipulated under the Regulation.<sup>43</sup> An improvement notice may be served on the offender ordering the stopping or discontinuance of noise, compliance with the permissible noise levels, reduction of the noise level, or taking measures to prevent subsequent noise. In further enforcement, the Agency may seize, impound, confiscate, or prohibit the use of any property, tool, machinery, or other instrument that is likely or has caused the emission of excessive noise.<sup>44</sup>

Contravention of the provisions of the Regulation amounts to a criminal offence, and such a person shall be liable to a fine of NGN5,000.00 for every day the offence subsists and, on conviction, be liable to a fine not exceeding NGN50,000.00 or to imprisonment for a term not exceeding one year or to both.

Where the offence is committed by a body corporate, it shall, on conviction, be liable to a fine not exceeding NGN500,000:00 and an additional fine of NGN10,000:00 for every day the offence subsists.<sup>45</sup>

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<sup>42</sup> *Ibid*, Regulation 10.

<sup>43</sup> *Ibid*, Regulation 10 (3).

<sup>44</sup> *Ibid*, Regulation 12.

<sup>45</sup> *Ibid*, Regulation 17.

However, despite its scope on environmental matters, the NESREA regulation falls short of adequately regulating noise pollution. The effectiveness is compromised without the practical deployment of identified technology in the fight against noise pollution. Moreover, the Agency has failed to make significant practical efforts toward public awareness about the dangers of noise pollution, reducing the legislation's impact. In addition, the fines prescribed for violations of the regulation are not sufficient, particularly for corporate entities. Therefore, there is a need to substantially increase the fines to strengthen the deterrent effect and improve the effectiveness of controlling noise pollution in Nigeria.

#### **4.0 Challenges Hindering Effective Regulation of Noise**

The provisions of the noise regulation are commendable amidst its shortcomings. However, certain basic challenges plague the regulation of noise pollution in Nigeria:

Firstly, there is a lack of awareness by the Nigerian populace regarding the harmful effects of noise pollution. The average Nigerian is ignorant of the insidious nature of noise. Probably because of its subtle nature, making it challenging for people to recognize and understand its potential negative impacts. Policymakers should ensure creating awareness at the grassroots levels, for instance, including noise pollution in primary and secondary schools' curriculum, organizing training, workshops, and seminars in the market and strategic locations to create awareness of the impact of noise on humans and our environment.

Secondly, there is a lack of awareness of the existence of regulations combating noise pollution and the relevant institutions. Nigerians are unaware of the existence of the National Environmental (Noise Standards and Control) Regulations 2009, so persons who may be inclined to make use of the complaint mechanism cannot do so. This is also the reason for the low level of noise pollution-related cases in Court, as many do not know where to make such reports.<sup>46</sup> There is a need, therefore, for widespread education and information dissemination regarding existing regulations, complaint mechanisms, and the institutions responsible for enforcing noise control standards. Enhancing public awareness can empower individuals to take action when they encounter excessive noise and contribute to the fight against noise pollution in the country. This could also include public awareness campaigns, educational programs, and improved communication from relevant authorities and media outlets about existing laws and reporting systems and procedures available. Other jurisdictions that succeeded in fighting noise pollution all ensure the participation of the public in enacting laws concerning noise pollution. The involvement of all stakeholders in mapping out modalities to combat noise pollution is a *sine qua non*.

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<sup>46</sup>Mazhun Idris, 'How Noise Pollution is Bearing Down on Millions in Nigeria' (2023) <<https://www.trtafrika.com/africa/how-noise-pollution-is-bearing-down-on-millions-in-nigeria-12335544>> accessed 5 December 2023.

Thirdly, the laws governing noise control are fragmented, with different regulations outlining procedures for noise permits and revocation.<sup>47</sup> This can lead to inconsistencies and inefficiencies in regulatory frameworks, making it challenging to enforce laws and creating a lack of coordination among various agencies responsible for implementing them. A comprehensive and unified approach to addressing environmental issues is also hindered, potentially leaving some aspects unregulated or inadequately regulated and creating confusion among stakeholders and the public, making it difficult to understand the requirements and standards. A cohesive environmental protection system is crucial to achieving optimal noise pollution and environmental regulation.

Fourthly, there is a lack of state presence of the NESREA nationwide. NESREA has just 22 state offices out of 36 states in Nigeria.<sup>48</sup> It follows then that Nigerians in states without NESREA offices are disadvantaged. The enforcement of the regulation is a big challenge particularly because of the absence of branches of the agency in all the states of Nigeria. Hence, the activation of state environmental enforcement agencies is the best bet. It is more likely that the state agencies would be more effective owing to their ability to reach the grassroots in terms of public sensitization and enforcement. State presence of NESREA is advocated to ensure noise pollution is combated nationwide.

Fifthly, the absence of proper town planning is a hindrance to combating the menace and implementation of noise regulations. Business complexes and religious centres are more often than not interspersed with residential buildings, making it difficult to properly manage noise levels. Proper town planning involves establishing zoning regulations, which designate certain areas as residential, commercial, industrial, and recreational buildings. Where there are no proper zoning regulations or effective enforcement, different types of activities spring up in close quarters, exacerbating noise-related challenges. Ideally, town planning incorporates buffer zones between different land use types which act as physical separation, helping to mitigate the impact of noise generated by commercial or religious activities on nearby residential areas. Inadequate planning and lack of buffer zones can result in direct exposure of residential zones to noise pollution. Urban planners and policymakers can collaborate with the communities to ensure noise pollution is mitigated.

In conclusion, while noise regulation in Nigeria has commendable provisions, addressing the above challenges is paramount for effective noise pollution control. To achieve this, policymakers should prioritize raising awareness among the public about the adverse effects of noise pollution, integrate noise education into school curricula, and conduct extensive training and workshops at grassroots levels.

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<sup>47</sup> National Environmental (Permitting and Licensing System) Regulation 2009.

<sup>48</sup> National Environmental Standards and Regulations Enforcement Agency (NESREA) <<https://www.nesrea.gov.ng/our-offices/>> accessed 20 September 2023.

## 5.0 Comparative Analysis of the Legal Framework for Combating Noise Pollution in the United Kingdom, Switzerland, Japan and Nigeria

### 5.1 The United Kingdom

The United Kingdom (UK) has a comprehensive legal regime for the regulation of noise pollution which ensures that its citizens are protected from the various forms of noise pollution via the Noise Act 1996 and the Control of Pollution Act 1974.<sup>49</sup> By virtue of the provisions of the Environmental Protection Act (EPA) 1990, the local authorities are empowered to investigate noise complaints and prosecute offenders.<sup>50</sup> This includes the power to issue fines and seize noise-making equipment under the Noise Act 1996, the Environmental Protection Act 1990, and the Noise and Statutory Nuisance Act 1993. The Anti-Social Behaviour Act 2003 and the Clean Neighbourhoods and Environment Act 2005 also include measures to control local noise nuisance.

A noise application that is downloadable on iPhone or Android to simplify noise reporting and investigation is the most innovative. With this development, a victim of noise pollution can capture noise efficiently and report freely where the local authority, housing association, enforcement agency, or other organizations have subscribed to the Noise Application.<sup>51</sup> The UK also has a website for noise pollution complaints monitored by the Department for Environment, Food & Rural Affairs (Defra).<sup>52</sup> This enhances the reporting system and equally encourages enforcement mechanisms. An individual can use this website to make a complaint and help ensure that action is taken to address the noise.

Also, when making planning decisions, the local authority has the power to consider potential nuisances. This requires a noise impact assessment, issuing entertainment licenses, and making decisions about building controls by ensuring that sound insulation is adequate.<sup>53</sup> Councils can serve a notice<sup>54</sup> on people carrying out construction or demolition works to ensure that the work is carried out in such a way as to avoid a potential statutory noise nuisance. Persons or institutions who fail to comply with the notice can be prosecuted and fined an unlimited amount, with further fines for each day of non-compliance.

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<sup>49</sup> Others are the Civil Aviation Act 1982, Road Traffic Act 1988, Environmental Protection Act 1990, Noise and Statutory Nuisance Act 1993.

<sup>50</sup> Sections 79(1), 80(4) and 81(5) EPA 1990.

<sup>51</sup> East Cambridgeshire District Council, 'The Noise App' <<https://www.eastcambs.gov.uk/pollution/noise-app>> accessed 4 January 2024; 'The Noise App: Simplify Noise Reporting and Investigation' <<https://www.thenoiseapp.com/#/>> accessed 4 January 2024.

<sup>52</sup> See Noise Nuisances: How Councils Deal with Complaints, <<https://www.gov.uk/guidance/noise-nuisances-how-councils-deal-with-complaints/>> accessed 10 January 2024.

<sup>53</sup> Government of UK, 'Noise Nuisances: How Councils Deal with Complaints' (2015) <<https://www.gov.uk/guidance/noise-nuisances-how-councils-deal-with-complaints#other-ways-councils-can-deal-with-noise/>> accessed 4 January 2024.

<sup>54</sup> The notice can contain the following: noise level, the plant or machinery that can be used, the hours when work can be done, and steps that need to be taken to minimize noise.

For other offenders, the Council can issue an abatement and/or warning notice for contravention requiring the noise to stop. Penalties for offence range from a fine of between £50 and £80, or £75 default as an alternative for being prosecuted; prosecution if the Council does not issue a fixed penalty notice or if the person responsible doesn't pay the fine on time (if convicted, they can be fined up to £1,000).<sup>55</sup>

Nigeria has a provision for fines and prosecution for non-compliance but has no strategy to monitor defaulters. The method of enforcement in the UK is also quite different from Nigeria's case due to the availability of websites for reports and the duty on the employer to reduce noise from machines, plant, and equipment at source, as far as is reasonably practicable; comply with any requirements set out in abatement notices if issued.<sup>56</sup>

The concept of noise mapping is peculiar to the UK. Noise mapping is used to assess and manage environmental noise. This includes mapping noise from major roads, railways, airports, and urban areas.<sup>57</sup> The regulation emphasizes public participation in the mapping process and enables the local authorities to engage with the public in the fight against noise pollution.

Nigeria, though with sufficient provisions, lacks comprehensive methods of enforcement mechanisms on noise pollution and lacks the technology to detect noise. While in the UK, the constituents of its legal framework are acts of parliament, the precise regulation on noise pollution in Nigeria is a subsidiary legislation which, in an actual sense, hampers its effectiveness. The concept of noise mapping appears alien to the Nigerian regime, while in the UK, noise regulation institutions ensure that noise mapping is used for noise abatement. The current sanction system and procedural instruments are hardly employed. The NESREA sanctions and penalties are inadequate, and no cases are available to show where such sanctions or penalties have been applied in court. In addition to the above, the penalty range is not adequate to deter offenders in Nigeria.

## 5.2 Switzerland

In Switzerland, noise pollution is taken seriously, with a comprehensive legal framework covering various aspects starting with the Switzerland Federal Constitution 2000. Article 74 specifically made provisions for the protection of the environment. The section provides that 1) the Confederation shall legislate on the protection of man and the natural environment against harm and nuisance, and 2) it shall ensure that such influences are avoided. The polluters shall pay for the costs of avoidance and removal, and 3) the federal regulations shall be implemented by the Cantons, as the statute does not reserve this for the Confederation. Unlike the Nigerian Constitution, which makes environmental law non-justiciable, the Swiss Constitution

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<sup>55</sup> Noise Nuisances (n 53).

<sup>56</sup> *Ibid.*

<sup>57</sup> Environmental Noise (England) Regulation 2006.

makes provisions against environmental harm and /or nuisance. It also ensures that polluters pay for the injury or harm occasioned by such actions.

The implication of Article 74 (1) is that the Federal Government has the power to enact laws and regulations aimed at safeguarding both the people and the natural environment from harm or disturbance. The government takes a proactive approach to abating nuisance, emphasizing the prevention of harm or disturbance rather than merely addressing its consequences.<sup>58</sup> Most importantly, the cost associated with avoiding or eliminating damage or nuisance is to be borne by those responsible for causing it. This principle aligns with the ‘polluter pays’ concept, placing financial responsibility on entities or individuals responsible for environmental harm or disturbance of which noise pollution is included. Nevertheless, implementation of the provisions of the Constitution is left within the jurisdiction of the Cantons, who play the role of executing and enforcing federal environmental regulations within their territories. Section 74, therefore, reflects Switzerland’s commitment to ensuring the well-being of its population and the preservation of its natural environment through a combination of federal oversight and decentralized implementation.

Switzerland has other laws and regulations addressing noise pollution operating at the federal, cantonal (state), and municipal levels. They are designed to manage and control noise from various sources, considering both environmental and public health.

The Swiss Federal Environmental Protection Act focuses on environmental, civil, and neighborhood aspects, as well as specific regulations for transportation modes such as road, railway, cable railway, and air transport.<sup>59</sup> The country prioritizes a high quality of life for residents, hence the mandate for the statutory protection of the environment under Article 74.

One laudable feature of Switzerland’s law is the protection afforded in Article 74 of the Swiss Federal Constitution, which stipulates that laws are to be enacted for the protection of man and the environment from harm and nuisance. It further states that polluters are to pay for the cost of avoidance and removal. Unfortunately, the Constitution of the Federal Republic of Nigeria 1999<sup>60</sup> makes non-justiciable section 20 which provides for the protection of our environment. This is indicative of the legislative posture of the country towards environmental protection. A legislative structure that is unambiguous, emerging from a climate of public outrage and incorporating substantial criminal penalties, is likely to encourage a stringent enforcement policy.<sup>61</sup> Nigeria still sees noise pollution as a ‘Cinderella Pollutant.’<sup>62</sup> Hence the failure to give it the

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<sup>58</sup> Article 74 (2) of Swiss Constitution.

<sup>59</sup> Frank Abbühl and others, *Noise Abatement in Switzerland Status and Perspectives* (SAEFL 2002) 94.

<sup>60</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended).

<sup>61</sup> Richardson, G., ‘Strict Liability for Regulatory Crime: The Empirical Research’ [ 1987] Crim LR 295 299.

<sup>62</sup> Francis McManus, ‘Noise Law in the United Kingdom - a very British Solution?’ *Legal Studies* (20) (2) 264-290. <<https://www.cambridge.org/core/journals/legal-studies/article/abs/noise-law-in-the-united-kingdom-a-very-british-solution/A1F33B49D55BD44ED2904BA3F52C07A1>> accessed 21 September 2023.

seriousness it deserves. This perhaps explains why, rather than having a comprehensive act of parliament on the subject, Nigeria has a subsidiary legislation, one which is unknown to the Nigerian populace, which is also not enforceable when compared to Switzerland, which also covers diverse areas, including legislation on the environment, Neighbourhood law, Road transport, Railway transportation and a host of others.

### 5.3 Japan

In Japan, the primary legal framework for noise pollution includes the Environmental Quality Standards (EQS), Noise Regulation Law, and Environmental Impact Assessment Law. The Environmental Quality Standards Act sets permissible noise levels for various areas and times. The Noise Regulation Law, in Article 3, authorizes the prefectural governor to designate areas subject to the regulation of noise from factories and construction activities to protect areas such as residential zones, schools, hospitals, and other relevant areas. By paragraph 2, public input is required, and the governor must inform the public of decisions. It also mandates the prefectural governor to seek the opinion of people in designated areas when making the decision for the designation of such areas as well as for changing or abrogating such areas, and paragraph 3 requires public notification of the governor's decisions.

The governor has the authority to establish regulatory standards for noise in factories, construction work, permissible noise levels for motor vehicles, monitoring noise levels, and imposing penalties for violations.<sup>63</sup> It is important to note that noise pollution regulations and enforcement practices may differ between prefectures and municipalities in Japan. Governors of Prefectures, which can be equated to Local Governments in Nigeria, are empowered to designate areas that are to be subject to the regulation of noise and to make regulatory standards for noise regulation in factories, construction work, motor vehicles, and the likes.

The highlight of the legal regime in Japan is the grassroots touch. The Japanese legal framework encourages the active participation of individuals and communities in the noise regulation process. It allows individuals and communities to be part of the regulation process by allowing them to give opinions concerning areas to be designated. This grassroots approach is absent in Nigeria. The requirement for public input, informing the public of decisions, and seeking opinions from people demonstrates a commitment to transparency, public participation, and accountability. This approach is laudable as it ensures that the affected communities have a say in decisions that impact them directly. Involving the public in noise mapping, changes, or abrogation of areas acknowledges the importance of local knowledge and perspective in curbing noise pollution.

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<sup>63</sup> Article 4 Noise Regulation Law (Law No. 95 of 1979).

The obligation of the governor to provide public notification of the governor's decisions enhances transparency and keeps the community informed about the actions taken. This can foster a sense of responsibility on the part of the authorities and also empowers the public to be actively engaged in the noise regulation process.

## 6.0 Lesson for Nigeria

1) United Kingdom: From the analysis above, Nigeria should consider developing a more comprehensive legal framework encompassing various sources of noise pollution that is similar to the UK's Noise Act 1966 and Environmental Protection Act 1990. Nigeria should also emulate the UK's enforcement mechanisms, including online reporting and monitoring systems with the use of noise applications or through the establishment of websites or platforms for noise pollution complaints and monitoring. This type of enforcement mechanism will ensure fighting noise pollution a great deal in Nigeria. Nigeria must prioritize public awareness campaigns on the health effects of noise pollution and create user-friendly reporting systems, such as mobile apps, to encourage the active participation of citizens in noise regulation.

2. Although different legislations in Nigeria embody the 'polluter pays' principle,<sup>64</sup> it is necessary to implement these measures at the grassroots level to ensure that local communities are involved in noise pollution processes, as is the practice in Switzerland, holding industries and individuals financially responsible for preventing and mitigating the impact of noise pollution. This will discourage noise pollution and ensure the health and welfare of citizens as well as their environment. The involvement of local communities in noise regulation processes cannot be overemphasized; their involvement in the mapping and designation of noise-regulated areas to assess and manage environmental noise will ensure huge success.

3. The legal framework in Japan is also impressive as it strives to regulate noise pollution, not only through the creation of federal legislation but also by bringing it to the grassroots. The average resident can take part in the decision-making regarding noise pollution. This serves to make the law more effective and efficient, as people would naturally be inclined to obey not just because of possible penalties, but also because they were carried along in the decision-making process.

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<sup>64</sup> See section 12 (1) of the Harmful Wastes (Special Criminal Provisions) Act 1988 Decree No 42; section 5 of the National Environmental (Food, Beverages and Tobacco Sector) Regulations 2009; section 26 (3) of the Oil Spill Recovery, Clean-up, and Remediation Damage Assessment Regulations 2011 and Gina Elvis-Imo, 'An Analysis of the Pollution Pays Principle in Nigeria' *Ajayi Crowther University Law Journal*, (2016) (1) (1) <Error! Hyperlink reference not valid.> accessed March 21, 2024; Olayinka Oluwamuyiwa Ojo, 'Polluter Pays Principle Under Nigerian Environmental Law' *Environmental Liability-Law, Policy and Practice Journal* (2021) (26) (3) 91.

4. Also notable is the fact that most jurisdictions making strides in the fight against noise pollution have national legislation specifically for the regulation of noise pollution. The Police are empowered to receive complaints and enforce noise abatement laws within these jurisdictions where noise pollution laws succeeded. Nigeria should mirror this decisive approach by removing environmental protection from the blanket covering of Section 6(6)(c) of the Constitution. The *grundnorm* is the first place to effect necessary reforms in the stride to mitigate noise pollution in Nigeria. The National Environmental (Noise Standards and Control) Regulations 2009 has commendable provisions. Yet, it falls short of the strides that have been made in other jurisdictions and has grossly failed to be effective.

5. Nigeria is urged to incorporate the use of noise mapping, noise action plans, and the deployment of modern technology. The national assembly must enact comprehensive legislation on the various types of noise pollution prevalent in Nigeria, as can be found in the UK and Japan.

## 7.0 CONCLUSION

The challenge of eliminating noise has become more complex due to widespread industrialization and economic development, as sound is a natural outcome of mechanical energy consumption. Nigeria is still a developing nation, experiencing growth in urban areas, industrial expansion, and transportation infrastructure, making noise pollution a fundamental challenge as it faces escalating environmental noise pollution. Excessive noise has a domino effect on the development of a country. When there is excessive noise exposure amongst a population, people develop health challenges that impact their level of productivity as well as their environment. From this research's findings, the current legal regime on noise cannot and has failed to curb the problem of noise in the country.

The study, therefore, underscores the urgent need for a holistic and proactive approach to addressing noise pollution in Nigeria. The case studies of the United Kingdom, Switzerland, and Japan reveal effective legal mechanisms, public engagement strategies, and enforcement measures that Nigeria could learn from. The existing legal framework in Nigeria while making strides, faces challenges in terms of public awareness, technological implementation, and deterrent fines. To combat the complex impacts of noise pollution on human health, environment, and overall well-being, Nigeria must enhance its legal framework, increase public awareness, and collaborate across governmental levels. These concerted efforts are required to create a healthier, more harmonious auditory environment for all Nigerian citizens.

## 8.0 RECOMMENDATIONS

To tackle the challenges and shortcomings identified in this work, the following recommendations are suggested:

Active public sensitization must be conducted periodically to enlighten the populace on the types and effects of noise pollution, as well as the legal procedure for curbing it. Citizens should be informed on how noise infractions can be reported and who to report to. The agencies should deploy television and radio jingles as well as social media in their enlightenment campaigns. Secondary schools and tertiary institutions should be reached. There should also be regular and systematic training programs for NESREA staff and relevant stakeholders comprising individuals and groups from various sectors such as transportation, construction, healthcare, manufacturing, urban planning, and more. To facilitate ease of reporting and enhance public engagement, the agency should create an online portal for citizens to submit noise-related complaints. Additionally, a dedicated phone hotline should be made accessible to the public, enabling individuals to report complaints openly or anonymously, if needed.

The Nigerian government is urged to sponsor NESREA by funding their activities to enhance their duties. The amount stipulated as a fine upon conviction should be significantly increased to serve as a deterrent for noisemakers and also serve as revenue for the Agency. The option of a fine upon conviction in minor cases should be made solely available to first-time offenders or sentenced to community service upon conviction. This is to ensure effective and efficient enforcement of the law. Mandatory environmental noise impact assessment should be carried out every month and revision of the law every four (4) years. Special courts should be set up for trying cases of noise pollution. The court should be generous in its interpretation of the concept of rights to embrace the idea of the right to a noise-free environment.

NESREA should establish a nationwide presence across all 36 states of the country, equipped with adequately staffed offices to ensure effective coverage and enforcement of noise pollution regulations, and should foster collaboration and cooperation with the public for a more coordinated approach to noise pollution control.

Low sound technology vehicles should be imported, building regulations which would provide for buildings with noise-insulated construction materials, particularly in urban areas, proper land use planning, the deployment of Active Noise Cancellation (ANC), the use of noise barriers on highways and railways, the establishment of quiet hours in residential areas.

Noise pollution can generally be reduced by self-discipline: turning off appliances when not in use, using earplugs, lowering the volume of electronics, planting more trees to serve as barriers, regular maintenance of vehicles and machines, and even staying away from noisy areas will go a long way in ameliorating noise pollution and its negative health impacts. Finally, the government must actively work towards an improved

supply of electrical power, as the use of generators has been identified as a primary source of noise in Nigeria.<sup>65</sup> Alternative sources of power like Solar power should be encouraged by way of subsidization in the country.

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<sup>65</sup> Ebiwari Wokekoro, 'An Examination of Sources of Noise Pollution in Cities in Nigeria' *World Journal of Research and Review* / (WJRR) (2020) (11) (1) 1-6.