

LAW & ENVIRONMENT

LAGOS ATLANTIC CITY PROJECT

Environmental matters arising

Dr Lanre Fagbohun, associate professor, Faculty of Law, Lagos State University (LASU), Ojo, examines the imperatives for the conduct of Environmental Impact Assessment under our laws "for developments that are likely to significantly affect the environment". His critique comes in the face of allegations of non-compliance and breach of due environmental process by the Lagos State government in commencing works on the Lagos Atlantic City project without subjecting the Environmental Impact Study (EIS) to public debate. He concludes by urging the government to comply with due process as provided in the various environmental legislations for the overall interest of Lagosians.

SOME few days back I received a mail from a final year law student from the University of Jos asking me to give my 'detailed comments' regarding a recent publication in one of the daily newspapers entitled "Professionals demand EIA reports as Lagos begins Atlantic City Project". The report noted that there are concerns that due process may have been breached by the commencement of work on the project before an environmental impact study is subjected to public debate.

From the report, officials of the State did not deny the fact of commencement of work. They contended that 'the first stage of the EIA has been carried out, while the second stage is on-going'. Further, they asserted that, 'it was the conclusion of the first stage of the exercise that informed the commencement of the sand filling', thus, confirming that the project has indeed commenced. Finally, officials of the State noted that, 'experts have already given a go ahead for the project'.

From the content of that report, it is not clear what officials of the State meant by 'first stage of EIA' that has been carried out pursuant to which a decision has been taken to proceed with the project. One of the principal goals and objectives of environmental impact assessment (EIA) is to establish before a decision is taken by any person, authority, corporate body or unincorporated body including the Government of the Federation, state or local government intending to undertake or authorize the undertaking of any activity, those matters that may likely or to a significant extent affect the environment or have an environmental effect on those activities and which shall first be taken into account.

By Section 2 of the EIA Act, where an activity is likely to significantly affect the environment and is therefore the subject of an EIA, the public or private sector of the economy shall not undertake or embark on

or authorize the project without prior consideration of the environmental effects. By section 7, before a decision can be given on an activity to which an environmental assessment has been produced, opportunity shall be given to government agencies, members of the public, experts in any relevant discipline and interested groups to make a comment on the environmental impact assessment of the activity.

If indeed as reported the EIA of the Lagos Atlantic City project has not been subjected to public debate, then, the answer cannot be that a 'first stage of the process has been carried out' or that 'some experts have given a go ahead'. Neither of these responses would satisfy the allegation that the project is being carried out in breach of due process.

With rising demand for more land as population increases, the need to build more homes in private and public housing estates, recreation for the growing population; and the need to expand commercial and industrial activities and transport needs, it is pragmatic to accept that undeveloped natural resources will from time to time be exploited. In a number of situations, economic, social or political factors will far outweigh environmental factors. This, however, will not in itself prevent activities with significant environmental impact from being implemented. Rather, it would afford a situation whereby not only will best options be identified, mitigatory and compensatory measures will also be proposed to meet environmental impacts. Invariably, actions will be authorised in the full knowledge of their environmental consequences.

With respect to the proposed \$3billion Atlantic City Project ('the Project') it will include the development of hotels, housing accommodation, tourism centre, schools, hospitals, shopping mall and other related facilities. It will also provide a 30 metre wide central waterway which will provide water transport facility connecting the Ma-



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rina and an international standard electrical power generation plant with underground distribution. In addition, the project would on completion result in the State earning a certain percentage from funds coming in from the project. Clearly, there is considerable value in the project.

In terms of the environmental concern, the project will involve the reclamation of up to 820 hectares of the Atlantic Ocean, spanning 6,500 metres and an average width of 1,260 metres. It cannot be denied that there are potential ecological implications likely to result from the proposed reclamation, and some of these may have devastating environmental effects. The environmental effect of reclamation include direct loss of often highly productive shallow-water habitat and the destruction of biodiversity-rich ecosystems such as coral reefs, seagrass and macroalgal beds, all of which are highly valuable to tropical coastal communities for food and ecological services such as storm buffering. Human communities, especially in coastal areas of the tropics, depend heavily on intact, productive, coral reefs and their resources. Reefs are crucial sources of food for many coastal communities, providing fish, molluscs, and crustaceans, and they function as breeding grounds for many commercial species upon which even inland peoples depend. As at 1998 some estimates had it that ten per cent of coral reefs have already been lost, and another sixty per cent may disappear in the next twenty to forty years. While coral reefs are highly adaptive to natural disturbances, they are extremely sensitive to human-induced environmental change.

There are other less obvious areas of the sea that are ecologically linked to reefs. These include soft-bottom communities adjacent to the reefs and where many reef organisms feed and breed, mangrove forests that provide nutrients and nursery areas for many species, and the major migration cor-

ridors that link these diverse critical habitats. Aside of these, the high turbidity caused by disposal of sediment can smother marine flora and fauna. Reclamation can also result in modification of the direction and velocities of tidal currents. Equally significant is that when industrial complexes are built in such reclaimed areas, the chemical wastes generated will cause further problems for the sea in the absence of planned management.

It is the findings of EIA that would focus on these important and critical issues, explaining their importance and estimating probabilities in a way that affords a basis for policy decisions. It is for this reason that EIA should not be treated as an appendage, or add-on to a project, but rather as an integral part of project planning.

Information generated from EIA have effectively contributed to decision making in other countries. In this regard, mention can be made of the Kansai International Airport that was constructed ca. 5km off the coast of Senshu, Southeastern Osaka Bay, Japan. The second phase reclamation commenced in July, 1999. Prior to the second phase of work, far reaching surveys were conducted to examine and analyse such things as the annual production of phytoplankton, zooplankton, seaweed and benthic animals among others. Similar studies are also ongoing with respect to a plan to build a bridge across the Mandib Strait on the Red Sea. The 28.5km bridge will be one of the longest in the world, and would link Djibouti to Yemen, creating a man-made link between the Middle East and Africa.

In the case of the Palm Jumeirah, an offshore mega project ongoing in the United Arab Emirates, the environmental impact study was what revealed that 96 percent of the project will stand on top of bare sand, and not sponge or natural reef. Evaluation and monitoring studies have since confirmed that the artificial breakwater surrounding the Palm Jumeirah has become home to sponges, fish, barnacles and other reef life. The breakwater, built with stones the size of cars, is designed to withstand swells of up to 4.5 metres. A desalination plant is being built on Palm Jumeirah which will help offset the need for more portable water. What the above indicates is that the more effective an EIA is the more the development resulting therefrom will be environment friendly.

As noted by His Excellency, Mr. Babatunde Raji Fashola (SAN), at a stakeholders meeting on sand dredging, sand mining and land reclamation, 'The state [Lagos] is not immune to climatic changes and rising sea levels, the Atlantic Ocean here is the same in North America. Every time a tornado or hurricane hits it, the impact is felt here in 14 days'. Consequently, His Excellency who clearly has distinguished himself as an ardent environmentalist advocated that every care should be taken not to destroy natural resources by unchecked incursion. So far, Lagos State has been doing it right in the area of environment protection. The Lagos Atlantic City project should not be an exception. If indeed opportunity has not been given for consultation and public participation, that gap must be corrected NOW. This is the sure way to nurture development and growth in a sound and sustainable manner.