

Appraisal of the Regulatory Framework for Addressing Environmental Nuisance in Ghana

Collins Nana Andoh^{1*}; William Gyamerah Agyare¹; Michael Addaney²

Abstract

Environmental laws are intended to limit any harm that individuals may cause to the environment while exercising their right to own property or life. Most countries' enactment of environmental laws has been guided by the majority of treaties they signed. Ghana, as a signatory to majority of international treaties, has enacted several environmental laws aimed at protecting the environment. This paper aims to assess the effectiveness of three major environmental laws in Ghana: The Environmental Protection Agency Act of 1994, the Environmental Assessment Regulations of 1999, and the Land Use and Spatial Planning Act of 2016 in addressing or abating environmental nuisance in Ghana. The paper reviewed several pieces of literature and nuisance cases and placed them in the context of the laws. It was interesting to note that while reading the laws, it became clear that Ghana has enough laws in place to address the environmental nuisance in communities, particularly in urban areas where it is becoming alarming. However, these laws are not effective. The paper recommends that institutions mandated by law be well-equipped and that certain parts of the law be amended to prevent any political interference in law enforcement.

Keywords

Environmental Laws; Environmental nuisance; Environmental protection; Environmental Protection Agency; Environmental Assessment Regulation; Land Use and Spatial Planning; Ghana

¹Department of Civil and Environmental Engineering, University of Energy and Natural Resources, Sunyani, Ghana

*Corresponding author: collins.andoh.stu@uenr.edu.gh

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1. Introduction

Conflict is common in neighboring relationships (Cheshire et al., 2019). Due to the situation of one sharing a boundary or wall with the other, there might be noise, odor, smoke, and other forms of pollution from one house that will have a dire effect on the other (Fasolino et al., 2016). In this era of industrialization where residential and industrial users are very close to one another, such conflicts are unavoidable (Pontin, 2013). The more diverse uses of property, the more likely conflicts are to arise (Casado-Pérez & Liguierre, 2019). Environmental laws date back to the ancient Roman Empire and it was intensified by the industrialization drive (Steele, 2017; Fisher, 2018). In recent years, environmental law has emerged as a critical tool for promoting long-term development. Many environmental law reforms have been informed by policy concepts such as the precautionary principle, public participation, environmental justice, and the polluter pays principle (Casado-Pérez & Liguierre, 2019; Weiss, 2011). Experimentation has been extensive in the search for more effective methods of environmental control that go beyond traditional "command-and-control" regulation. These international laws on the background of sustainable development were a legal subject that emerged at the 1972 Stockholm conference on the human environment, through to the Rio Declaration in 1992 which elapsed in 2012. (Sand & McGee, 2022).

However, the law on environmental nuisance has still not been effective or stable due to human rights issues and its diverse nature but is confounded in common laws such as the Tort law. (Pontin, 2018, Kaeting 2012). The law of nuisance that results from either negligence or intentional behavior is essential in our dispensation looking at how urbanization is on the rise, especially at the time when people will intentionally infringe unreasonable and substantial harm on others without any cause whether through action or inaction (Abelkop, 2014).

Ghana's environmental laws according to Aboagye et al (2020) date back to the colonial period. Nevertheless, such environmental laws in such an era did not always guarantee more sustainable environmental protection not to talk of nuisance laws. Instead, the majority of such environmental laws were aimed at disease prevention and control due to the issue of implementation and enforcement (Adjarko et al, 2016). Sarpong (2018) asseverated that common law torts such as negligence, nuisance, and trespass are rarely used in Ghana to realize environmental rights or address environmental concerns. While acknowledging the limitations of common law, the author stated that using common law in environmental actions could be a valuable avenue for individuals, environmental pressure groups, and even enforcement agencies such as the Ghana Environmental Protection Agency(EPA), and Land Use and Spatial Planning Departments. Given the limited use of common law to protect environmental rights, as well as the low prosecution of environmental crimes codified in the Criminal Code, it is no surprise that filth, noise, air pollution, and other common environmental ills have become commonplace in Ghana.

Little to no work has been done in the examination of Ghana's environmental laws on nuisance from the perspective of the Environmental Protection Law Act 1994, Environmental Assessment Act 1999, and Land Use and Spatial Planning Act 2016, therefore, this research seeks to fill that gap. The research will identify and examine the relevant provisions in the environmental legislation and policies addressing nuisance and evaluate their effectiveness. The paper has three substantive parts. In Part II, a detailed literature review and theoretical framework on environmental nuisance, its risks, and its impact on humans and the environment will be done; and, Part III involves a critical analysis of the relevant laws, policies, and institutional mechanisms responding to environmental nuisance in Ghana leading to a conclusion where key arguments, findings, and recommendations will be presented.

2. Literature Review and Theoretical Framework

The section deals with environmental nuisance – the various definitions and nature of environmental nuisance. There will also be some nuisance laws – essentials of envi-

ronmental nuisance law types of nuisance laws, history of nuisance laws, and their application.

Risks from environmental nuisance will equally be captured under this section with a thorough review of the impact of nuisance on humans and the environment.

2.1 Environmental Nuisance

In general, the term nuisance refers to an inconvenience to oneself or others (Fasolino et al, 2016). The word "nuisance" stems from the Latin word "nocere," which means "to injure or hurt." The term "noisance" or "nuisance" was coined by the French and refers to an act that causes offense, annoyance, trouble, or hurt. A nuisance develops when the right to quiet enjoyment is violated by neighbours to the point where a tort is committed. (Cheshire et al, 2019; Blakeney & Hartrell).

Several authors have defined nuisance (e.g., noise, smoke, odors, blight, undesirable flora, and fauna) from various angles. According to Temby (2016), nuisance historically means a significant problem to the general viability and success of economically diverse urban communities. In his work, Hylton (2014) defined annoyance as an intentional, unjustifiable, nontrespassing invasion of the quiet use and enjoyment of property. It was also captured in Abelkop (2014) as a typical theory in tort litigation involving pollution externalities. As they can't be avoided, little annoyances like cars honking their horns as they pass by a shop along a highway should be allowed. As stated by Casado-Pérez and Ligure (2019), the law of nuisance does not allow for legal action to be taken against minor annoyances that arise from regular social interactions. However, impeding roadways and disposing of animal carcasses, among other things, cannot be considered minor annoyances. As a result, if the disruption exceeds a specific threshold, it is defined as a tort of nuisance and becomes illegal. (Kyriakakis, 2019)

2.2 Law of Nuisance

The law of nuisance is said to be a condition, activity, or situation (such as a loud noise or foul odor, etc.) that interferes with the use or enjoyment of property or some right (Abelkop, 2014). Prolonged exposure to odor emissions causes annoyance which leads to nuisance and consequently to complaints (Zarra et. al., 2021). According to Pontin (2012), nuisance law was consistently a robust constraint on polluting industrial enterprises during the industrial revolution. Under the Law of nuisance, if a man starts a poultry farm on his piece of land and the odor from the farm becomes too unbearable. That man commits a nuisance by the virtue of starting that poultry farm on his land and disturbing his neighbors who have the right to enjoy their properties as well. However, if the farm was already in place and a neighbor comes to put up his building, it is crystal clear that a case cannot be raised against the farm owner or such a case might not be actionable by the nuisance law. A clear example is the

case of concentrated animal feeding operations (CAFOs) in the United States captured by Centner and Alcorn (2015). Public discontent with practices accompanying the production of animals for food at that center led to requests to increase government regulations of pollutants and also led to various agitations (Midwest Environmental Advocates, November 2013).

For making an act of Nuisance actionable under the law of torts, Srivastava (2018) gave the following as essentials that must be satisfied. Thus, Wrongful Act by the Defendant (unlawful interference) – A primary wrongful conduct or unlawful interference with a person or his property is required for an act to qualify as a nuisance, and; Damage/Loss/Inconvenience caused to the Plaintiff – Inconvenience or annoyance inflicted to someone that the law regards as significant or material, as opposed to sensitivity or delicacy.

2.3 Types of Nuisance

There are two types of nuisances, depending on the nature of the interests infringed. A private nuisance, as explained by Nolan (2019) and Porter (2019) is an interference with a property owner's use and enjoyment. Judicial relief will be given based on factors such as the gravity and type of the harm, as well as the feasibility of preventing it, the balancing societal value of the behavior creating the nuisance, and the appropriateness of the location in which the conduct occurs. If a private nuisance is determined to exist, the aggrieved person may seek monetary compensation or, in some situations, injunctive relief. In *Mrs. Patricia Bannerman and Dr. Elizabeth Masopoh vs. International Central Gospel Church, Cross Road Community Church Ministries, and The Municipal Chief Executive* (AP 56/2014) [2019] (21 January 2019) the High Court held that the excessive noise from the churches is above the permissible level, hence, amounted to a nuisance. The court though did not grant the plaintiffs' relief for the church to be pulled down, it ordered the defendants to compensate the plaintiff and as well ordered them to comply with permissible ambient noise as captured under Regulation 25 of the EPA Environmental Assessment Regulation Act 1999, LI 1653 within 30 days, for residential areas and thereafter be reporting to the EPA by the end of the first quarter of each year their noise level.

On the other hand, the common law has long recognized the public's right to be free of certain interferences with public safety, public morals, public peace, and public welfare, known together as public nuisances. A public nuisance must involve interference with the public interests, not just the interests of a few individuals. The primary cause of action for public nuisance is the state. A private person may sue for public nuisance only if he has suffered some "special hurt" or "specific damage" not sustained by the broader public. Reference is made to **Felicia Adjul and three others v The Attorney-General**

and nine others (Misc. 811/96,) [1996] (30 July 1996), the plaintiff filed suit claiming relief from nuisance committed during the construction of an open sewerage system at Tema, Ghana. The court, however, declined to exercise jurisdiction. It found that the threshold for the application was whether the action stemmed from an area of activity "essential for the Bank to accomplish its functions." This was determined not to be the case. If one were to hold otherwise, the Bank would be subject to a slew of lawsuits just because it provided some assistance to a member state or a signatory to the Vienna Convention. Furthermore, the court thought that the provisions on jurisdictional immunity were created with this goal in mind, and it saw no reason why these restrictions should not apply to the intended action just because the alleged cause of action, which is a nuisance, harmed a private person. Acquiring land in Ghana for landfills, wastewater treatment facilities, public toilets, industrial activities, and other uses, according to Afful et al. (2015), has recently become increasingly difficult due to the public nuisance (odour) that it would generate. According to the authors, a recent standoff occurred in Kwabenya, a suburb of Accra, Ghana's capital, between locals and authorities on the siting of a landfill in the area due to their fear of the olfactory nuisance that the facility could bring.

A public nuisance in one area will not be considered one in another (Fasolino, 2016; Steel, 2017). The character of the neighborhood detailed by Cheshire et al. (2019) is seen to be essential in evaluating whether or not something constitutes a nuisance. He who dislikes traffic noise should not live in the city center. A person who appreciates peace should not live in a place that manufactures boilers and steamships. Noise can cause auditory and non-auditory health effects such as sleep disturbances, mental health, physical effects, etc (Osei & Effah, 2022; Wang & Norback, 2021).

According to Porter (2019) the location rule, the "only persons with property rights" can sue policy and the increased willingness of judges to issue damages instead of an injunction under the pretense of the application of the private nuisance law appears to violate the distributive concept of environmental justice. He established that to uphold the principles of environmental justice, the tort of private nuisance must yield a fair distribution of interproprietary environmental 'bads', where Rawls' difference principle is used to set the standard of fairness.

2.4 Risks of Environmental Nuisance

Because nuisance disrupts one's enjoyment of life, it usually has a debilitating effect that requires immediate care (Zarra et. al., 2021). A persistent annoyance causes tension (Wang & Norback, 2021). For example, loud noises in a residential neighbourhood late at night can disrupt people's sleep, and a particularly strong odour from a neighbour's chicken farm in a residential area can also be

hazardous to others' health (Osei & Effah, 2022; Zarra et al., 2021). Because of their potential for harm to those who have not willingly or expressly chosen to experience their effects, environmental nuisances are risky and need to be managed rather than regulated by a power greater than that of a single citizen. In Ghana, for instance, natural resources, such as water bodies, are being misused through illicit mining, and people don't care what happens to those who are downstream (Mantey et al, 2017). Even the noise as a result of the mining activities in these areas is unbearable (Baffoe et al, 2022). These effects may affect other groups in the future as well as today.

Threats like air pollution and hazardous metals in food chains may very well be more severe in rich nations, but they are rapidly increasing in the urban-industrial areas of developing nations. According to Fasolino et al. (2016), environmental management can lower health risks by utilizing knowledge of how the physical environment affects cumulative exposures.

2.5 Environmental Nuisance and Human Live

The impact of environmental nuisance on human lives has been and continues to be of great essence. Environmental nuisance has made several people suffer from auditory and non-auditory diseases. Mental illness and many skin diseases are a result of an environmental nuisance (Wang & Norback, 2021). Besides, according to Lee et al (2022), Osei & Effah (2022), and Araujo Alves et al (2020) environmental nuisances such as noise have negative effects such as sleep disorders, learning impairment, diastolic blood pressure, hypertension, stroke, and annoyance. Environmental noise also has a significant impact on humans' cognitive and learning abilities, particularly for vulnerable groups, such as infants and young children (Lee et al, 2022). Nighttime noise carries a significant disease burden (Smith et al, 2022; Osei & Effah, 2022).

The general environment is exposed to toxic fumes, vapors, and particles such as in the case of concentrated animal feeding operations (CAFOs) and Agbogboshie (Cenler & Alcorn, 2015, Wheeling, 2020). Among them include ammonia, hydrogen sulfide, carbon dioxide, carbon monoxide, foul-smelling gases, and particles tainted with a variety of microbes. The potential health consequences of exposure to these chemicals and particulates as a result of public nuisance for residents are poorly understood and that makes it deadly.

A typical urban resident's day in Ghana, as was outlined by an Information Briefs Series of the Institute for Environment and Sanitation Studies (May 2012), starts with loud dawn broadcasts from evangelists who purport to be preaching damnation for sin, along with the loud calls to prayer from Muslims over enhanced loudspeakers which normally surpasses the permissible ambient noise as set by the Environmental Protection Agency (EPA) for residential areas. The next step involves a drive through congested traffic, with taxis and trotros honking for pas-

sengers to go to their respective destinations (Gilani & Mir, 2021). You might be fortunate to avoid commercial or industrial locations during the day. When one gets home, they are greeted with the obtrusive music coming from the corner stores, which they have no control over just because many are less knowledgeable in the prosecution of such nuisance. Typically, this will go on from nightfall till daybreak before being retaken by the various religious sects. Almost every day, residents are forced to deal with this situation and it is becoming the norm.

2.6 Environmental Nuisance and the Environmen

The environment suffers greatly as a result of an environmental nuisance, as explained by Wheeling (2020) in the case of Agbogboshie in Accra, the capital city of Ghana. The destructive impact of climate change that is currently occurring around the world is the eventual outcome of these public nuisances. As a result of society's carelessness, the nation's natural resources are being depleted day by day. The time when practically every community in Ghana's southern region could brag of at least one nice river or stream that one could simply travel and fetch for household use is long gone. However, many rivers have either become contaminated or dried up as a result of overexploitation through illegal mining, irrigation, and urbanization.

The Odaw River in Accra, Ghana's capital city, has developed into not only a dumping location for solid waste but also a container for excreta, with some people squatting along its banks to answer the call of nature in public, even during the day. Odaw River and Korle Lagoon both perished as a result of environmental issues. Several governments have attempted to return the lagoon to its original state without success. The stunning Korle Lagoon has been rendered useless since all of its tourism potential has been wasted.

3. Analysis of Laws, Policies, and Institutional Mechanisms

The section reviews Ghana's environmental laws, policies, and institutional mechanisms in place to curtail and address environmental nuisance. A special focus will be on the 1992 constitution, National Environment Action Plan, the Environmental Protection Agency, Environmental Assessment Regulations, and Land Use and Spatial Planning undertaken.

Moreover, sections of other important national laws, codes, decrees, regulations, and policies that directly help to deal with the issues of public, as well as private nuisances, will be analyzed under this section.

3.1 The 1992 Constitution of Ghana

The supreme legislation of Ghana, the 1992 constitution, grants all of its citizens the freedom to live in peace and tranquility free from annoyances. No matter your

position or class, you cannot infringe on the citizens' freedom to enjoy ownership of their properties without any interference, whether it be private or public.

Every person in Ghana has the right to fundamental human rights and freedoms under Chapter Five of the 1992 constitution, regardless of their race, place of origin, political viewpoint, color, religion, creed, or gender. No one shall be purposefully deprived of their life or their liberty, and all people shall be treated equally before the law, according to the fundamental human right. In light of this, it suggests that this chapter has adequately addressed the problem of a nuisance. Because environmental pollution—which includes the creation of offensive odors, noise, and the disposal of waste into bodies of water—can be harmful to an individual's or the general public's health and even result in death or the restriction of personal freedoms for those living in the catchment area. **Mrs. Patricia Bannerman and Dr. Elizabeth Masopah vs. International Central Gospel Church, Cross Road Community Church Ministries, and The Municipal Chief Executive (AP 56/2014) [2019] (21 January 2019)** is a case in point, in which the neighbors of the two churches were subjected to noise levels that were significantly higher than those set by the EPA. If this had not been reported, it might have had serious health consequences, including their life being purposely stolen from them or their liberty being violated.

As presented by Lee et al (2022), infants and young children are significantly affected by environmental noise on their cognitive and learning abilities. To obviate this harsh condition as resulting from environmental nuisance, Article 28, clause 1 (d) captures it in plain terms that the Parliament of Ghana must enact laws to protect these children and young people against exposure to physical and moral hazards.

Similarly, Article 36, Clause 9 states unequivocally that "the State shall take appropriate measures necessary to protect and safeguard the national environment for posterity, and shall seek cooperation with other states and bodies to protect the wider international environment for mankind." As a result, the Ghanaian government has recently become aggressive with unlicensed miners ("Galamsey" operators). Rivers such as the River Birim in the Eastern Region and the River Offin in the Central Region, which provide drinking water to communities along their length, are on the verge of extinction. The Ankobra and River Pra, important water sources for both Western and Central Regions, have their fair share of environmental problems. In this sense, the State must not sit back and watch the situation worsen before acting, because it has a responsibility to protect the public's access to water bodies and prevent any public nuisance from being created by some selected few.

Furthermore, under Article 41 (k), it has been stated

categorically that the exercise and enjoyment of rights and freedoms are inseparable from the execution of duties and obligations, and so it should be the duty of every citizen to maintain and safeguard the environment. It implies that every person is required by law to protect the environment, even if he or she is not concerned with the well-being of others.

As a result of the foregoing, it is consequently impermissible for any citizen to pose any type of environmental nuisance to another individual or the community while exercising his or her freedom. Although the government is required to maintain the environment for the citizens, citizens should exercise caution in how they enjoy their liberty.

3.2 The Environmental Protection Agency (EPA) ACT 1994, (ACT 490)

The Environmental Protection Agency (SPE) emerged over time from the 1974 National Redemption Council Decree (NRCD, 239), which established the Environmental Protection Council (EPC) immediately following the United Nations Stockholm Conference on Human Environment in 1972. According to Section 2 of the NRCD, the EPC's responsibility was to ensure a responsible environment through the planning and execution of projects, including existing ones, that would interfere with the quality of the environment (Yeboah & Tutuah, 2014; Okley, 2004).

The EPA is the agency mandated by law and an ACT of parliament, ACT 490, to coordinate with other governmental agencies to enact and implement environmental laws and regulations in Ghana, according to Aboagye et al (2020). The Agency also has the authority to seek an environmental impact assessment from anyone planning to undertake a development project that, in the Agency's judgment, has or is likely to have an impact on the environment (Okley, 2004).

Because of their supervisory role under Sections 2 (c), (d), (f), (g), (h), (i), and, most importantly, Section 2 (o), it is critical to note that the agency is well positioned to avoid and address any environmental nuisance case that may occur. Similarly, Section 12, Subsection (1) authorizes them to conduct an environmental impact assessment on any individual or company whose behavior or project will be harmful to the environment. However, according to Section 12, Subsection (2), the EPA shall only notify the organ or department of government that has the authority to issue a license, permit, approval, or consent for that organ or department to act. As a result, if that organ or department on its side fails, the EPA's work becomes obsolete. Fortunately, Section 13, Subsections (1), (2), and (3) authorize the Agency to enforce their notices, which might result in a fine of up to 250 penalty units and a period of imprisonment of up to one year, or both the fine and the imprisonment.

According to the review above and previous research by Okley (2004), Darko-Mensah & Okereke (2013), Sarpong (2018), and Aboagye et al (2020), the Environmental Protection Act, 1994 (ACTS 490) empowers the agency to deal effectively with all the rampant environmental nuisances in Ghana, but the only challenge is with the overly focus on the development of environmental policies regulations and lack of enforcement and prosecution; conflicts and overlapping roles, as well as a lack of harmonization or consolidation of responsibilities by the various departments and agencies that have a stake in the environment. The EPA, on the other hand, is not doing well under Section 12 (o) - the public needs necessary information and knowledge on some of these vexing issues. How many Ghanaians or churches are aware of the EPA's allowable decibel level? if I may inquire.

Additionally, in a 2019 story published on GhanaWeb by Ghana News Agency, the EPA acknowledged that much is expected of them in dealing with environmental lawbreakers, particularly in urban areas. Mr. Kingsley Guray-Sey, the EPA Chief Programme Officer, was quoted in the online portal as saying at a training organized for environmental journalists in Accra that "prosecution in the past had not been as planned due to problems including a lack of technical experts."

The fact that ACT 490, section 14 allows the Minister-in-charge of the environment the ability to prosecute through a police officer is a crucial aspect that equally contributes to either non-compliance with environmental regulations or weakness in policy enforcement in Ghana (Tuokuu et al, 2018). This suggests that if the person or firm implementing the project is on the same political line as the Minister or is close to the Minister, there is a significant likelihood that he will either fail to prosecute or postpone prosecution. As a result, the legislation is vulnerable to top-down political influence (Aboagye et al, 2020). The "Galamsey" activity in Ghana is one example. Most of the senior politicians in the previous and current administrations are deeply involved in the nuisance being made, making it impossible for the minister to put an end to it.

3.3 Environmental Assessment Regulations 1999, (LI 1652)

The passage of the Environmental Protection Agency ACT, 1994 (ACT 490), provided the initial legal foundation for the establishment of Ghana's Environmental Impact Assessment (EIA) systems. The Environmental Assessment Regulations 1999, on the other hand, were enacted to provide complete legal support for EIA systems and to establish procedures and criteria for the preparation, submission, review, and approval of environmental impact assessments, as well as the application and granting of environmental permits. Any actions that may have an environmental impact (as defined in Schedules 1 and 2) must be registered with the Environmental Protection

Agency, and the Agency must grant an environmental permit before the activity may begin. The legislation, as a core component of the EIA system, must be clear, simple, and inclusive of all major environmental concerns that affect the EIA system's performance, according to Mubanga and Kwarteng (2020). The regulation has everything needed to deal with environmental nuisances.

The public is an important stakeholder in environmental nuisance issues because they usually suffer the enfeebling effect of the nuisance. Under Regulation 1, Schedules (1) and (2), any company or individual undertaking any project is obliged to get a permit, and to obtain the permit under the regulation, the entity must conduct an EIA and submit the report to the EPA for assessment and approval. The company or person conducting the EIA is required under Regulation 5 of the LI to consult with a variety of stakeholders during the early stages of the project to acquire local knowledge, and address public concerns, and opinions that may have serious repercussions on the project design, and thereby increasing public confidence and minimizing conflicts (Kudjardie, 2014). The public's engagement is critical for achieving efficient and successful EIA practice and implementation, which is critical for reducing any sort of environmental nuisance that may appear.

Given this context, one would expect negative environmental repercussions from planned projects to be avoided and offenders to face legal consequences. On the contrary, there have been several occasions where initiatives have been launched without these protocols and principles, resulting in more harm than gain. Intense public uproar sparked by projects has become the norm. And the environment as a whole bears the brunt of this pain. (Kudjardie, 2014). Another revelation from an interview carried out by Aboagye et al (2020) is that the significant boundary against the effective enforcement of environmental laws and plans in Ghana, by the Agency mandated by power, is said to be a lack of capacity, insufficient funds, and absence of logistics. This affirms the claims by the Chief programmes officer of the agency captured in the piece by Ghana News Agency on the rationale behind weaker enforcement (Ghana News Agency, 2019).

3.4 Land Use and Spatial Planning ACT, 2016 (ACT 925)

After a careful examination of Ghana's nuisance cases such as **Amidu and Another Vrs Alawiyie and Others (J4 54 of 2018) [2019] GHASC 28 (24 July 2019)**, **Wiafe Vrs Bortey (J4 43 2015) [2016] GHASC 60 (01 June 2016)**, **Simmons Vrs Simmons (J4 21 of 2015) [2016] GHASC 70 (15 March 2016)**, **Awabego Vrs Akubayela and Another (J4 6 of 2016) [2016] GHASC 23 (23 November 2016)**, etc. ., it is safe to say that ACT 925 has arrived at the opportune moment. The majority of cases handled in

Ghanaian courts concern land issues, such as someone trespassing or causing a nuisance while enjoying his newly acquired property. Based on the foregoing, the Ghanaian Parliament passed the ACT solely to ensure the judicious use of land to improve the quality of life, promote health and safety in human settlements, and govern the national, regional, district, and municipal spatial planning.

Spatial planning as a concept, as captured by Smith & Levermore (2008) and later by Hedidor et al. (2016), is a very important phenomenon focused on maintaining and ensuring most importantly environmental harmony, in that developing urban spaces increases the quality and sustainability of living even in warm climatic locations such as in the case of Ghana. Sarfo (2020) also adds that spatial planning promotes appropriate use of land, regeneration, and judicious use of infrastructure and buildings; promotes usage of both brown and Greenfields; Prevents environmental pollution and conservation of significant cultural and historical assets; Protects and enhances areas of recreation and natural heritage; encourages access to all modes of transport; and incorporates tenets of efficiency in the use of energy in the design and development of plans.

Articles 120 and 121 of ACT 925 were specifically drafted to address Ghana's environmental nuisance. The ACT requires District Assemblies to communicate with the EPA under Article 162, which contributes to the lack of coordination in the implementation and enforcement of Ghana's environmental laws, particularly in the case of an environmental nuisance, whether public or private. Collaborations are sealed under the terms of Article 182. Authorized officers of the planning unit are granted the authority to abate any environmental nuisance, prevent a violation of the ACT, or carry out enforcement by the terms of the ACT.

Although all these provisions are in the ACT, Sarfo (2020) laments that there is still less integration and coordination for holistic planning and its practices which is leading to duplication of efforts and planning activities which is resulting in a waste of resources to get things done under these two planning systems.

3.5 Other Potentially Relevant ACTS and Environmental Nuisance

To reduce environmental annoyances, specific Articles and Clauses in some Ghanaian laws should be highlighted. Upon reviewing the majority of the cases, it was discovered that the Criminal Code of 1960 (ACT 29) played a significant effect. Even before some of the present statutes were enacted, most prosecutions in law courts were based on this Criminal Code. The Local Assemblies Act of 2016 includes provisions for the removal or abatement of impediments and nuisances (ACT 936). The ACT also gives the District Assemblies the authority to enforce nuisance laws. The Public Health Act, 2012 (ACT 851) contains a section on public nuisance that prohibits peo-

ple from dumping carrion, filth, refuse or rubbish, or any other offensive or otherwise unwholesome matter on a street, yard, enclosure, or open space, except in places designated by the local authority or environmental health officers. Furthermore, the ACT prevents persons from making loud noises that exceed the EPA's allowable decibel level. These, and many other laws and regulations, have changed the environment by suppressing environmental nuisances long before the EPA Act, Environmental Assessment Regulations, and the Land and Spatial Use Act were enacted.

4. Conclusion and Recommendation

The paper has critically evaluated the effectiveness of the Environmental Protection Agency's Act of 1994, the Environmental Assessment Regulations of 1999, and the Land Use and Spatial Planning Act of 2016 in addressing or abating environmental nuisance in Ghana. This work went further to equally assess some older ACTS such as the Criminal Codes of 1960 which has been the backbone to most of the cases on nuisance far before the other laws came to be and as well as the Local Assemblies Act 2016 which has been passed to give the Local Assemblies muscles to bite in cases of an environmental nuisance at the Assembly Level. It is on this note that the Municipal Chief Executive of the Ga East Assembly was charged to make some payments to the plaintiffs in the case of **Mrs. Patricia Bannerman and Dr. Elizabeth Masopeh vs. International Central Gospel Church, Cross Road Community Church Ministries, and The Municipal Chief Executive (AP 56/2014) [2019] (21 January 2019)** when the officer failed to prosecute the churches when it was brought to their attention of such public nuisance under their jurisprudence. It was interesting to note that surfing through the laws, it became clear that Ghana has sufficient laws to address or abate the environmental nuisance in the communities most especially the urban areas where it is becoming alarming. Despite these legislations and the subsequent approval of permits by EPA through the EIA system, there are increasing environmental nuisances such as noise pollution, filth, indiscriminate disposal of waste, air pollution, land disputes, and other environmental nuisances as postulated by Sarpong (2018). Well-legislated and institutionalized EIA in a country does not guarantee environmental protection and sustainable development unless there is good practice (Aboagye et al, 2020). The high level of environmental pollution and natural degradation does not imply the failure of the EIA, but certainly, the situation would have been worse in the absence of EIA legislation and practice (Taako et al, 2020).

To effectively solve the challenges of laws on environmental nuisance, the following recommendations are suggested:

1. Government should equip the institutions man-

dated by law, to deal with environmental issues, and to be self-sufficient so they can recruit more staff, undertake capacity building and equally educate the masses on issues of the environmental nuisance.

2. The part of the regulations that allow the Minister in charge of the environment to prosecute anyone that goes in contravention of the law, must be assessed critically since it breeds political interference in the enforcement of the law. Thereby creating a polarized or one-sided enforcement and prosecution regime. Perhaps the minister could be made to exert that power when all other means have proven futile or better still if the issue at hand is a transboundary type that will require the two states to address it.

3. The uncoordinated approach to dealing with environmental issues must be, as a matter of urgency, resolved to ameliorate the bottlenecks in the enforcement and prosecution of culprits.

4. Time for the provision of permits must also be considered as of essence in the sense that individuals or corporate entities normally apply for permits when all is set for them to start their company or put up their structures. Delays in the provision of permits normally affect their finances, especially in a developing country like Ghana where inflation is on the ascendancy now and then.

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