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An Examination of the Nigerian Climate Change Laws and Policies: Stagnation or Progress?

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Abstract

Climate change is a global issue that affects every country, a pressing issue that requires global response. Nigeria is one of the countries that are most affected by climate change. The Nigerian government has recognized the impact of climate change on the country's economy, health, and environment, and has put in place laws and policies to address the issue. However, the question remains whether these laws and policies are effective in mitigating the impact of climate change or if they are simply symbolic gestures with no real impact on the ground. This paper examines the Nigerian climate change laws and policies to determine whether they are contributing to progress or stagnation. The paper provides an overview of the Nigerian climate change laws and policies, including the Climate Change Policy and Response Strategy (2012) and the National Climate Change Policy (2013). It also examines the legal framework for climate change in Nigeria, including the Constitution of the Federal Republic of Nigeria (1999) and the Environmental Impact Assessment Act (1992). The paper then analyses the effectiveness of Nigeria's climate change laws and policies, especially the 2021 Act. The analysis is based on a review of relevant literature, as well as interviews with key stakeholders in Nigeria's climate change sector. The analysis reveals that while Nigeria has made some progress in addressing climate change, there are still significant challenges to be overcome. These challenges include a lack of funding, limited public awareness and understanding of climate change, and weak institutional frameworks. It concludes by recommending measures that can be taken to improve Nigeria's climate change laws and policies. Overall, the paper suggests that while Nigeria has made some progress in addressing climate change, there is still much work to be done to ensure that the country is better prepared to tackle this critical issue.

Keywords: Examination, Nigerian Climate Change, Laws, Nigerian Climate Change Policies, Stagnation, Progress

1. Introduction

Climate change is one of the most significant environmental challenges facing the world today, one of the greatest challenges facing humanity, and Nigeria is not exempt from its impacts.

It has a profound impact on the earth's ecosystem, natural resources, and human livelihoods. As a developing Nation that depends mostly on oil, Nigeria is vulnerable to the negative impacts of climate change, including

increased frequency and intensity of natural disasters, declining agricultural yields, and environmental degradation.

In Nigeria, the effects of climate change have been felt across various sectors, including agriculture, water resources, energy, and health. To address these challenges, the Nigerian government has developed climate change policies and laws to guide the country's response to climate change. This paper examines the Nigerian climate change laws and policies to determine whether there has been stagnation or progress in addressing the challenges posed by climate change.

1.1 Climate

Climate is a word gotten from the Greek word 'Klima' meaning inclination; it is therefore defined as the weather conditions prevailing in an area in general or over a long period of time. It is the statistical average of the weather taken over a large period, typically 30 years.

Technically, the definition of climate and climate change has been contentious for years and there is still no generally accepted definition of climate change, as different definitions have been offered overtime.

However, the Intergovernmental Panel on Climate Change, (IPCC) defines climate in the following words:

"Climate in a narrow sense is usually defined as the average weather, or more rigorously, as the statistically description in terms of the mean and variability of relevant quantities over a period ranging from months to thousands or millions of years. The classical period is 30 years, as defined by the World Meteorological Organization (WMO). These quantities are most often surface variables such as temperature, precipitation, and wind. Climate in a wider sense is the state, including a statistical description, of the climate system."

Climate system changes under the influence of internal variability and/or external forces such as volcanic eruption and anthropogenic activities. The major components of climate system are the atmosphere, the hydrosphere, the cryosphere, the lithosphere and the biosphere and the way these components interact. climatic conditions differ, depending on time and place. Another definition of climate is given as the 'actual conditions in the climate system.'

Climate is a property of climate system though there is no consensus as to what the property really is. Human activities are considered as external influence of average weather conditions, or statistical distribution of those conditions over a long period of time. A call has been made by climate scientists that the normal period of climate change should be shorter than the 30-year standard period set by the World Meteorological Organization. Components of climate are highly dynamic and vary over a time. To properly define and forecast weather conditions, it is pertinent that radiation, air pressure, humidity, temperature, wind speed and direction, evapotranspiration, precipitation, condensation and cloud cover are measured

1.2 What Is Climate Change?

A change in global or regional climate patterns, in particular a change apparent from the mid to late 20th century onwards and attributed largely to the increased levels of atmospheric carbon dioxide produced by the use of fossil fuels, where carbon dioxide is trapped in the atmosphere that it becomes as if the earth is wrapped by a blanket, thereby causing the earth to be warmer.

It is important to note that climate change is a natural phenomenon, without which the earth will be 60% colder which will be impossible to live in, however the effect of climate change has been radically increased through human activities which are the green house effects (GHGs).

Climate change therefore is a term used to refer to long-term shifts in temperatures and weather patterns. Climate change also refers to a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods. Since the 1800s, human activities have been the main driver of climate change, primarily

due to burning fossil fuels like coal, oil and gas. These burning of fossil fuels generates greenhouse gas emissions that act like a blanket wrapped around the Earth, trapping the sun's heat and raising temperatures.

Examples of greenhouse gas emissions that are causing climate change include carbon dioxide and methane. These come from using gasoline for driving a car or coal for heating a building, for example. Clearing land and forests can also release carbon dioxide. Landfills for garbage are a major source of methane emissions. Energy, industry, transport, buildings, agriculture and land use are among the main emitters. After a thorough research, Michael Kerr, stated that, climate change is attributed to 'higher concentrations of green house gases in the earth's atmosphere leading to increased trapping of infrared radiations.

1.2.1. Is the climate indeed changing?

The United Nations indeed thinks that the climate is changing, and so do most scientists who study climate. And since there is an obvious effect of these weather conditions, it then means that the climate is indeed changing. In February 2007, The United Nations Inter-governmental Panel on Climate Change (IPCC) released a report that said global warming was very likely, meaning at least 90% certainty caused by human activity. The variations in the current of ocean and volcanic eruptions are examples of natural forces that contribute to the change of Earth's climate. The ocean current alters distribution of heat and precipitation. On the other hand, volcanic eruptions release heat and dust into the atmosphere. The concentration of these substances in the atmosphere is interfering with the

1.3 Overview of Climate Change in Nigeria

Nigeria is a country located in West Africa, one of the most populous countries with a population of approximately 206 million people. The country's economy is largely dependent on its natural resources, including oil, gas, and agricultural products; one of the largest oil-producing countries in the world, and the oil sector is a significant contributor to the country's economy. However, the activities in the oil sector have had adverse effects on the environment, leading to pollution and environmental degradation. Climate change has further exacerbated these problems, with increased temperatures, erratic rainfall patterns, and rising sea levels.

Nigeria is highly susceptible to the impacts of climate change, including flooding, drought, desertification, and rising sea levels.

The Intergovernmental Panel on Climate Change (IPCC) has predicted that West Africa, including Nigeria, will experience significant climate change impacts, including increasing temperatures, reduced rainfall, and more frequent and intense extreme weather events. These impacts are expected to have severe economic, social, and environmental consequences, including decreased crop yields, increased water scarcity, and the displacement of people.

The Nigerian government has acknowledged the need to address climate change and has taken steps towards developing policies and laws to guide the country's response. In 2013, the Nigerian government developed a national climate change policy aimed at promoting sustainable development, reducing greenhouse gas emissions, and building resilience to the impacts of climate change. The policy provides a framework for the implementation of climate change activities in the country and guides the development of sector-specific strategies to address climate change challenges.

In 2014, the Nigerian government enacted the Climate Change (Establishment, Etc.) Act, which provides for the establishment of the National Climate Change Council and the National Climate Change Fund. The Act also provides for the establishment of the Climate Change Department within the Federal Ministry of Environment to coordinate and implement climate change activities in the country. The Act provides a legal framework for the implementation of the national climate change policy and the development of sector-specific strategies.

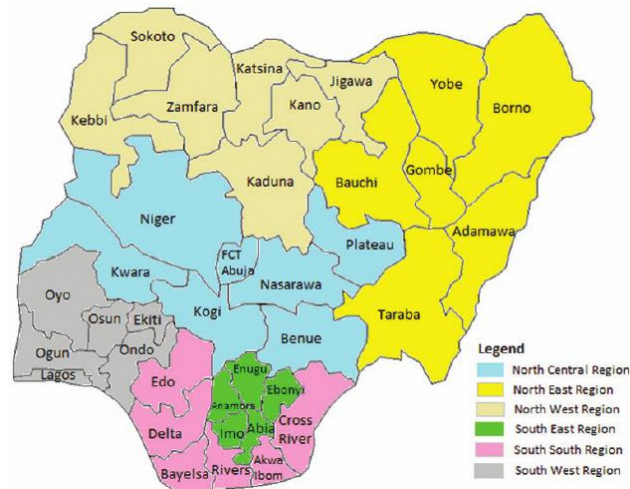


Figure 1: Map of Nigeria showing the 36 States and the Federal Capital

2. Nigeria's Climate Change Laws and Policies

Nigeria has been experiencing adverse effects of climate change in recent years, including flooding, desertification, and erosion. To address this challenge, the Nigerian government has enacted several climate change laws and policies aimed at mitigating and adapting to climate change impacts, recognizing that it is a global problem that requires a concerted effort by all.

2.1 The significant climate change laws and policies in Nigeria

2.1.1. The National Climate Change Policy and Response Strategy (NCCPRS)

This is one of the major climate change policies in Nigeria, adopted in 2012, the policy aims to reduce greenhouse gas emissions and enhance the resilience of the country to climate change impacts. The policy also promotes the use of renewable energy, the adoption of energy-efficient technologies, and the implementation of climate-smart agriculture.

The Federal Executive Council adopted in 2012 the Nigeria Climate Change Policy Response and Strategy. To ensure an effective national response to the significant and multi-faceted impacts of climate change, the strategic goal of the Nigeria Climate Change Policy Response and Strategy is to foster low-carbon, high-growth economic development and build a climate-resilient society through the attainment of the following objectives:

- i. Implement mitigation measures that will promote low carbon as well as sustainable and high economic growth;
- ii. Enhance national capacity to adapt to climate change;
- iii. Raise climate change-related science, technology and R&D to a new level that will enable the country to participate better in international scientific and technological cooperation on climate change;
- iv. Significantly increase public awareness and involve private sector participation in addressing the challenges of climate change;
- v. Strengthen national institutions and mechanisms (policy, legislative and economic) to establish a suitable and functional framework for climate change governance.

2.1.2 The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act,

This is an environmental agency of the Federal Government of Nigeria that was established by law in 2007 to "ensure a cleaner and healthier environment for Nigerians.

2.1.3. The Climate Change (Efficient Appliances and Equipment) Regulations

2.1.4. The Renewable Energy Master Plan

National Policy on Climate Change: In 2013, Nigeria adopted the National Policy on Climate Change (NPCC), which outlines the country's approach to mitigating and adapting to climate change. The policy provides a framework for integrating climate change into national planning and budgeting processes and promotes sustainable development.

National Adaptation Strategy and Plan of Action (NASPA): NASPA is a strategic framework that aims to reduce Nigeria's vulnerability to the impacts of climate change. It was developed in 2011 and identifies priority areas for adaptation, such as agriculture, water resources management, and health.

National Greenhouse Gas Inventory: Nigeria has developed a national greenhouse gas inventory to measure its emissions of greenhouse gases, such as carbon dioxide, methane, and nitrous oxide. The inventory helps the country to monitor its emissions and track progress toward meeting its emissions reduction targets.

Climate Change Department: The Climate Change Department was established in the Federal Ministry of Environment in 2012 to coordinate Nigeria's response to climate change. The department is responsible for implementing the National Policy on Climate Change and coordinating climate change-related activities across different sectors.

Renewable Energy Policy: In 2015, Nigeria developed a Renewable Energy Policy that aims to increase the share of renewable energy in the country's energy mix. The policy provides a framework for the development of renewable energy sources, such as solar, wind, and biomass.

Nationally Determined Contributions (NDCs): Nigeria submitted its NDCs to the United Nations Framework Convention on Climate Change (UNFCCC) in 2015. The NDCs outline the country's commitments to reducing greenhouse gas emissions and adapting to the impacts of climate change.

Overall, Nigeria has made significant progress in developing laws and policies to address climate change. However, the country still faces significant challenges in implementing these policies and achieving its climate goals, such as limited resources and capacity constraints.

Despite these efforts, progress in the implementation of these the Nigerian government has developed various laws and policies to mitigate and adapt to the impacts of climate change. These laws and policies include:

National Policy on Climate Change and Response Strategy (2012)

The National Policy on Climate Change and Response Strategy was developed in 2012 to provide a framework for addressing climate change in Nigeria. The policy focuses on five key areas: mitigation, adaptation, technology transfer, capacity building, and finance. The policy emphasizes the need for collaboration between the government, private sector, and civil society to address climate change.

National Adaptation Strategy and Plan of Action on Climate Change (NASPA-CCN) (2011)

The National Adaptation Strategy and Plan of Action on Climate Change (NASPA-CCN) was developed in 2011 to provide a framework for adapting to the impacts of climate change. The plan focuses on five key areas: water resources, agriculture, human health, biodiversity and forestry, and infrastructure. The plan emphasizes the need for climate change adaptation to be integrated into national and sectoral planning processes.

National REDD+ Strategy (2013)

The National REDD+ Strategy was developed in 2013 to reduce emissions from deforestation and forest degradation in Nigeria. The strategy focuses on five key areas: governance, carbon rights and tenure, participatory forest management, sustainable financing, and monitoring and evaluation.

Climate Change Department

The Climate Change Department was established in the Federal Ministry of Environment to oversee the implementation of climate change policies and programs in Nigeria. The department is responsible for coordinating the implementation of the National Policy on Climate Change and Response Strategy and the National Adaptation Strategy and Plan of Action on Climate Change.

Progress or Stagnation?

Despite the development of these laws and policies, Nigeria's progress in addressing the impacts of climate change is subject to debate. On the one hand, the development of these laws and policies demonstrates the government's commitment to addressing climate change. The policies provide a framework for addressing climate change, and the establishment of the Climate Change Department shows a commitment to implementing these policies.

On the other hand, the effectiveness of these policies in addressing the impacts of climate change is limited by several factors. These include:

Weak Institutional Capacity

One of the key challenges facing Nigeria's climate change laws and policies is weak institutional capacity. The government's ability to implement these policies effectively is limited by a lack

Background

Nigeria is one of the most populous countries in Africa, with a population of over 200 million people. The country is also one of the largest oil-producing countries in the world, and the oil sector is a significant contributor to the country's economy. However, the activities in the oil sector have had adverse effects on the environment, leading to pollution and environmental degradation. Climate change has further exacerbated these problems, with increased temperatures, erratic rainfall patterns, and rising sea levels.

The Nigerian government has acknowledged the need to address climate change and has taken steps towards developing policies and laws to guide the country's response. In 2013, the Nigerian government developed a national climate change policy aimed at promoting sustainable development, reducing greenhouse gas emissions, and building resilience to the impacts of climate change. The policy provides a framework for the implementation of climate change activities in the country and guides the development of sector-specific strategies to address climate change challenges.

In 2014, the Nigerian government enacted the Climate Change (Establishment, Etc.) Act, which provides for the establishment of the National Climate Change Council and the National Climate Change Fund. The Act also provides for the establishment of the Climate Change Department within the Federal Ministry of Environment to coordinate and implement climate change activities in the country. The Act provides a legal framework for the implementation of the national climate change policy and the development of sector-specific strategies.

Mitigation

Mitigation refers to actions taken to reduce greenhouse gas emissions, the primary cause of climate change. Nigeria has made some progress in implementing mitigation measures, particularly in the energy sector. The country has set a target of generating 30% of its electricity from renewable sources by 2030. To achieve this target, the Nigerian government has launched several initiatives, including the Solar Power Naija programme, which aims to provide 5 million households with solar power by 2023. The government has also initiated a plan to replace petrol-powered cars with electric vehicles (EVs) by 2030.

However, progress in other sectors, such as agriculture and waste management, has been slow. Agriculture is a significant contributor to greenhouse gas emissions in Nigeria, accounting for 36% of the country's emissions. The country has developed a National Agricultural Resilience Framework to promote sustainable agriculture and reduce emissions. However, implementation of the framework has been slow due to limited funding and inadequate technical capacity.

Similarly, waste management is a significant challenge in Nigeria, with inadequate infrastructure and poor waste disposal practices contributing to greenhouse gas emissions. The country has developed a National Waste Management Strategy to address these challenges, but implementation has been slow due to a lack of funding and limited technical capacity.

Adaptation

Adaptation refers to actions taken to reduce the vulnerability of human and natural systems to the impacts of climate change. Nigeria has made some progress in implementing adaptation measures, particularly in the water resources and health sectors. The country has developed a National Water Resources Master Plan to address water scarcity.

3.1 Analysis of Climate Change Law 2021

The Nigeria Climate Change Policy Response and Strategy (NCCPRS) was the first climate change policy by the Nigeria government which was in 2012. Then in 2021, the government in order to reposition the issue of climate change and its law, brought out the Climate Change Act 2021 and with various policies to lubricate it. This policy was to last between 2021 up to and including 2023.

The Act makes for reaching stands and among which are;

- i. that the newly established NCCC in concert with the Ministries of Environment, Budget and National Planning is to handle issues dealing with Climate Change Action Plan. This action plan needs to cover details about Nigeria's carbon budget, meaning approved quantity of emission, acceptable within a period of time, incentives for both public and private sections compliance, reduction targets, compliance with international standard notification.
- ii. there is the Carbon Tax: Carbon taxes are those environmental taxes levied on precise units of carbon by government to reduce carbon emissions through fossil-fuel-based energy, which actually happened due to production or consumption of goods and services. This apart from reduction of emissions created revenue sources of energy by conversion (technological innovations).
- iii. Emission Trading: This is an incentives technique where the government sets a cap limit on maximum level of emissions that is permissible and gives out a licence for each unit of emission, these units of emission can be traded by individuals or companies. The idea behind this is that individuals must choose between cutting down their GHS emissions or to participate in buying or selling the permits or allowances issued by government or other companies. This is trading like normal trading. It is however difficult because it involves (i) monitoring (ii) reporting (iii) verification. There are the issues also of reductions, market set up and other issues.

There was the establishment of National Council on climate change. They shall have powers to make Policies and decisions concerning matters on climate change in Nigeria. The Act also makes provision that there shall be collaboration between NCCC and FIRS in order to put in place carbon tax in Nigeria. The money realized from the carbon tax and emission trading and any other funds from the climate change penalty will serve as funds for the climate change Trust Fund. From what has been seen above, the law is a welcome development as it positioned the country into a serious nation tackling climate change frontally.

The carbon tax and emissions trading as seen above is superb and will go a long way to carbon climate change problems but the stakeholders participation with FIRS and NCC is not well spelled out. This is because the fundamental issues such as; (i) tax base, (ii) tax rate (iii) tax coverage (iv) method of calculation, (v) peculiarity of consideration for emissions trading, will affect the realisation of the ideal climate change. The money realised should be used to take care of the health of citizens and communities because as it is no specific use of the Trust Fund as it concerns the community is mentioned. The Act did not also provide for sensitization of stakeholders who are likely to be penalized. Both the usefulness and disadvantages needs to have been reflected in the Act as climate change issues have become a global concern.

The Act provide for keeping the average increase in global temperature within 2°C and moving towards limiting temperature to 15°C above pre-industrial levels. There is the provision in the Act that every 5years there will be National Climate Change Action Plan. There exist legislative oversight functions by partnering with civil society,

climate change education, annual report to National Assembly and evaluation of performance both of public and private sectors. Furthermore, there must be Desk-Officers in Ministries, Departments and Agencies in order to ensure compliance. The council NCCC has power to impose additional obligations in order to ensure compliance with the climate change action plan.

The actions to fight for the implementation of this Act can be filed at the Federal High Court and can come under the followings;

- i. Section 33 of the constitution especially right to clean and healthy environment, Section 24 of African charter.
- ii. Protection of environment against harm by the state section 20 principles of equality of rights, obligations and opportunities, before the law.
- iii. Access to court section 17(2)(a)(ii).

4. Summary

The study was able to trace the issue of climate change in Nigeria especially coming from global recognition, it looks at the definition of climate change, overview of climate change in Nigeria. Furthermore, the analysis of Nigeria's climate change laws and policies, was discussed including National Environmental Standards and Regulations Enforcement Agency Act, National Policy on climate change among others. The Nigerian Climate Change Act, 2012 and that of the Present Act, 2021. A serious analysis of Climate Change Law 2021 especially its far reaching changes, advantages and disadvantages associated to the said Act.

5. Conclusion

The issue of Climate change in Nigeria and its policies vis-à-vis the laws have made meaningful progress and not stagnated. However, the progress so far made is not reasonable enough as expected. Accordingly, there are necessities for lots of improvements in order to meet up or get nearer to the desired global expectations.

6. Recommendations

In line with making Nigerian Climate Change Laws and Policies to make more meaningful progress, the following recommendations are hereby made;

- i. The Nigerian Climate Change Act 2021 should be amended further to provide for sensitization of stakeholders who are likely to be penalized for being in breach of the Act.
- ii. The Nigerian Climate Change Act which provided for Carbon Tax and Emissions trading should provide for the participation of FIRS and NCC in a clearer manner as same has not been properly spelt out as at now.
- iii. The money realized as penalties should be used to take care of the health of citizens and communities because as it is not in the present Act, how the Trust Fund should be used for community development.
- iv. The NGOs should participate more in the monitoring of the compliance with United Nations standard as it concerns Climate Change in Nigeria. The National Assembly should not be allowed to participate only in over-sight function as they make compromise their reports on this issue.
- v. The Climate Change Policies in Nigeria should be continued in a singled-booklet which can be distributed to most stakeholders and updated from time to time.
- vi. There should be more seminars, talk-shows, and conferences yearly on climate change. This will improve the level of Climate change in Nigeria. The experts should be encouraged to participate more on this in order to enjoy their expertise.
- vii. There should be "climate change course" for all the tertiary institution in Nigeria. This should be a compulsory course in order to have more persons in Nigeria who would have more ideas in climate change.

References

- A Review of Nigeria's 2021 climate change: see; www.iucn.org; Accessed through the internet on 11/5/2023 at 1am
- Brian, E. J. R., Components of the Climate System (2015). https://atmos.albany.edu/facstaff/brose/classes/ATM623_Spring2015/Notes/Lectures/Lecture04%20Climate%20system%20components.html.
- Charlotte, W. (2016) On defining climate and climate change (2019) 67 *The British Journal for Philosophy of Science* 337- 364 <https://academic.oup.com/bjps/article/67/2/337/2473104>.
- Climate Components, Freie Universtat (2019). https://geo.fu-berlin.de/en/v/iwmnetworking/learning_content/environmental-background/basics_climategeography/climate-components/index.html.
- Climate Science, Standford Encyclopedia of Philosophy (2018). <https://plato.stanford.edu/entries/climatescience/>
- Nigeria's climate change act, (2021). <http://www.ilo.org>
- Nigeria's climate change act, (2023). <https://www.pwc.com>
- The climate change act (2021). <https://climatepolicydatabase.org/policies/climate-change-policy-response-and-strategy>
- United nations framework convention on climate change Rio (1992) <https://www.un.org/en/climatechange/what-is-climate-change#:~:text=But%20since%20the%201800s%2C%20human,sun's%20heat%20and%20raising%20temperatures.>