

Challenges and Prospects of the Legal Frameworks for Combatting Climate Change in Nigeria

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Abstract

This paper examined the phenomenon of climate change through a series of legal frameworks to mitigate the effects. Nigeria, being a party to many global conventions against climate change has many domestic policies towards reacting to the phenomenon of climate change. Some of these legal expositions include the Climate Change Act 2021, The National Environmental Standard and Relations Enforcement Agency Act, 2007, the National Climate Change Policy, International Measures in Combatting Climate Change etc. However, the implementation of the aforementioned policies has been a great challenge to the Nigerian government and stakeholders amounting to the present devastating effect of the phenomenon in the lives and livelihoods of the people across the world especially the third world countries and Nigeria to be specific. Some of the climate change events manifest in the forms of drought, erosion, changeable rainfall, degradation of land, dirty air etc. giving rise to loss of biodiversity, and intense flooding among others. This study relied on secondary data from newspapers, published research papers, policy documents on climate change and other unpublished literature in reaction to the subject matter. Some of these challenges include ineffective enforcement and implementation of existing legislation, and non-domestication of international climate change treaties amongst others. In light of the existing challenges, the study hopes to motivate Nigerian lawmakers, policymakers and relevant stakeholders towards more proactive legislation in combating climate issues in Nigeria. The study recommended that to enhance access to justice, climate change legislation should adopt a liberal approach to locus standi requirements, and review and revise existing legislations and policies that are relevant to climate change regulation such as environmental laws, energy laws, taxation laws, etc.

Keywords: Policy, Climate Change, Legal Framework, Challenges and Prospects

Introduction

Climate change has been identified as a huge threat to human existence with negative consequences on the lives of billions of people on Earth. This change is triggered by certain emissions that continue to make significant changes in the atmospheric condition. These shifts in climate are eventually felt in the rising temperature, extreme weather conditions, heat waves, thunderstorms, and floods, amongst other vulnerabilities associated with the shift in climate conditions.

This paper focuses on the challenges and prospects of the legal framework for combating climate change in Nigeria. Nigeria, like many other developing countries, is particularly vulnerable to the effects of climate change, given its heavy reliance on fossil fuels and the high vulnerability of its population to extreme weather events. Despite the country's vulnerability to climate change, Nigeria's legal framework for climate change regulation faces numerous challenges that impede its effectiveness.

Nonetheless, our world has made major advances in technical innovation, energy security, social well-being, structural transformation, industrial upgrading, greater labour productivity, economic development, and enhanced infrastructure to fight the new environmental phenomenon associated with climate change. A combination of these improvements provides people with a comfortable, habitable and healthy environment where humans and all breathing creatures can thrive, have a greater quality of life, improved standard of living, rare opportunities and of course, more freedom for human beings and animals to thrive and add value to the ecosystem. However, this level of traditional advancement, growth, and development does not come cheap. As a result, the price is becoming increasingly difficult to bear, sustain, or justify due to the scorching effect of climate change.

It is on this premise that this study focused on examining the strengths and weaknesses of policies meant to combat climate change within the context of Nigeria viz-a-viz the international protocols in combating the new phenomenon.

Conceptual Clarification

Policy

For this paper, it is imperative to establish that, the concept of policy and public policy would be used interchangeably. The concept of policy can be appropriately captured in the words of Sharkansky (1978) as “a proposal, an ongoing programme, and other goals of a programme, major decision or the refusal to make a certain decision”.

Ideally, public policy or policy is crafted to address problems that are identified as a threat to the course of achieving a public good or are designed to uplift or maintain a certain standard in the interest of progress or development. Policy is a framework of action for how an issue is to be addressed. Thus, climate change policy or policies are a chain of frameworks meant to minimize greenhouse gas emissions which is the trigger to global warming.

Friedrict (1982) cited in Ngu (2006) views policy as a proposed course of action of a person, a group or a government within a given environment providing obstacles and opportunities which the policy was proposed to utilize and overcome. From a different perspective, Dlakwa (2014) asserts that policy can be seen as a process of decision-making or choice. He further emphasized that public policy consists of all the likes and dislikes of government that are put together in the form of statutes or codified into law. according to Eneany (2009), public policy is the guide or framework which the government has designed to address a particular problem at any point and not, to solve all the problems in the society.

Ojo (2001) seems to have accepted Dlakwa’s and Friedrict’s view of “a policy as a purposive course of action followed by an actor or set of actors in dealing with a problem or matters of concern. As an operational definition for this study, policy is a deliberate course of action or a framework of government into which present and future public threats or concerns are addressed for the common good of the society or humanity.

Climate Change

The term climate originated from the Ancient Greek word *Klima* meaning *inclination*. It is defined as the weather average over a long period. According to Odoh (2012), the “standard averaging period is 30 years, but other periods may be used depending on the purpose. The climate also includes statistics other than the average, such as the magnitude of day-to-day or year-to-year weather temperature variation”

It is noteworthy that, climate change is already a phenomenon affecting all aspects of human endeavour and also its consequences have multiplier effects on the socio-economic and political stability of both humans and animals. Although climate change, like any other social science concept, can be viewed as instability in the patterns of climate over a long period, however, for this research, a generally agreeable conceptualization of climate change of the Intergovernmental Panel on Climate Change (IPCC) would be adopted as the intellectual foundation in defining climate change. Thus, IPCC 4th Assessment Report (2007) defines climate Change as:

Statistically significant variation in either the mean state of the climate or in its variability, persisting for an extended period (typically decades or longer). Climate change may be due to natural internal processes or external forces, or to persistent anthropogenic changes in the composition of the atmosphere or land use.

From the Fourth (4th) Assessment Report, it can be observed that climate change encompasses the statistics of temperature, humidity, atmospheric pressure, wind, rainfall atmospheric particle count and other metrological elemental measurements of a given region over a long period.

Additionally, the climate analysis done by the United National Intergovernmental Panel on Climate Change (IPCC) as cited in Odoh (2012), analyzed the concept as follows:

- a) Warming of the climate system is now unequivocal;
- b) The rate of warming in the last century is historically high;
- c) The net effect of human activities since 1750 has been one of warming, primarily due to fossil fuel use, land –use change and agriculture;
- d) Most of the observed increased in global average temperature since the mid-20th century is very likely (greater than 90 percent) due to the observed increased in anthropogenic (i.e. caused by human activity) greenhouse gas effect etc.

Legal Framework for the Regulation of Climate Change in Nigeria

Environmental rules and regulations, according to Mogo (2014) cited in Ati et al., (2018) serve as means of including responsible attitudes and behaviours towards the environment. Interestingly, Nigeria has many regulations (Laws) to promote clean energy, mitigate greenhouse gas and ensure a sustainable environment. Some of these measures that may influence climate change response include:

a) National Legal Framework for Combating Climate Change

Before 2021, Nigeria lacked a specific climate change legislation for regulating climate-related matters. However, this does not mean that the Nigerian government was not making efforts to address climate change. In 2007, two competing bills were presented to the National Assembly to enhance the capacity to establish, coordinate, and implement climate change policies. The first bill suggested the creation of a climate change agency under the Ministry of the Environment, while the second bill proposed to establish an independent National Commission on Climate Change (Ogunbode et al., 2019). Unfortunately, both bills faced challenges during the legislative process and were not passed (Oluduro, 2021).

In 2010, the National Assembly passed the Climate Commission Bill, which, regrettably, did not receive presidential assent (FGN, 2015). Another climate change bill was presented in parliament. The bill sought to establish a legal framework for integrating climate change responses and actions into government policy formulation and implementation. Moreover, the bill suggested the creation of a council responsible for coordinating climate change governance and supporting the adaptation and mitigation of climate change's negative effects in the country. The bill was successfully passed into law by the lower house of the Nigerian parliament (the House of Representatives) in 2017 and eventually underwent the necessary legislative procedures in the upper house (the Senate).

Until 2021 when the Climate Change Act was enacted in Nigeria, climate change regulation was governed by general environmental laws. Although these laws indirectly contributed to climate change mitigation and adaptation, they also helped in achieving the targets outlined in Nigeria's Nationally Determined Contributions (NDC). For instance, the Constitution of Nigeria, 1999 (as amended), holds significant influence over the enforcement of environmental rights, including those about climate change (Ako, 2012). Therefore, an examination of the relevant provisions of the Nigerian constitution is essential when discussing the legal framework in Nigeria (Oluduro, 2021).

b) The Constitution of the Federal Republic of Nigeria

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) serves as the highest law in Nigeria. Within the Constitution, Section 20 explicitly states that "The State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria" (Constitution of the Federal Republic of Nigeria, 1999:35). This provision imposes a responsibility on the Nigerian government to not only shield Nigeria from the detrimental impacts of climate change but also to take measures that prevent Nigeria from contributing to the causes of climate change. Consequently, Nigerians have the right to compel the government to fulfil this constitutional mandate if it fails to do so. However, it is regrettable that Section 20 is placed under Chapter 2 of the Constitution, which has been declared to contain non-justiciable provisions under Section 6 (6) (c) of the Constitution. This provision states that the judicial powers vested in the courts in Nigeria under the Constitution "shall not, except as otherwise provided by this Constitution, extend to any issue or question regarding whether any act of omission by any authority or person, or whether any law or judicial decision, conforms to the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution." (Constitution of the Federal Republic of Nigeria, 1999). As a result, Section 20 of the Constitution is rendered ineffective in combating climate change because it deprives individuals of the right and power to approach the courts to seek an order compelling the government to enact legislation or policies for climate change regulation and environmental protection (A.G. Ondo State V. A.G Federation, 2002). Furthermore, even if the government formulates policies or legislation to address climate change, it cannot be held accountable if it fails to implement such measures or adhere to the principles of the legislation (Oluduro, 2021).

c) Climate Change Act 2021

The Climate Change Act, enacted in 2021, was signed into law by former President Muhamadu Buhari in November 2021 to provide Nigeria with a legal framework for the country to achieve its climate goals, achieve. Additionally, the policy is to comprehensively address all possible challenges of climate change adaptation and mitigation and to provide a rock-solid foundational framework for ensuring climate change Action Plans, programs and projects, long-term social and economic sustainability and resilience. According to (Akaluzia (2022), the Climate Change Act is a significant and comprehensive local statute in Nigeria aimed at addressing the issue of climate change. It provides a legal and institutional framework for reducing greenhouse gas emissions and aligns with Nigeria's international climate change commitments. The Act sets a goal of achieving net-zero greenhouse gas emissions between 2050 and 2070, which is consistent with the Paris Agreement's goal of limiting the global average temperature rise to well below 2°C above pre-industrial levels and pursuing efforts to limit it to 1.5°C (Federal Ministry of Environment, 2021).

One of the key provisions of the Act is the establishment of the National Council on Climate Change, which is a corporate body with the authority to make policies and decisions on all matters relating to climate change in Nigeria. The Council is responsible for coordinating the implementation of sectorial targets, regulating greenhouse gas emissions, and approving and monitoring the National Climate Action Plan. It also manages the Climate Fund. The Act mandates the federal ministries of environment and land use planning to develop a carbon budget to limit the global temperature rise to 2 °C and make efforts to limit it to 1.5 °C above pre-industrial levels. The Council, through its Secretariat, is responsible for developing a national action plan on climate change every five years, the first of which is expected no later than 12 months after the commencement of the Act. The national action plan outlines the strategies, actions, and measures for achieving the objectives and targets of the Act (Climate Change Act, 2021).

The Climate Change Act provides a strong framework for climate action, addressing Nigeria's short, medium, and long-term objectives for climate reduction and adaptation. It places obligations on public and commercial institutions to promote a low-carbon economy and sustainable lifestyles. The Act also emphasizes collaboration with relevant parties, including civil society organizations. These

measures create a solid legal foundation for potential climate-related legal disputes and climate change activism. The Act also provides for penalties for violation of its provisions, as well as remedies and compensation for victims of climate change (Climate Change Act, 2021).

Although there are implementation steps to be taken, the Climate Change Act demonstrates Nigeria's commitment to addressing climate change seriously. It has the potential to serve as a powerful tool for climate change activism and provide a legal basis for climate litigation in Nigeria. Notably, it is the first comprehensive climate change law in West Africa and one of the few globally and regionally.

d) The National Environmental Standards and Regulations Enforcement Agency (NESREA) (Establishment) Act, 2007

The NESREA Act of 2007 is an important environmental law in Nigeria that replaced the FEPA Act of 1988. It created the National Environmental Standards and Regulations Enforcement Agency, which is in charge of enforcing environmental laws, guidelines, policies, and standards in Nigeria. The Agency also ensures compliance with international agreements, protocols, conventions, and treaties on various environmental issues, such as climate change, biodiversity, conservation, desertification, forestry, ozone depletion, and others (NESREA, 2007)

The NESREA (2007) Act gives the Agency various powers and duties, such as collaborating with relevant authorities to prosecute environmental offenders and establishing programs for setting standards and regulations for pollution prevention, reduction, and elimination. The Act authorizes the Agency to regulate emissions from different sources, such as energy sources (including those from vehicles and industries), factories, and power-generating facilities to fight atmospheric pollution. Section 20 of the NESREA Act specifically empowers the Agency to make regulations on the best ways of reducing emissions to acceptable levels (NESREA, 2007).

To support the functions of the Agency, Section 34 of the NESREA Act allows the Minister of Environment to make regulations for the effective implementation of the Act. Over the years, the Minister of Environment in Nigeria has issued about 24 regulations to achieve the objectives of the NESREA (2007) Act.

International Measures in Combatting Climate Change

Climate change is a global challenge that demands joint action from all countries. Various international measures have been established to combat climate change through international agreements, protocols, and conventions. Nigeria has been involved in international efforts to combat climate change and has signed and ratified several international climate change agreements, such as:

- i. **The United Nations Framework Convention on Climate Change (UNFCCC)** is the main international treaty on climate change. It aims to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous human interference with the climate system. Nigeria signed the UNFCCC in 1992 and ratified it in 1994 (UNFCCC).
- ii. **The Kyoto Protocol** is an international agreement linked to the UNFCCC that sets binding targets for industrialized countries to reduce their greenhouse gas emissions. Nigeria signed the Kyoto Protocol in 1998 and ratified it in 2004 (UNFCCC)
- iii. **The Paris Agreement** is an international agreement under the UNFCCC that aims to limit the global average temperature rise to well below 2°C above pre-industrial levels and pursue efforts to limit it to 1.5°C. Nigeria signed the Paris Agreement in 2016 and ratified it in 2017 (UNFCCC).

Nigeria has also received funding from international climate change funds, such as the Green Climate Fund (GCF), which is a global fund created to support developing countries in reducing their greenhouse gas emissions and adapting to the impacts of climate change. Nigeria has received over \$100 million from the GCF for various projects, such as enhancing the resilience of smallholder farmers, improving access to renewable energy, and strengthening climate information services (GCF, 2010).

These international measures show Nigeria's commitment and contribution to the global fight against climate change, which also form the legal framework for the regulation of climate change in Nigeria

National Climate Change Policies

The Nigerian government has formulated various policies to address climate change and its related issues over the years. These policies aim to reduce greenhouse gas emissions and mitigate the adverse effects of climate change in the country. Some of the notable policies include the following:

- i. **The Nigeria Climate Change Policy Response and Strategy (NCCPRS)** was developed in 2012 to reflect Nigeria's commitment to combating climate change. The NCCPRS provides a framework for integrating climate change into national development planning and sectorial policies. It also identifies priority areas for mitigation and adaptation actions, such as energy, agriculture, water resources, health, and disaster management (Federal Ministry of Environment, 2012).
- ii. **Vision 2020** is a comprehensive socio-economic development plan that also considers climate change implications. Vision 2020 aims to make Nigeria one of the top 20 economies in the world by 2020. It also recognizes the need to promote environmental sustainability and resilience to climate change. It outlines strategies for enhancing renewable energy, improving energy efficiency, promoting low-carbon transportation, and conserving natural resources (National Planning Commission, 2009).
- iii. **The National Climate Change Policy (NCCP)** was revised in 2021 to align with the Paris Agreement and Nigeria's Nationally Determined Contributions (NDC). The NCCP defines a new holistic framework to guide the country's response to the development challenge of climate change. It prescribes sectorial and cross-sectorial strategic statements and actions for pursuing a climate-resilient national sustainable development. It also sets targets for reducing greenhouse gas emissions and enhancing adaptation capacity in various sectors, such as energy, agriculture, industry, transport, and waste management (Federal Ministry of Environment, 2021).

These policies demonstrate Nigeria's efforts to address climate change and its related issues in a coordinated and coherent manner. They also provide a basis for implementing Nigeria's NDC, which is the country's commitment to reduce its greenhouse gas emissions by 20% unconditionally and 45% conditionally by 2030, compared to the 2010 baseline (Federal Ministry of Environment, 2015).

Climate Change Issues in Nigeria

While the activities of the developed countries are mostly responsible for the changing climate, the developing nations are those suffering more of the impacts due to the inability to cope as a result of poverty and low technological development (Ati et al., 2018). In addition to that, government neglect with excessive anthropogenic activities has immensely contributed to the worsening effects of climate change in Nigeria.

It is on the strength of the above assertion Nigeria is experiencing the following climate change effects:

- i. **Gas flaring and oil spillage:** The magnitude of oil spillage across the Niger Delta region attributes to the high level of environmental pollution which constitutes a public health challenge and also contributes to the debilitation of the ozone layer. Aside from that, it adds to the poor condition of marine sources which could as well affect both air and water which can negatively affect the wellbeing of the surrounding inhabitants and reduce food security. According to Onosode (2003), gas development was not accorded significant attention in recent years... The implication is that, without prior arraignment for collection and policy for utilization, the associated gas is continuously vented and flared. With cheaply produced oil readily available, operating companies have not found it attractive to tap and market gas, more so, as legal conditions for flaring were not sufficiently stringent to serve as a deterrent for intending defaulters. Buttressing the above assertion, Sampson (2020) reports that Nigeria has been flaring

an estimated 2.5 million cubic feet of gas each day which amounts to almost 40% of the total gas consumption in Africa. Additionally, Nigeria is responsible for one-sixth of the entire gas flared in the world as it pumps over 400 million tons of carbon dioxide into Nigeria's environment.

- ii. **Gully Erosion:** This is another current issue due to climate change resulting in heavy rainfall patterns, particularly in the Eastern part of Nigeria. According to Bashir (2018), it is claimed that, in Anambra State alone, there are about one hundred and fifty devastating erosion sites, destroying physical infrastructural facilities, farmlands etc. Similarly, destruction by erosion is seen all over the country in Enugu, Edo, Akwa Ibom, Sokoto, Jigawa and some other states of the Federation.
- iii. **Drought:** This environmental challenge has many contributing components. It should be noted that deforestation which is the excessive falling of trees for animal feeds, energy purposes, construction etc. gave birth to drought. Similarly, drought gives rise to desertification, and desertification gives rise to an increase in temperature resulting in undesirable and unbearable ecosystems which subsequently become harmful to inhabitants. Drought can also be seen as a product of erratic rainfall especially in the Northern parts of Nigeria with adverse consequences of losing biodiversity, intense flooding, degradation of land and increase in varying weather events etc. According to Bdliya (2018), rainfall amount has declined by 30% in Nigeria during the Sahel drought (late 1960s to 1990s). Other associated effects of drought include but are not limited to heat waves, thunderstorms, rise in sea level etc. Drought largely manifests in northern parts of Nigeria with a report showing that 35% of previously cultivated land in 11 northern states of Nigeria has been overran by desertification (Badru,2020).

Challenges of the Legal Frameworks for the Regulation of Climate Change in Nigeria

In this segment, the paper examines the hurdles of climate change governance in Nigeria with the view of critiquing the existing policies towards improving their efficacy and implementation for a resilient and sustainable environment.

Nigeria is a country with a significant stake in global efforts to combat climate change. With a population of over 200 million people and a growing economy heavily dependent on fossil fuels, Nigeria is vulnerable to the impacts of climate change. Despite this, the country's legal framework for climate change regulation faces numerous challenges that hinder the effective implementation of climate change policies. From the appraisal that has been carried out in this work, it is obvious that the following are some of the major challenges or limitations suffered by the existing legal framework for the regulation of climate change in Nigeria:

i. Ineffective Enforcement and Implementation of existing Legislation and Policies

Nigeria possesses a multitude of laws and policies that could be indirectly harnessed to address the pressing issue of climate change. These existing legislations, though not explicitly designed for climate change mitigation and adaptation, contain provisions and measures that could contribute to combating the challenges posed by climate change in the country. However, the critical issue that arises is the lack of political will to enforce these legislations effectively. It is disheartening to observe that many of these laws, which hold immense potential for climate change action, remain mere words on paper, unimplemented and overlooked. The government's focus appears to be primarily on the creation of new legislation and the formulation of policies, rather than on the crucial task of enforcing the existing ones (Oyebisi & Adeleke, 2019).

The consequence of this neglect is that Nigeria finds itself in a situation where the legislations and policies, which were conceived with noble intentions, are routinely disregarded, rendering them toothless in their impact. Despite the presence of comprehensive regulatory frameworks, the absence of effective enforcement mechanisms undermines their potential to drive meaningful change (Ati et al., 2019).

One noteworthy example is the regulations established under the Nigerian Environmental Standards and Regulations Enforcement Agency (NESREA) Act. If properly enforced, these regulations could serve as powerful tools in attaining the targets outlined in Nigeria's Nationally Determined Contributions (NDC) under the Paris Agreement. However, regrettably, these regulations exist as dormant provisions confined within the pages of the statute books, lacking the necessary teeth to bite and catalyze real change (Ati et al., 2019).

ii. Ouster Clause in the Constitution

One significant impediment to the effective regulation of climate change in Nigeria is the presence of an ouster clause in Section 6 (6) (c) of the Constitution. This clause renders non-justiciable the government's duty, as outlined in Section 20 of the Constitution, to provide a safe environment in the country. The inclusion of this ouster clause hampers the development of environmental and climate change litigation in Nigeria (Constitution of the Federal Republic of Nigeria, 1999). Without the ouster clause, the legal landscape in Nigeria could have witnessed the emergence and progression of climate change litigation. This would have enabled Nigerians to approach the courts, even in the absence of specific climate change legislation, to compel the government or other institutions to take action in addressing the adverse impacts of climate change. This would have mirrored the trend observed in the United States, where climate change litigation has proven highly effective in motivating various levels of government and institutions to take action on climate change, despite the absence of a comprehensive national climate change law.

However, in the current Nigerian context, the existence of the ouster clause raises doubts as to whether, even with the enactment of climate change-specific legislation, it would be possible to seek judicial enforcement of such laws without encountering the stumbling block presented by Section 6 (6) (c) of the Constitution (Constitution of the Federal Republic of Nigeria, 1999). This constitutional provision poses a significant challenge to the pursuit of climate justice in Nigeria. It restricts the avenues available for citizens to hold the government accountable for its obligations regarding climate change mitigation and adaptation. It limits the potential for the judiciary to play a proactive role in ensuring environmental protection and addressing the impacts of climate change.

To fully address the challenges posed by climate change and empower citizens to demand action, it is crucial to reconsider the ouster clause and explore avenues for judicial redress in matters relating to climate change. By revisiting this constitutional provision, Nigeria could unlock the potential for legal recourse, enabling individuals and communities to seek remedies and compel the government and relevant institutions to fulfil their responsibilities in combating climate change.

The removal or amendment of the ouster clause would create a more favourable legal environment, facilitating the effective enforcement of climate change legislation and fostering a culture of accountability. It would empower Nigerian citizens to actively engage with the legal system, demanding action and seeking redress for the negative impacts of climate change.

iii. Non-domestication of International Climate Change Treaties

Section 12 of the Constitution stipulates that treaties entered into by Nigeria are not legally binding unless they are domesticated and incorporated into Nigerian law (Constitution of the Federal Republic of Nigeria, 1999). Unfortunately, none of the climate change treaties ratified by Nigeria have been domesticated. Consequently, from the standpoint of Nigerian domestic law, these treaties are not enforceable and do not hold binding authority over the country (Ekweremadu, 2015).

This situation presents a significant challenge when it comes to holding the government accountable for its obligations under these international climate change treaties. Without domestication, the treaties cannot be effectively invoked or utilized as legal instruments to ensure compliance and address climate change-related issues within Nigeria (Nriezedi-Anejionu, 2020).

The lack of domestication renders the climate change treaties practically unenforceable within the Nigerian legal system. It becomes exceedingly difficult to demand accountability from the

government regarding its commitments and responsibilities under these international agreements. As a result, the effectiveness and impact of these treaties in influencing climate action and promoting sustainable practices within Nigeria are severely diminished (Nriezedi-Anejionu, 2020).

To address this issue, Nigeria must prioritize the domestication of ratified climate change treaties into Nigerian law. By incorporating the provisions and obligations of these treaties into domestic legislation, the government can create a legal framework that enables effective enforcement and implementation of climate change measures. This would enhance accountability, facilitate compliance, and provide a basis for citizens to hold the government responsible for fulfilling its commitments under international treaties.

Domestication would bridge the gap between international obligations and domestic law, ensuring that Nigeria aligns its legal framework with its international commitments on climate change. It would also empower individuals, organizations, and the judiciary to invoke these laws in seeking remedies, pursuing legal action, and demanding compliance with climate change obligations (Nriezedi-Anejionu, 2020).

By taking the necessary steps to domesticate climate change treaties, Nigeria can strengthen its legal infrastructure, enhance its climate governance, and demonstrate its commitment to combating climate change at both the international and domestic levels.

iv. Weak Institutional Instruments for Managing the Environment against Climate Change

The implementation of climate change initiatives in Nigeria is plagued by a proliferation of agencies and departments responsible for addressing these issues. Currently, the response to climate change threats is primarily entrusted to various government departments and agencies, many of which lack effectiveness in their operations. Gross failure to enforce extant environmental protection laws and guidelines has exacerbated the climate change phenomenon in Nigeria. These entities include the Department of Climate Change under the Federal Ministry of Environment, the Nigerian Meteorological Agency (NIMET) focusing on meteorological matters, the National Environmental Standards and Regulations Enforcement Agency (NESREA), and the National Planning Commission (NPC) (Ogunbode et al., 2019).

This multiplicity of agencies involved in climate change response leads to a lack of coherence in decision-making processes and hinders the ability to accurately assess the effectiveness of climate change regulations in reducing emissions and supporting adaptation (Ladan, 2019). The absence of a unified and streamlined approach undermines the coordination of actions and the efficient allocation of resources, impeding the country's overall progress in addressing climate change challenges (Davies & Fakir, 2020).

The fragmentation of responsibilities across multiple agencies and departments often results in overlapping mandates, inefficient resource utilization, and limited accountability. The absence of clear lines of authority and coordination mechanisms exacerbates the challenges faced in measuring the impact and effectiveness of climate change regulations and initiatives (Davies & Fakir, 2020b).

To address this issue, there is a need for enhanced institutional coordination and consolidation of efforts within a centralized authority dedicated to climate change. This could involve streamlining responsibilities, clarifying mandates, and establishing clear channels of communication and collaboration among relevant entities. By fostering greater coherence and integration, Nigeria can strengthen its capacity to effectively respond to climate change, measure progress, and implement impactful policies and regulations (Ogunbode et al., 2019).

Furthermore, establishing mechanisms for monitoring, evaluation, and reporting can help assess the effectiveness of climate change regulations and measure their impact on emissions reduction and adaptation outcomes. This would enable evidence-based decision-making, enhance accountability, and facilitate targeted interventions to address gaps and shortcomings (Ogunbode et al., 2019).

Overall, a more coherent and consolidated approach to climate change governance in Nigeria is essential to maximize the effectiveness of climate change regulations, improve coordination among

stakeholders, and achieve meaningful progress in reducing greenhouse gas emissions and building resilience to the impacts of climate change.

Prospects of the Legal Framework for the Regulation of Climate Change in Nigeria

Nigeria's legal framework for climate change regulation faces some challenges, but there are also opportunities for improvement and action. These opportunities can be grouped into several main areas. First, one of the opportunities for the legal framework is to domesticate international climate change treaties. Nigeria has ratified several international climate change treaties, but they have not been incorporated into national laws. By doing so, these treaties would have legal force and be enforceable within Nigeria, enhancing the country's commitment to climate change mitigation and adaptation (Nriezedi-Anejionu, 2020).

Second, strengthening enforcement and implementation mechanisms is essential for improving the legal framework. The ineffective enforcement and implementation of existing climate change laws and policies impede progress. By improving enforcement and implementation mechanisms, compliance with climate change regulations would be enhanced, ensuring that the expected impact is achieved (Ogunbode et al., 2019).

It is when the available policies are genuinely put into action that Nigeria as a Nation will experience a significant reduction in air pollutants, erosion and emissions of carbon dioxide. In other words, when the extant laws are fully implemented, Nigeria would be less affected by the menace of global warming as against the present situation the country is experiencing

Lastly, the adoption of clean energy technologies offers potential for the legal framework. Promoting the use of clean energy technologies would help to reduce greenhouse gas emissions and foster sustainable development. The legal framework can play a key role in incentivizing the adoption of these technologies, encouraging their widespread implementation and integration into Nigeria's energy sector (Kila, 2021).

Conclusion

The legal and policy framework governing climate change regulation in Nigeria is flawed. The current Constitution poses the most significant obstacle to effective climate change regulation in the country, as it fails to acknowledge and comprehend the magnitude of the threat posed by climate change to the environment and livelihoods in Nigeria. Consequently, climate change litigation faces insurmountable challenges, as individuals seeking legal action to curtail activities contributing to climate change or compel the government or other entities to mitigate its causes or adapt to its impacts may encounter a fatal setback due to the ouster clause in Section 6(6) (c) of the Constitution or the judiciary's reluctance to enforce climate-related rights in the best interest of humanity and the environment.

This situation is further compounded: the few existing environmental laws that could directly or indirectly regulate climate change in Nigeria have proven woefully ineffective due to poor implementation resulting from inefficiency, lack of political will, and failure of enforcement by the government. Similarly, various climate change mitigation and adaptation policies formulated by the Nigerian government have suffered a similar fate. Over the years, the government has demonstrated a tendency to prioritize policy formulation over effective action, largely due to inadequate funding, lack of political will, and the absence of a capable institution to implement these policies.

Currently, the Department of Climate Change under the Federal Ministry of Environment is the sole institution dedicated to formulating and enforcing climate change policies in Nigeria. However, these policies have largely excluded the Department of Climate Change from meaningful implementation, rendering them ineffective in addressing the causes of climate change or adapting to its adverse impacts. Adequate funding is also crucial for the successful implementation of all government climate change mitigation and adaptation plans and policies; otherwise, such plans and policies will remain mere documents devoid of practical impact.

To address these challenges, a comprehensive overhaul of the legal and institutional framework for climate change regulation in Nigeria is imperative. The new framework must be proactive and equipped to confront the menace of climate change before it pushes us into environmental, social, or economic oblivion. This calls for significant reforms, including constitutional amendments to remove barriers hindering climate change litigation, the enactment of comprehensive climate change legislation, and the establishment of effective institutions with clear mandates and enforcement capabilities. Additionally, robust funding mechanisms must be established to ensure the successful implementation of climate change mitigation and adaptation plans and policies, ensuring their tangible impact on the ground. Only through such comprehensive reforms can Nigeria effectively address the challenges posed by climate change and safeguard its environment, society, and economy for future generations.

Policy Recommendations

- i. A constitutional amendment is necessary to render justice to the responsibility placed on the state by Section 20 of the Constitution to safeguard and enhance the environment, ensuring its safety for human habitation. One approach to achieving this is by incorporating the duty to protect and improve the environment into the fundamental rights provisions outlined in Chapter 4 of the Constitution. By doing so, citizens would have the ability to seek legal recourse through the fundamental rights enforcement procedure rules to enforce this duty. This is not an unprecedented concept, as it has already been implemented in Kenya. The 2010 constitution of Kenya established justiciable environmental rights and even designated a specialized court to address environmental matters.
- ii. To ensure progress in addressing climate change, state governments should proactively enact climate change legislation instead of relying solely on the federal government. This approach would allow states to take action even in the absence of federal climate change legislation. A similar approach has been successful in the United States, where several states have enacted and enforced legislation to limit greenhouse gas emissions and adapt to the negative impacts of climate change, despite the lack of federal climate change legislation. Australia has also seen provincial governments taking the lead in enacting climate change legislation.

In Nigeria, this is feasible since environmental matters fall under the residual legislative list, granting state houses of assembly the authority to enact environmental laws. By leveraging their legislative competence, state governments can take the initiative to address climate change at the local level and contribute to national efforts. This decentralized approach recognizes the urgency of the climate crisis and empowers states to enact tailored solutions that align with their specific environmental needs and priorities.

- iii. To enhance access to justice, climate change legislation should adopt a liberal approach to *locus standi* requirement, similar to the Kenyan Climate Change Act of 2016. Under this provision, litigants would not be required to demonstrate personal harm or loss resulting from the failure of an institution or individual to fulfil their duties under the Act. Instead, it would suffice to prove that there has been a failure to perform a climate change duty imposed by the legislation. By adopting such a liberalized *locus standi* requirement, the court would enable concerned citizens to bring forward climate change-related cases on behalf of the wider public interest. This approach acknowledges the collective nature of climate change impacts and ensures that individuals and communities have a legal avenue to hold institutions and individuals accountable for their climate change obligations. It would empower citizens to take an active role in safeguarding the environment and promoting sustainable practices without being unduly burdened by strict evidentiary requirements.
- iv. The government should review and revise existing legislation and policies that are relevant to climate change regulation, such as environmental laws, energy laws, taxation laws, etc., to ensure that they reflect current scientific knowledge and best practices on climate change mitigation and adaptation. The government should also establish clear targets and indicators to monitor progress towards achieving these legislations and policies.

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