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**CLIMATE GOVERNANCE AND
LEGISLATION IN NIGERIA:
MATTERS ARISING**

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Abstract

Climate governance in Nigeria is a new entrant to the domain of public interest and attempts at legislating on it through agenda setting in-roads and eventual attainment of the list of state responsibilities for public policy appears illusory. This paper attempts an interrogation of the political architecture – National Legislative Assembly (NASS) and Federal Executive arms of government in Nigeria’s capacity to articulate climate change policies and sustain its governance in the midst of competing exigencies. Relying on secondary documents, the “public choice theory” helps in understanding the legislative delays and its ramification for Nigeria climate policy. The core argument herein, hinges on the comatose nature of legislation on that area, the state of the Nigeria’s earlier vision 2020 framework in which climate change was encased and the eventual drifting into obscurity of the vision. This paper further posits the need for governance urgency connected to concretized deliverables within the context of the greater good and inclusiveness.

Key Concepts: Climate Change, Climate governance, Legislation and Public Choice Theory

Introduction

The interest on the climate and its ramifications has moved from passiveness to obvious concerns. Tilakasiri (2016) explains that climate change has today become everyone's buzz word after being sidelined for decades and being the subject of debates and policy agenda setting. For Nigeria and Africa amongst the developing societies, climate issue adds to the cart of subsisting living conditions that require urgent proactive public policy foresight. Indeed, previous attempts at mitigating the age-long traditional practices of natural gas flaring in the exploration of crude oil (Nigeria's major economic income source), has always been docile and wrapped in a web of political and socio-economic incapability.

This subsisting pattern forms the sub-culture of environmental decline in Nigeria, seen in deforestation, pollution of types, desert encroachment and other fallouts manifest in trickle-down violent conflicts among farmers and cattle herdsman. This in the mainstream Nigeria polarization 'mind-set' has taken ethnic and religious proportions with deaths and communal hostilities.

This paper interrogates the political antecedents of the Nigerian legislative (the National Assembly) and executive arms of government to muster the capacity to attain the required climate governance and policy as the need arises. The main thrust herein is to outline the climate threats and public policy (legislative/executive) responses within the context of Nigeria's political history.

Conceptual and Theoretical Issues:

Climate Change, Legislative Process and Public Policy

The correlation of conceptual and theoretical linkages within the subject of climate change and governance comes with the emphatic imperatives that theories provide the fundamentals upon which societies and organizations thrive and decline over time. Jinping (2014: 9) explains that socialism with Chinese characteristics consists of a path, theory and system, of which the theory offers a guide to action - effective principles and policies, and the system provides a fundamental guarantee. Nigeria and Africa as in most developing societies contrast the attempts to foster home-grown ideas-concepts-models outside the norms of "drop-down" policies to assuage

threats as climate variation.

Climate change can be described as the collapse of the atmospheric systems, processes and pattern which represent massive environmental challenges to maintaining a habitable earth. According to the Intergovernmental Panel on Climate Change (IPCC, 2007), cited in Issah, Abdullahi, and Olatungi, (2016:93), it is 'a change in the state of the climate that can be identified (e.g., using statistical tests) by changes in the mean and/or the variability of its properties, and that persists for an extended period, typically decades or longer. Climate change and climate variability manifest themselves in global warming and extreme weather events such as floods, drought, heat waves and typhoons. As reported succinctly in the work of Leighton, Shen & Warner (2011),

Climate change due to greenhouse gas emissions is now, at some level, a fact. IPCC and other scientific bodies have modeled a number of future scenarios estimating changes in weather patterns, ocean currents, and (more recently) ecosystems. Average atmospheric temperatures are increasing and with this increase scientists expect (and in some cases may already be observing) more rapid melting of the earth's ice sheets, sea level rise, and greater seasonal variability in rainfall.

These phenomena affect land and marine product systems from which livelihoods are derived and also destroy infrastructure and other life support system (IPCC, 2001). This is attributed to natural factors and 'man-made' factors (i.e. anthropogenic) - GHG emission, carbon emission (cars, engines etc.) gas flaring, afforestation and deforestation and other human liveliness. Put differently, and from the "common Nigerians" perspective, climate change depicts; no drinkable water and fishes in rivers polluted by crude oil spills, insufficient rainfall for crops and animal grazing and closer desert and shrinking water bodies, coupled with more firewood cooking from trees and hunting wildlife for food (Nigeria: Climate Change Challenge, 2012).

The main cause of climate change has been attributed to anthropogenic (human) activities. For example, the increase industrialization in the developed Nations has led to the introduction of large quantities of Greenhouse gases (GHGs), including carbon (IV) oxide (CO₂), Methane (CH₄) and nitrous oxide (N₂O) into the atmosphere (Odjugo, 2010:14). Climate change affects even the capacity of the individual members of the society to survive economically, socially and hence challenges the human security. It is in response to the above that the global efforts at checking the human excesses which according to Huber and Knutti (2014) is the major contributor to the degeneration of the eco-system was intensified through the formation of global coalitions towards checking the activities of individuals, groups, corporate organisations and countries. The state of Nigeria also factors itself into the programme through joining in these global efforts and in local policies at controlling the conducts of the people in the country.

Achieving this by any state is predicated on credible government efforts at evolving and implementing suitable legislations to control. According to Fagbohun (2010), law is that which must be obeyed and followed by citizens subject to sanctions or legal consequences. Law clearly will be central to restructuring and re-orientating conducts and activities that were hitherto accepted as safe, but now found to be contributing to climate change. He adds that, there are four broad modes through which the law can play a role in meeting the challenges of climate change:

- a. Self-governing mode with focus by government on itself and its activities (“leading by example” or “getting your own house in order”).
- b. Control and compliance mode through the use of traditional forms of authority such as regulation and planning.
- c. Governing by provision, in which emission reductions are achieved through the delivery of particular forms of service and resources (BRT/Green Houses).
- d. Mode of enabling, where governing takes place through facilitating, coordinating and encouraging

action through partnership with private and voluntary sector agencies, and in the form of various types of community engagement (Interfaith initiatives, Clinton Foundation cited in Fagbohun, 2010).

A process on the other hand, is a systematic series of actions directed to some ends. It depicts continuous actions, operations, or series of changes taking place in a definite manner. It also defines “what” needs to be done and which roles are involved. Closely related to it is a procedure which defines “how” to do the task and usually only applies to a single role. According to Bandor (2007) a process consists of a number of things:

- Roles and responsibilities of the people (roles) assigned to do the work
- Appropriate tools and equipment to support individuals in doing their jobs
- Procedures and methods defining “how” to do the tasks and relationships between the tasks.

These are the expected in a particular activity within a system, to, becoming regular enough in the conduct within the system to attain the position of a practice. There could be series of processes within a particular practice in a system depending on the number of duties that are performed within that system.

Understanding the duties of the legislature in line with Ikejiani-Clark and Nwanegbo (2010) which includes essentially law making (includes the participation in debate and actually making of the laws, rules, guidelines and regulation that enhances governance within the state) and oversight (regulatory and supervisory) functions, it means that two main lines of processes exist in the legislative practices. First, the “legislative processes” and the “oversight processes”.

The “legislative processes” refer to the activities performed by the legislature to accomplish some sort of tasks mapped out for the legislature (e.g.

generating bills, taking the different readings, committee stage, passing bills into law, and assenting to the bills by the executive, etc) (Booker, 2001). As could be seen in the above mentioned, these are all processes tending towards the making of the law.

The legislative process akin to Nigeria comes with abstraction of some sort as the 'public interest' it is meant to serve within public policy context is vague. There are 36 sub-national legislative Houses, along with the central government's National legislative assembly, yet the disconnection coming from the 'spirit and letter' of the law and citizens at equitable levels are conspicuous. Further evidence is posited in Nigeria's political history. In 1999, the advent of the new millennium saw the Nigerian military recognizing the new 'order' as democracy was gaining space globally.

The corollary of the public choice theory selected in this study amplifies the contest to govern, which has contrasted the Nigeria's 'public interest' through decades of governance. The Public Choice Theory seeks to understand and predict the behaviour of politicians and bureaucrats in nation-states (Izueke, 2014 cited in Ikeanyibe and Mbah, 2014). There is an assumption that politicians and bureaucrats are rational agents, as they maximize their interest first and produce goods for others as a by-product. The Public Choice originated as a distinctive field of specialization through the works of Buchanan and Tullock (1962) in which public choice is described as politics without passion.

This illustrates the Nigerian governance terrain as Izueke, 2014 (citing Sen, 2003) argues that public choice theorists recommend a minimal state so that the role and dominance of unethical political leaders and bureaucrats are diminished. Hence, the public choice theory suitably affirms the carriage of the totality of governance fundamentals as 'public interest' is not a priority in Nigeria. Significantly, the core argument of this paper is that plans, visions and missions proclamations of the Nigerian political architecture (Executive and Legislative) for 'national and public interest' has hardly stood the test of time presumably for the obvious reason of priming 'personal and primordial interests' to 'public interest'.

In 2012, the Federal Executive Council adopted a comprehensive strategic policy on climate change referred to as the ‘Nigeria Climate Change Policy Response and Strategy’ (New Climate Institute, 2015), which this paper refers to as ‘NCC-PRS 2012. This policy response and strategy was with an array of ambition and targets to achieve low-carbon, high-growth economic development and build a climate-resilient society (London School of Economics and Political Science, 2013; UNFCCC, 2015).

Figure 1: National Policy on Climate Change Nigeria 2013

Name of policy	Nigeria Climate Change Policy Response and Strategy
Jurisdiction	Country
Supranational region	–
Country	Nigeria
Region	–
Sub-national region or state	–
City or local	–
Policy objective	<ul style="list-style-type: none"> • Mitigation
Type of policy instrument	<ul style="list-style-type: none"> • Climate strategy
Sector name	<ul style="list-style-type: none"> • General
Policy description	<p>"In order to reflect the increasing importance of climate change issues in Nigeria, 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, Nigeria has adopted a comprehensive strategy, as well as a number of specific policies. 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:</p>

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

Policy type	<ul style="list-style-type: none"> • Changing activity • Energy efficiency • Renewable • Nuclear or CCS or fuel switch • Non-energy⁵
Policy stringency	—
Implementation state	Implemented
Date of decision	2012
Start date of implementation	2012
End date of implementation	—
High impact	—
Impact indicator	
Supports policies	—
Is supported by policies	—
Comments (background and assessment)	—
Status	Final

Source: <http://www4.unfccc.int/submission> Accessed 2017, February 10

The outline of figure 1 depicts the articulate response to climate change in 2012 by the Federal Government of Nigeria. The contrast resonates from the

demand for measurable changes five years down in 2017 and the retrospective suggestion that, Nigeria has been actively engaged in international climate policy negotiations since it became a Party to the UN Framework Convention on Climate Change (FCCC) of 1994 and ratified its Kyoto Protocol in 2004. Nigeria submitted its First National Communication (FNC) in 2003 and a Second National Communication in February 2014 (APP, 2016).

The vision of the National Climate Change Policy Response and Strategy (NCCPRS) is a climate change-resilient Nigeria ready for rapid and sustainable socio-economic development. Its mission is to strengthen national initiatives to adapt to and mitigate climate change and involve all sectors of society, including the poor and other vulnerable groups (women, youth etc.) within the overall context of advancing sustainable socio-economic development. Its main objectives are to:

- i. Implement mitigation measures that will promote low carbon as well as sustainable and high economic growth;
- ii. Strengthen 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 better participate in international scientific and technological co-operation on climate change;
- iv. Significantly increase public awareness and involve the private sector 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

NASPA-CCN, (2011) and APP, (2016) policy briefs note that the National Policy on Climate Change in Nigeria is a strategic policy response to climate change that aims to foster low-carbon, high growth economic development path and build a climate-resilient society through the attainment of set targets. The plan explicitly identifies climate change as one of the major threats to economic development goals and food security. Further to meet these challenges, the policy foster's plans that include concrete targets in the areas of climate change adaptation, afforestation, and energy supply. Within this dimension herein, are the vision and the tangible deliverables sought to be attained within the context of these periods connected to Nigeria's National legislative framework. This paper looks at the level of successes achieved in the efforts at managing the climate change challenges in Nigeria with particular emphasis on the quality of legislation, implementation of the legislative decisions and the spate of advancements made therein since the adoption of the National Climate Change Policy Response and Strategy (NCCPRS) in 2012.

Government Policies without Legislation and Climate Change Responses in Nigeria

The responsibility of making and implementing policies towards governance in any society rests on the governmental agencies within the state. Understanding that there are three major governmental arms in every modern (especially democratic) states, it comes directly unto the shoulders of these three arms of government namely; legislature, executive and judiciary. Noteworthy is that while in some countries, independent agencies exists and can operate outside the direct supervision of any of these three arms of government, under the constitution of Nigeria, every governmental agency that involves in any way in the making and implementation of government policies does that under the direct supervision of one of the arms of government. That puts on them the responsibilities of the state and therefore becomes the units of analytical concentration of our study.

On the issue of climate change, two arms of the state ought to have initial direct responsibilities towards evolving and implementing credible policies for climate change in Nigeria; the legislature and the executive. While good legislation is expected from the legislature, ensuring implementation

is the responsibility of the executive and also the legislature because of its oversight role/powers, hence this should be the basis of looking at the functioning of the government's effort at climate change policies and policy implementation.

Yet, five years onward, National Climate Change Policy Response and Strategy (NCCPRS) and climate change policy is still preparing to take off. This, according to Ekpoh (2014), is evident in demands at seeking to establish a national climate change commission that would coordinate climate issues nationwide. Thus far, according to the London School of Economics and Political Science (2013), Nigeria is yet to have any climate change specific law enacted by the National legislature and assent to by the President as required. The country has extant laws bordering on numerous environmental and sectoral policies, strategies, and plans where climate change adaptation could apply; though at present their use in enabling and supporting climate change adaptation is limited (BNRCC, 2011).

Ekpoh further notes that the bill on setting up the commission however is yet to be approved. However, the AAP (2016) states that the Federal Government of Nigeria has also established the National Climate Change Trust Fund and the Environmental Sustainability Group to design and attract financing mechanisms for adaptation initiatives. Commendable as this legislative and public policy vigor and thrust may convey, the fundamentals enshrined within the governance paradigm are flawed.

According to Olowu and Sako (2002:38) cited in Cloete (2003), governance within the context of political leadership styles operates within a system of values, policies and institution by which a society manages its economic, political and social affairs through interactions within and among the state, civil society and private sector. They argue that it is on this basis of style of governance that political leaders are judged as good or bad. Though the broader realms of phenomenological inquiry hold contrary views as political systems are viewed as determinants of political leadership styles (Biu, 2017).

Furthermore, Hyden and Braton (1993:7), and Cloete (2003) suggest four fundamental elements of governance that are central herein to the NCC-PRS

2012 in Nigeria. They are:

- a. Degree of trust in government
- b. Degree of responsiveness in the relationship between government and civil society
- c. Government degree of accountability to its voters
- d. Nature of the authority that the government exercise over its society

The timelines evidently set for the NCC-PRS, 2012 in Nigeria and the accompanying legislative ‘recesses’ and absence of existing extant laws and public policy on climate change contrast the configured governance template. The ramifications of connecting the legislation on climate change in Nigeria has an ‘all-inclusive’ and yet trickle-down effect. However, the pull of diverse interest within fragile institutional and state capacities adds to the dynamics of NCC-PRS, 2012 outcomes.

Put differently, the executive arm of government (The Presidency and Civil/ Public Service at Federal and sub-national regional levels) in Nigeria have not evidently rolled out executive policy instruments and ‘orders’ for climate change management as seen in the NCC-PRS 2012 policy.

Though the National Assembly (NASS) legislative process is rigor-driven, as seen in figure 2 (see the appendix), with eleven stages of legislative process. The 2015 legislative year illustrates this in figure 3, which figure 3 illustrates the reality of the modus operandi using the 2015 legislative year. The National Assembly comprises two chambers: the Senate, which received 299 Bills that were intended to be passed and made into laws and members sat for only 96 times in the whole of year 2015. The second chamber, referred to as the House of Representatives, received 685 Bills with members sitting for 104 times during the same year. This saw the Senate passing only 11 Bills into law and the House of Representatives passing just 85 Bills out of the 299 and 685 proposals respectively (see figure 3 in the appendix).

However, the specific focuses of these legislative Bills are not outlined in terms of initiation and purpose, this paper puts the corollary within the context of climate governance legal framework. Rose-Ackerman (1999) cited in Miller (2007) has clearly explained that, “money cannot be entirely eliminated from politics. Elections must be financed and wealthy interests concerned with legislative outcomes and government policy may be willing to foot the bill”. This comes to terms that the subsisting political culture within the Nigerian Legislative Assembly may not concur as deemed appropriate, coming from antecedents that require paradigm shifts congruent with the demands to meet current and future climate threats in Nigeria and beyond.

Conclusion

The Nigeria Federal Ministry of Environment policy document (2010) anchored the climate change NEEDS study on the comatose vision 20:2020 initiated in 2007 to launch Nigeria among the 20 largest economies in the world. This requires nothing other than history to insinuate the likely outcomes for Nigeria. The expectations connected to this broad-based vision for the year 2020 is two years away with the wider ramifications for our collective National interest at stake. As with the absence of continuum in government policies in Nigeria, the transition of two regimes down the line apart from the ‘reductionist’ fate, the vision 2020 has transmuted into other ‘newer’ policy frameworks.

This affirms the argument that policies devoid of legislation like the climate change policy framework, will not survive the ‘murky waters’ of Nigerian politics. Looking forward, the urgent task is to enlarge the local non-governmental groups and stakeholders to include international climate change advocacy groups. Furthermore, alternative sources of energy bordering on renewable energy within renewable law should be pursued by the National Legislature of Nigeria and the Executive arm of government.

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Appendix

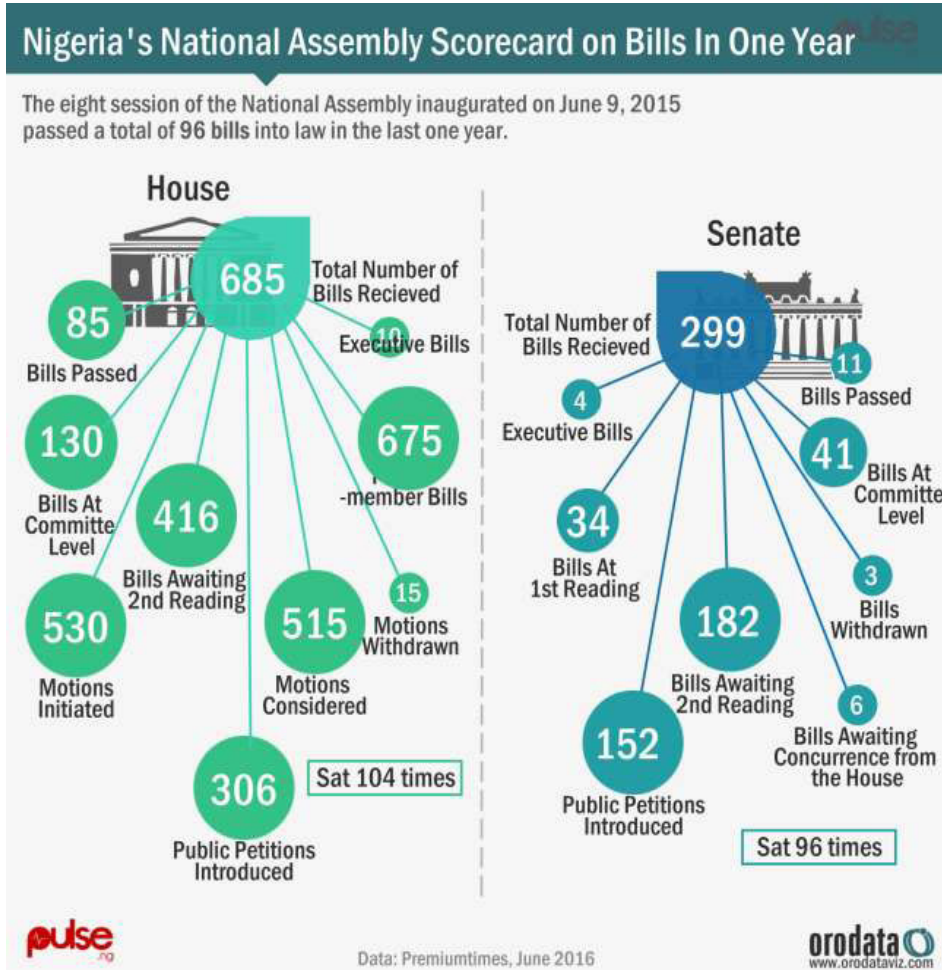
Figure 2: Nigeria Legislative Making Template



Please read the full article here: www.lawpadi.com/11-steps-to-how-a-law-is-made-in-nigeria/

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Figure 3. National Legislative Assembly Bill Passage, 2015



Source: Pulse news; Premium Times news & www.orodata.com (2016) accessed February, 13 2017