

CLIMATE CHANGE GOVERNANCE IN NIGERIA: LEGAL FRAMEWORK, ENFORCEMENT CHALLENGES AND REFORM IMPERATIVE

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Abstract

*Climate change is one of the most pressing threats to Nigeria's environmental, economic and social stability, manifesting in recurrent flooding and desertification. This paper undertakes a doctrinal appraisal of the legal and institutional framework that Nigeria has assembled to mitigate climate change, examining the Constitution of the Federal Republic of Nigeria 1999, the Climate Change Act 2021, the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act 2007, the Environmental Impact Assessment Act 1992, the National Oil Spill Detection and Response Agency (NOSDRA) Act 2006, the Petroleum Industry Act 2021, the National Climate Change Policy 2021-2030 and Nigeria's obligations under the UNFCCC, the Kyoto Protocol and the Paris Agreement. Adopting a doctrinal, library-based methodology involving statutory analysis and caselaw review, this paper argues that Nigeria's difficulty is less a deficit of legislation than a crisis of enforcement, institutional coordination and political will. It finds that overlapping mandates among regulatory agencies, weak sanctions, poor climate data infrastructure and low public awareness continue to undermine an otherwise commendable normative framework. The paper further evaluates the judiciary's evolving role in environmental accountability through cases such as *Gbemre v Shell Petroleum Development Company (Nigeria) Ltd* and *Centre for Oil Pollution Watch v NNPC*. It concludes by recommending the harmonisation of overlapping agency mandates, the operationalisation of the Climate Change Fund, stronger judicial enforcement of environmental rights, and sustained public climate literacy as legal and non-legal pathways towards effective climate governance in Nigeria.*

Keywords: Climate Change, Mitigation, Environmental Law, Enforcement, Nigeria

1.0 Introduction

Environmental degradation and the disasters it precipitates are no longer distant scientific abstractions; they are lived realities in much of the world.¹ Industrialization, urbanization, deforestation and unregulated extractive activity have combined to intensify global warming, giving rise to hurricanes, flooding and drought across several continents.² Because greenhouse gases do not respect territorial boundaries, no single state can be said to bear sole responsibility for climate change, nor can any single state be left to bear its consequences alone.³ Nevertheless, the burden of adaptation falls disproportionately on developing economies such as Nigeria, whose infrastructure, agriculture and public health systems are least equipped to absorb these shocks.

Nigeria's exposure to climate change is not speculative. Sea-level rise threatens the Niger Delta and the Lagos coastline; desertification is steadily consuming arable land in the far north; and the almost complete disappearance of Lake Chad has displaced communities across four countries.⁴ These physical vulnerabilities are compounded by domestic drivers of environmental harm, including gas flaring, bush burning, unregulated mining and the continued reliance on fossil fuels for power generation.⁵

Law has an indispensable role to play in this contest. As one commentator observes, environmental and climate governance frameworks have proliferated internationally and domestically precisely because law functions as an instrument of social engineering, structuring how states, corporations and individuals interact with the environment.⁶ Nigeria has, over three decades, developed a body of constitutional provisions, statutes, regulations and policies directed at environmental protection and, more recently, at climate change mitigation specifically. Yet critics contend that this framework, however elaborate on paper, remains hobbled by weak implementation and institutional fragmentation.⁷

¹ Olusola Olujobi, 'Strategic Evaluation of the 2021 Nigeria Climate Change Act: Surmounting Challenges, Paving the Way for Success, and Envisioning Future Trajectories' (2024) 10 Social Sciences & Humanities Open 100928.

² *ibid*

³ Alan Boyle, 'Climate Change, Sustainable Development, and Human Rights' in *Research Handbook on Climate Change Law and Loss and Damage* (Springer 2019).

⁴ Chizoba Okpara, 'The Challenges of Enacting Climate Change Laws in Nigeria' (2021) 1(2) Law and Social Justice Review 57.

⁵ *ibid*

⁶ Raphael Adeoluwa, 'Assessment of Legal Frameworks on Environment and Climate Change Enforceable in Nigeria by the National Environmental Institution' (2019).

⁷ Adekunle O Kehinde and Olusegun Abifarin, 'Legal Framework for Combating Climate Change in Nigeria' (2022) 9(3) Kutafin Law Review 395.

This paper interrogates that contention. It examines the principal legal and institutional instruments governing climate change mitigation in Nigeria, assesses their strengths and shortcomings, and considers the extent to which Nigeria's courts have begun to hold the state and private actors accountable for environmental harm. It closes with a set of legal and nonlegal recommendations addressed to the persistent gap between normative ambition and practical enforcement.

2.0 Statement of the Problem

Nigeria possesses a comparatively dense body of environmental and climate legislation, yet indicators of environmental quality, greenhouse gas emissions and disaster resilience have not improved commensurately.⁸ This disjuncture between legislative output and environmental outcomes raises a central question: is the difficulty rooted in the design of the laws themselves, or in the institutions and processes responsible for their enforcement? A related difficulty is the sectoral fragmentation of Nigeria's environmental architecture. Climate-relevant obligations are scattered across the Constitution, the Climate Change Act, sectoral statutes such as the NESREA Act and the Petroleum Industry Act, and non-binding policy instruments, without a single coordinating authority capable of reconciling overlapping mandates. This paper is concerned with mapping that fragmented landscape and identifying where reform would yield the greatest practical benefit.

3.0 Research Aim and Objectives

The aim of this study is to examine the strengths, gaps and regulatory challenges inherent in Nigeria's climate change mitigation laws. Its objectives are threefold:

- (i) to identify and critically examine the principal constitutional, statutory and policy instruments governing climate change mitigation in Nigeria, including the 1999 Constitution, the Climate Change Act 2021, the NESREA Act 2007, the Environmental Impact Assessment Act 1992, the NOSDRA Act 2006, the Petroleum Industry Act 2021, the National Climate Change Policy 2021-2030 and Nigeria's international climate obligations;
- (ii) to determine the institutional, structural and enforcement gaps that impede the realisation of these instruments' objectives; and

⁸ *ibid*

- (iii) to propose legal and non-legal measures capable of narrowing the gap between Nigeria's climate change laws and their practical enforcement.

4.0 Conceptual Clarification

Climate change is defined, for the purposes of this paper, in line with the United Nations Framework Convention on Climate Change (UNFCCC), as a change in climate attributable directly or indirectly to human activity that alters the composition of the global atmosphere, in addition to natural climate variability observed over comparable time periods.⁹ Mitigation refers to interventions intended to reduce or limit greenhouse gas emissions, as distinct from adaptation, which concerns adjustments made to actual or expected climate effects.¹⁰ The Climate Change Act 2021 itself does not exhaustively define mitigation, but its architecture, particularly the carbon budget and the National Climate Change Action Plan, is unmistakably a mitigation-oriented framework, supplemented by adaptation elements.¹¹ Environmental governance, as used in this paper, denotes the totality of legal rules, institutions and processes through which environmental and climate objectives are set, implemented and enforced, encompassing both public regulatory action and the availability of judicial remedies to affected persons.

5.0 Literature Review

Existing scholarship on Nigeria's climate change law is considerable but fragmented across disciplinary and sectoral lines. *Olujobi's* evaluation of the Climate Change Act 2021 catalogues the Act's institutional architecture while questioning whether the newly created National Council on Climate Change possesses sufficient independence and funding to discharge its mandate.¹² *Oluduro* similarly appraises Nigeria's constitutional and legal framework for combating climate change, concluding that constitutional protection remains indirect because the right to a healthy environment is confined to the non-justiciable Chapter Two of the 1999 Constitution.¹³ *Kehinde and Abifarin* take a more sceptical view, arguing that Nigeria's climate laws are structurally adequate but functionally weak because of poor institutional implementation.¹⁴ *Okpara's* empirical account of flooding, desertification and Lake Chad's

⁹ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 1(2).

¹⁰ Intergovernmental Panel on Climate Change, glossary definitions of mitigation and adaptation as commonly adopted in Nigerian climate scholarship; see *Olujobi* (n 1).

¹¹ Climate Change Act 2021 (Nigeria), s 20.

¹² *Olujobi* (n 1).

¹³ *Olubisi Oluduro*, 'Combating Climate Change in Nigeria: An Appraisal of Constitutional and Legal Framework' (ResearchGate).

¹⁴ *Kehinde and Abifarin* (n 7).

recession situates the legal discussion within Nigeria's lived environmental crisis, demonstrating that the human cost of regulatory failure is already being felt.¹⁵

What is comparatively underexplored in this literature, however, is a sustained integration of the sector-specific frameworks, particularly the Petroleum Industry Act 2021 and the NESREA Act, with the general mitigation framework created by the Climate Change Act, and an assessment of how the judiciary has begun to use constitutional and human-rights reasoning to enforce environmental obligations where legislative enforcement has faltered. This paper contributes to closing that gap by reading the constitutional, sectoral and policy instruments together, and by examining the developing case law on environmental accountability in Nigeria.

6.0 Theoretical Framework

This paper is anchored on the theory of sustainable development, as articulated in the Brundtland Commission's 1987 report *Our Common Future*, which defines sustainable development as development that meets present needs without compromising the ability of future generations to meet their own.¹⁶ The theory is apt because Nigeria's climate change instruments, from the constitutional directive in section 20 to the Climate Change Act's carbon-budgeting mechanism, are each premised on reconciling continued economic development, particularly hydrocarbon extraction, with long-term ecological sustainability. The paper also draws, secondarily, on the public trust doctrine, which regards the state as a trustee of natural resources on behalf of present and future citizens, a notion increasingly invoked by Nigerian courts to justify judicial intervention in environmental disputes notwithstanding the non-justiciability of Chapter Two of the Constitution.¹⁷

7.0 Research Methodology

This paper adopts a doctrinal, library-based research methodology. It relies on statutory analysis of primary legislation and subsidiary regulations, a review of decided cases from the Nigerian appellate courts, and a critical engagement with secondary scholarly sources, including journal articles, institutional reports and policy documents. Comparative or empirical field methods were not employed; the analysis is confined to an interpretive and critical reading of existing

¹⁵ Okpara (n 4).

¹⁶ World Commission on Environment and Development, *Our Common Future* (Oxford University Press 1987). ¹⁷ See discussion of *Gbemre v Shell Petroleum Development Company (Nigeria) Ltd* at Part 10 below.

legal texts and their application, consistent with standard doctrinal method in Nigerian legal scholarship.

8.0 Nigeria's Climate Vulnerability: A Background

Global concern over climate change intensified following a succession of extreme weather events, including earthquakes, wildfires, droughts and flooding, whose cumulative effects transcend national borders.¹⁷ International cooperation on the subject dates back at least to 22 March 1985, when the Vienna Convention for the Protection of the Ozone Layer was adopted under the auspices of the United Nations, followed by the UNFCCC and, subsequently, the Kyoto Protocol and the Paris Agreement.¹⁸ Nigeria is a party to each of these instruments and has, accordingly, assumed both reporting and substantive obligations to curb its contribution to global warming.

Domestically, the impact has been severe. In 2012, over twenty-five of Nigeria's thirty-six states experienced unusually heavy rainfall, forcing the closure of schools and industries for several weeks, with Lagos, Ogun, Kogi and the Niger Delta region worst affected by flooding.¹⁹ The Nigeria Hydrological Services Agency has since warned that an increasing number of states face annual flood risk; while in the north, rising temperatures and declining rainfall in Sokoto, Katsina, Kano and Maiduguri have accelerated drought and desertification.²¹ Lake Chad, once estimated to cover approximately 400,000 square kilometres, has shrunk by more than 90 per cent, undermining the livelihoods of millions who depend on it for fishing, farming and grazing.²⁰ Domestic drivers compound these effects: Nigeria has recorded one of the highest rates of primary-forest deforestation in the world, alongside gas flaring in the Niger Delta, unregulated mining, overgrazing, poor waste disposal and vehicular emissions from ageing imported vehicles.²¹

Prior to 2021, Nigeria had no dedicated climate change statute. Environmental governance relied instead on the Constitution and on generally applicable statutes such as the NOSDRA Act and the NESREA Act, neither of which was designed with climate mitigation as its central objective.²² The enactment of the Climate Change Act 2021 was therefore a significant, albeit a belated development.

¹⁷ Olujobi (n 1).

¹⁸ Peter H Sand, 'Protecting the Ozone Layer: The Vienna Convention Is Adopted' (1985) 27(5) *Environment: Science and Policy for Sustainable Development* 18.

¹⁹ E Uyigue and M Agho, 'Coping with Climate Change and Environmental Degradation in the Niger Delta of Southern Nigeria' (Community Research and Development Centre Nigeria, 2007). ²¹ Okpara (n 4).

²⁰ *ibid*

²¹ *ibid*

²² Kehinde and Abifarin (n 7).

9.0 The Legal and Institutional Framework for Climate Change Mitigation in Nigeria

Every law and government policy in Nigeria, including those relating to climate change, derives its validity from the Constitution. As the grundnorm, the 1999 Constitution (as amended) sets the outer boundary within which all subordinate legislation, including environmental and climate statutes, must operate.

9.1 The Constitutional Framework

Section 20 of the Constitution provides that the State shall protect and improve the environment and safeguard the water, air, land, forest, and wildlife of Nigeria.²³ This provision, however, is situated within Chapter Two of the Constitution, the Fundamental Objectives and Directive Principles of State Policy, which section 6(6)(c) expressly renders non-justiciable.²⁴ In practical terms, this means no citizen may approach a court to compel the State to enforce section 20 directly. Nigerian courts have nonetheless shown a growing willingness to read section 20 together with the justiciable rights to life and dignity of the human person under sections 33 and 34, thereby indirectly enforcing environmental obligations through the language of fundamental rights, a development discussed further in Part 10 below.²⁵ The Constitution also allocates legislative competence over environmental matters, with the National Assembly possessing power over interstate waters, minerals, oil and gas, while environmental sanitation and land use fall substantially within the residual and concurrent competence of the states, a division that itself generates coordination difficulties for climate governance.

9.2 The Climate Change Act 2021

The Climate Change Act was signed into law on 18 November 2021, honouring commitments made by then President Muhammadu Buhari at COP26 in Glasgow, and was subsequently published in the Federal Republic of Nigeria Official Gazette in 2022.²⁸ It is Nigeria's first comprehensive climate legislation, setting an overarching target of net-zero emissions between 2050 and 2070.²⁶

The Act establishes the National Council on Climate Change, chaired by the President, as the apex policy-making body on climate matters in Nigeria, vested with [the](#) power to approve and oversee the National Climate Change Action Plan.²⁷ It mandates the Federal Ministry of

²³ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 20.

²⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 6(6)(c).

²⁵ See Part 10 below, discussing *Gbemre v Shell Petroleum Development Company (Nigeria) Ltd.*

²⁸ 'Nigeria's Climate Change Act' (Climate Laws of the World, accessed 1 July 2026).

²⁶ Climate Change Act 2021 (Nigeria), s 1.

²⁷ Climate Change Act 2021 (Nigeria), s 3.

Environment to formulate a National Climate Change Action Plan every five years, setting national adaptation goals and a corresponding carbon budget with quantifiable annual targets.²⁸ The Action Plan is intended to review trends in greenhouse gas emissions, enhance energy efficiency and renewable energy uptake across industrial, commercial, transport and domestic sectors, identify infrastructure requiring climate-proofing, and assess climate risks to vulnerable communities and ecosystems.²⁹

The Act also creates the Climate Change Fund, financed through budgetary appropriation, carbon taxation, emissions trading, penalties imposed on defaulting entities, grants and donations, and fees for services rendered by the Council.³⁰ The Fund is intended to finance climate advocacy, mitigation and adaptation projects, and impact assessments in vulnerable communities. Significantly, the Act imposes direct obligations on private entities: section 24 requires private organisations with fifty or more employees to set and pursue annual carbon emission reduction targets consistent with the National Action Plan, while section 34 criminalises conduct by any person or entity that negatively affects climate mitigation or adaptation measures, with penalties determined by the Council.³¹

Despite this ambitious design, the Act's efficacy depends substantially on subsidiary regulations, budgetary appropriation and institutional capacity that remain in progress. The Climate Change Fund, for instance, has not yet been shown to be operating at a scale commensurate with the financing needs identified in the National Climate Change Action Plan.

9.3 The National Environmental Standards and Regulations Enforcement Agency

(NESREA) Act 2007

The NESREA Act 2007 repealed the earlier Federal Environmental Protection Agency Act and established NESREA as Nigeria's principal environmental enforcement body, with a mandate covering environmental standards, regulations and compliance generally, excluding the oil and gas sector.³² Section 7 of the Act empowers NESREA to enforce compliance with environmental laws, regulations and international agreements, protocols and conventions to which Nigeria is a party, expressly including instruments on climate change, biodiversity, desertification and ozone depletion.³³ NESREA additionally possesses powers to establish

²⁸ Climate Change Act 2021 (Nigeria), s 20.

²⁹ Climate Change Act 2021 (Nigeria), s 20(4).

³⁰ Climate Change Act 2021 (Nigeria), s 15.

³¹ Climate Change Act 2021 (Nigeria), ss 24, 34.

³² National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 (Nigeria), s 36 (repealing the Federal Environmental Protection Agency Act).

³³ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 (Nigeria), s 7.

mobile courts for the expeditious trial of environmental offences, to make regulations setting emission and effluent standards, and to coordinate with sister agencies on enforcement.³⁴

NESREA's relevance to climate mitigation lies principally in its cross-cutting regulatory mandate: it is the agency formally charged with domesticating and enforcing Nigeria's international environmental and climate obligations at the sub-national level, a function that becomes particularly significant given the absence, prior to the Climate Change Act, of any dedicated climate authority. However, NESREA's exclusion of the oil and gas sector from its jurisdiction creates a significant regulatory lacuna, since that sector remains Nigeria's single largest source of greenhouse gas emissions through gas flaring and fugitive methane.³⁸

9.4 The Environmental Impact Assessment Act 1992

The Environmental Impact Assessment Act (Cap E12, Laws of the Federation of Nigeria 2004) requires that public and private actors give prior consideration to the environmental effects of proposed projects before they are undertaken.³⁵ Sections 2 and 3 make environmental impact assessment mandatory for projects likely to have a significant effect on the environment, while the Act further provides for public participation, notification of potentially affected states or local government areas, and the maintenance of a public registry of assessments.³⁶ Although the Act predates the contemporary climate change agenda and does not mention climate change expressly, it functions as an important upstream mitigation tool: by compelling *ex ante* assessment of large-scale industrial, extractive and infrastructural projects, it creates an opportunity to internalise climate considerations, including projected greenhouse gas emissions, before projects are approved. In practice, however, commentators note that the Act's public participation guarantees are often reduced to formality used to validate decisions already taken, and that oil and gas projects, precisely the projects with the greatest climate footprint, have not always been rigorously subjected to the Act's assessment requirement.³⁷

9.5 The National Oil Spill Detection and Response Agency (NOSDRA) Act 2006

Given the centrality of crude oil to Nigeria's economy, and the corresponding scale of oil-related pollution, the NOSDRA Act (as amended) 2006 was enacted pursuant to the section 20 directive, establishing the National Oil Spill Detection and Response Agency to monitor,

³⁴ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 (Nigeria), s 8. ³⁸ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 (Nigeria), s 7 (oil and gas exclusion).

³⁵ Environmental Impact Assessment Act 1992 (Nigeria) (Cap E12, LFN 2004), long title.

³⁶ Environmental Impact Assessment Act 1992 (Nigeria) (Cap E12, LFN 2004), ss 2-4, 11.

³⁷ V N Enebeli and D C Njoku, 'The Legal Framework of Environmental Impact Governance in Nigeria' (2023) 13(1) African Journal of Law and Criminology 135.

regulate and coordinate the National Oil Spill Contingency Plan.³⁸ Sections 6 and 7 set out the Agency's general and special functions, while section 26 provides for the remediation of victims of oil spillage by defaulting oil companies.³⁹

The constitutional limits of NOSDRA's enforcement powers were tested in *Shell (Nig) Exploration and Production Co Ltd v NOSDRA*, where the Court of Appeal considered whether sections 5, 6, 7, 19 and 26 of the Act, together with associated regulations, were consistent with sections 36, 43 and 44 of the 1999 Constitution.⁴⁴ The Court held that the Constitution is supreme over every other law, and that NOSDRA, not being a court of law, could not impose fines on regulated entities, since to do so would offend the fair hearing guarantee in section 36 and amount to an unconstitutional deprivation of property.⁴⁵ The decision illustrates a recurring theme in Nigerian environmental regulation: administrative agencies are frequently well-designed on paper but constitutionally constrained in the sanctions they may impose without recourse to the courts, a structural weakness that slows enforcement and gives regulated entities incentives to litigate compliance obligations rather than to observe them.

9.6 The Petroleum Industry Act 2021

The Petroleum Industry Act 2021 (PIA) is the most consequential recent reform of Nigeria's oil and gas sector and carries direct implications for climate mitigation, given that gas flaring alone has released hundreds of millions of tonnes of carbon dioxide equivalent into the atmosphere over the years.⁴⁰ Section 104 of the PIA prohibits licensees, lessees and marginal field operators from flaring gas except in emergencies or where specifically exempted by the regulatory Commission, while section 105 empowers the Commission to take, free of charge, gas that would otherwise be flared, in support of the Flare Gas Commercialization Program. Section 106 requires the installation and maintenance of metering equipment to enable accurate flare-gas reporting.⁴¹ The Act further establishes an Environmental Remediation Fund to finance the assessment, remediation and restoration of areas affected by petroleum operations, and sections 232 and 233 provide for decommissioning and abandonment funds to meet the environmental costs of ending petroleum operations.⁴²

³⁸ *National Oil Spill Detection and Response Agency (Establishment) Act 2006 (Nigeria) (as amended)*.

³⁹ *National Oil Spill Detection and Response Agency (Establishment) Act 2006 (Nigeria)*, ss 6, 7, 26.

⁴⁴ *Shell (Nig) Exploration and Production Co Ltd v NOSDRA (2021) LPELR-53068 (CA)*. ⁴⁵ *Ibid*.

⁴⁰ Halima Aigbe and others, 'The Legal Framework for Combating Gas Flaring in Nigeria's Oil and Gas Industry: Can It Promote Sustainable Energy Security?' (2022) 14(13) *Sustainability* 7626.

⁴¹ *Petroleum Industry Act 2021 (Nigeria)*, s 106(1)-(2).

⁴² *Petroleum Industry Act 2021 (Nigeria)*, ss 232-233.

Notwithstanding these provisions, critics observe that the PIA does not set a definite flare-out date, unlike earlier regulatory instruments that had targeted, and repeatedly missed, a “flareout” deadline, and that its penalty regime risks being treated by well-resourced operators as a cost of doing business rather than a genuine deterrent.⁴³ Nor does the Act expressly reference Nigeria’s Nationally Determined Contributions under the Paris Agreement, leaving a conspicuous disconnect between the country’s international climate commitments and its principal petroleum sector legislation.⁴⁴

9.7 The National Climate Change Policy 2021-2030 and Related Policy Instruments

Complementing the Climate Change Act is the National Climate Change Policy for Nigeria 2021-2030, approved by the Federal Executive Council in June 2021, which updates the earlier 2012 National Climate Change Policy and Response Strategy.⁴⁵ The Policy’s principal objective is to promote low-carbon, climate-resilient and gender-responsive sustainable development, and it is structured to align with Nigeria’s Nationally Determined Contribution, targeting a 20 per cent unconditional reduction in greenhouse gas emission intensity relative to business-as-usual by 2030, rising to 47 percent conditional on international support.⁴⁶ The Policy sets sector-specific priorities across agriculture, energy, industry, transportation and waste management, and provides for green bonds to mobilize climate finance.⁵³ Although not itself legally binding in the manner of a statute, the Policy performs a coordinating function, guiding the exercise of statutory powers under the Climate Change Act and related legislation, and its stated ambitions provide a useful benchmark against which to measure legislative and institutional performance.

9.8 Nigeria’s International Climate Change Obligations

Nigeria is a signatory to the UNFCCC (1992), the Kyoto Protocol (1997) and the Paris Agreement (2015), and its domestic legal obligations under these instruments must be understood against the dualist orientation of Nigerian constitutional law, under which international treaties do not become part of domestic law until domesticated by the National Assembly pursuant to section 12 of the 1999 Constitution.⁴⁷ Article 4(2)(a) of the UNFCCC

⁴³ Health of Mother Earth Foundation, ‘The Petroleum Industry Act Neglects Community Concerns and Strengthens Oil Companies’ (2021).

⁴⁴ *ibid*

⁴⁵ Federal Ministry of Environment, Department of Climate Change, *National Climate Change Policy for Nigeria: 2021-2030* (2021).

⁴⁶ Climate Action Tracker, ‘Nigeria: Policies and Action’ (2022).⁵³
National Climate Change Policy for Nigeria 2021-2030 (n 52).

⁴⁷ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12.

obliges parties to adopt national policies and measures to mitigate climate change, an obligation Nigeria has substantially discharged through the National Climate Change Policy and the Climate Change Act.⁴⁸ Under the Paris Agreement, Nigeria submitted an updated Nationally Determined Contribution in 2021, recommitting to a 20 per cent unconditional and 47 per cent conditional reduction in emissions relative to business-as-usual by 2030.⁵⁶ Independent assessments rate Nigeria's unconditional target as broadly consistent with the 1.5°C pathway, while cautioning that continued expansion of gas infrastructure, including new liquefied natural gas capacity, sits uneasily with the emissions trajectory required to meet that target.⁵⁷ The gap between Nigeria's stated international ambition and the permissive stance taken by domestic instruments such as the Petroleum Industry Act towards continued fossil fuel development is, in the present writer's assessment, one of the more significant unresolved tensions in Nigeria's climate governance architecture.

10.0 The Judicial Attitude to Environmental and Climate Accountability in Nigeria

Beyond the legislative and administrative apparatus discussed above, Nigerian courts have increasingly become a forum through which environmental and, by extension, climate-related harm is contested. In *Gbemre v Shell Petroleum Development Company (Nigeria) Ltd*, the Federal High Court held that the continued and unabated practice of gas flaring in the applicant's community violated the constitutionally guaranteed rights to life and human dignity, read together with corresponding protections under the African Charter on Human and Peoples' Rights.⁴⁹ The decision remains significant because it demonstrates how Nigerian courts can use fundamental rights litigation to circumvent the non-justiciability of section 20, effectively granting an enforceable remedy for what is, in substance, an environmental and climate grievance.

More recently, the Supreme Court's decision in *Centre for Oil Pollution Watch v NNPC* expanded the doctrine of locus standi in environmental litigation, holding that any person or organisation acting in good faith to secure the enforcement of statutory environmental obligations has standing to sue, without the need to demonstrate a special or peculiar injury distinct from the wider public.⁵⁰ This liberalization of standing rules removes a significant procedural obstacle that had historically constrained public-interest environmental litigation in

⁴⁸ United Nations Framework Convention on Climate Change (n 9), art 4(2)(a).

⁵⁶ Climate Action Tracker, 'Nigeria' (2022). ⁵⁷ Ibid.

⁴⁹ *Gbemre v Shell Petroleum Development Company (Nigeria) Ltd* (2005) AHRLR 151 (NgHC 2005).

⁵⁰ *Centre for Oil Pollution Watch v NNPC*, discussed in IUCN Commission on Environmental, Economic and Social Policy, 'A Review of Nigeria's 2021 Climate Change Act: Potential for Increased Climate Litigation' (2022).

Nigeria, including litigation directed at climate-related harm such as gas flaring and deforestation. Taken together, these decisions suggest an emerging judicial willingness to treat environmental protection, and by implication climate mitigation, as matters properly cognisable through constitutional and tortious remedies, notwithstanding the absence of a freestanding constitutional right to a healthy environment. The judiciary's role, however, remains reactive and case-specific; it cannot substitute for a coherent and consistently enforced regulatory regime, and litigation of this kind remains slow, costly and inaccessible to many of the communities most affected by environmental degradation.

11.0 Strengths of Nigeria's Climate Change Legal Framework

Several features of the framework examined above merit recognition. First, the Climate Change Act 2021 supplies, for the first time, an institutional focal point, the National Council on Climate Change, and a dedicated financing mechanism, the Climate Change Fund, matters previously left to ad hoc arrangements. Second, the imposition of direct obligations on private entities under section 24 of the Act signals a shift away from a purely state-centric model of climate governance towards one that expressly conscripts the private sector. Third, the Petroleum Industry Act's prohibition on routine flaring, coupled with metering and reporting obligations, provides, at least, the legal scaffolding necessary to hold the oil and gas sector to account, even if implementation has lagged. Fourth, the judiciary's willingness, illustrated in *Gbemre* and *Centre for Oil Pollution Watch*, to construe fundamental rights and standing rules purposively in favour of environmental claimants provides an important, if imperfect, avenue of last resort where regulatory enforcement fails. Fifth, Nigeria's Nationally Determined Contribution under the Paris Agreement has been assessed by independent trackers as broadly aligned with the 1.5°C pathway on its unconditional component, reflecting a level of international climate ambition that is not universally matched among comparable developing economies.⁵¹

12.0 Gaps and Regulatory Challenges

Notwithstanding these strengths, the framework suffers from significant and interrelated weaknesses.

First, institutional fragmentation and overlapping mandates persist among the National Council on Climate Change, NESREA, NOSDRA, and the petroleum sector regulators created under the PIA, with no clear statutory hierarchy [to resolve](#) conflicts of jurisdiction between them.⁵²

⁵¹ Climate Action Tracker (n 53).

⁵² Kehinde and Abifarin (n 7).

This fragmentation slows enforcement and allows regulated entities to exploit jurisdictional ambiguity.

Second, enforcement mechanisms remain structurally weak. As *Shell v NOSDRA* illustrates, administrative agencies frequently lack the constitutional competence to impose binding sanctions without recourse to the ordinary courts, a route that is slow, costly and vulnerable to procedural challenge.⁵³

Third, resource and capacity constraints limit effective monitoring. Nigeria continues to lack comprehensive, standardised and accessible climate data, undermining evidence-based policymaking and complicating the verification of compliance with carbon budgets and emission-reduction targets.⁵⁴

Fourth, corruption and weak governance structures continue to compromise the integrity of enforcement processes, permitting non-compliant actors, particularly well-resourced multinational operators, to evade accountability.⁵⁵

Fifth, public awareness of climate change and of the legal remedies available to affected communities remains low, particularly in rural and semi-urban areas most exposed to flooding and desertification, limiting the practical uptake of the judicial remedies discussed in Part 10.⁵⁶

Sixth, there is a persistent disconnect between Nigeria's international climate commitments and its domestic sectoral legislation, most visibly in the Petroleum Industry Act's silence on the country's Nationally Determined Contribution and its absence of a definite flare-out deadline, a disconnect that risks Nigeria's continued fossil fuel expansion outpacing its stated mitigation ambition.⁵⁷

Seventh, conflicting national priorities mean that climate enforcement is regularly subordinated to more immediate economic, security and political concerns, reducing the political capital available to fund and staff the institutions created under the Climate Change Act.⁶⁷

⁵³ *Shell v NOSDRA* (n 44).

⁵⁴ Olujobi (n 1).

⁵⁵ Kehinde and Abifarin (n 7).

⁵⁶ Okpara (n 4).

⁵⁷ Health of Mother Earth Foundation (n 50).⁶⁷ Kehinde and Abifarin (n 7).

13.0 Critical Appraisal

The foregoing analysis suggests that Nigeria's difficulty is not primarily one of legislative design. Considered individually, each of the instruments examined, the constitutional directive, the Climate Change Act, the NESREA Act, the EIA Act, the NOSDRA Act, the PIA and the National Climate Change Policy, reflects internationally recognised regulatory techniques: institutional designation, mandatory impact assessment, emissions budgeting, private-sector obligations and dedicated financing. The more serious deficiency lies at the intersection of these instruments: the absence of a single coordinating authority with unambiguous supremacy over sector regulators, the constitutional constraints on administrative sanctioning power revealed in *Shell v NOSDRA*, and the practical underresourcing of enforcement bodies. Reform, therefore, should be directed less at drafting new legislation and more at rationalising institutional mandates, strengthening enforcement architecture, and closing the gap between Nigeria's international climate ambition and its domestic sectoral permissiveness, particularly in the petroleum industry.

14. Conclusion and Recommendations

This paper has shown that Nigeria's legal framework for climate change mitigation, while more extensive than is sometimes appreciated, continues to fall short of its objectives principally because of enforcement, coordination and capacity deficits rather than an absence of applicable law. Addressing this gap requires a combination of legal and non-legal interventions.

14.1 Legal recommendations

The National Assembly should consider [a](#) legislative amendment to clarify the hierarchical relationship between the National Council on Climate Change and sectoral regulators such as NESREA, NOSDRA and the petroleum industry regulators, to eliminate jurisdictional overlap. Subsidiary regulations under the Climate Change Act should be expedited to operationalise the Climate Change Fund and to prescribe clear, proportionate penalties for non-compliance by private entities under section 24. The Petroleum Industry Act should be amended to fix a definite flare-out date and to require express alignment of upstream and midstream regulatory decisions with Nigeria's Nationally Determined Contribution. Consideration should also be given to legislative entrenchment of an explicit, justiciable right to a healthy environment, moving beyond the current reliance on indirect enforcement through the rights to life and dignity.

14.2 Non-legal recommendations

Government should invest in modern climate monitoring and data infrastructure, including satellite-based flood and deforestation tracking, to support evidence-based enforcement and planning. Capacity-building programmes for regulatory staff and the judiciary would improve the technical quality of both administrative enforcement and environmental adjudication. Sustained public education campaigns, particularly in rural communities most exposed to flooding and desertification, are necessary to translate legal entitlements into practical claims. Finally, continued collaboration with international partners, for climate finance, technology transfer and technical capacity, remains essential given the scale of resources required to meet Nigeria's Nationally Determined Contribution.

Ultimately, the Nigerian experience illustrates a broader truth in environmental governance: legal instruments, however well drafted, are only as effective as the institutions charged with enforcing them, and the political will sustaining those institutions over time.

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