



Climate Governance and Legislation in Nigeria: A Deconstruction

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Abstract: Climate governance in Nigeria is a new entrant to the domain of public interest. Attempts at legislation through agenda setting inroads and eventual attaining the list of state responsibilities for public policy has been an illusion. This study attempts an interrogation of the political architecture-National Legislative Assembly (NASS) and Federal Executive arms of government in Nigeria capacity to marshal articulate climate change policies and sustain its governance in the midst of competing exigencies. Relying on secondary documents, the “public choice theory” was selected to understand the legislative delays and its ramification for Nigeria. The core argument herein, hinges on the comatose state of the Nigeria’s earlier vision 2020 framework in which climate change was encased and the obscurity of the vision. This study further posits the need for governance urgency connected to concretized deliverables within the context of the “greater good” window shut consistently against vulnerable groups.

INTRODUCTION

The interest of the climate and its ramifications has moved from passiveness to obvious concerns. Tilakasiri (2016) corroborates 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 adds to the cart of subsisting living conditions that require urgent proactive public policy foresight. Indeed previous attempts to mitigate 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 strategy and other fall-outs manifest in trickle-down violent conflicts among farmers and cattle herdsman. This in the mainstream Nigeria polarization “mind-set” and has taken ethnic and religious proportions with deaths and communal hostilities.

This study interrogates the political antecedents of the Nigeria legislative (the National Assembly) and executive arms of government to muster their capacity to attain the required climate governance to meet current and future climate threats. The main thrust herein is to outline the climate threats and public policy (legislative/Executive) responses within the context of Nigeria’s political history. The “Public choice” theory provides the theoretical and pivotal lenses with the persuasion that communities in Nigeria, outside the elite

architecture, need common understanding, participation and tangible benefits beyond the commonplace slogans affiliated with genuine “threats” but bankrupt past public policies.

MATERIALS AND METHODS

Conceptual and theoretical issues: 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) 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: Climate change according to the Intergovernmental Panel on Climate Change (IPCC, 2007) cited in Issah *et al.* (2016) 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. 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. National Roundtable on climate change and energy. How prepared is Nigeria? Abuja, 09 February, 2012).

RESULTS AND DISCUSSION

Legislative process and public policy: 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: self-governing mode with focus by government on itself

and its activities “leading by example” or “getting your own house in order”. Control and compliance mode through the use of traditional forms of authority such as regulation and planning.

Governing by provision in which emission reductions are achieved through the delivery of particular forms of service and resources (BRT/Green Houses). 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).

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 National legislative Assembly in Nigeria, 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. After political independence in 1960, the bloody military overthrow of the civilian regime twice in 1966 decimated a generation of political and military leaders. This was repeated in subsequent decades of 1970, 1980 and 1990s until 1999 when the military voluntarily relinquished power. The corollary of the public choice theory selected in this study amplifies the contest to govern which has contrasted the Nigeria “public interest” through decades of governance.

The Public choice theory seeks to understand and predict the behavior of politicians and bureaucrats in nation-states 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) of which public choice is described as politics without passion.

This illustrates the Nigeria governance terrain as Izueke (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 study premises that plans, visions and missions proclamations of the Nigeria 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”. The outline of Fig. 1 depicts the articulate response to climate change in 2012 initiated by the federal

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> <p>"- Implement mitigation measures that will promote low carbon as well as sustainable and high economic growth;</p> <p>"- Enhance national capacity to adapt to climate change;</p> <p>"- 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;</p> <p>"- Significantly increase public awareness and involve private sector participation in addressing the challenges of climate change;</p> <p>"- Strengthen national institutions and mechanisms (policy, legislative and economic) to establish a suitable and functional framework for climate change governance".</p>
Policy type	<ul style="list-style-type: none"> ● Changing activity ● Energy efficiency ● Renewables ● Nuclear or CCS or fuel switch ● Non-energy5

Fig. 1: Continue

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

Fig. 1: National policy on climate change Nigeria 2013; <http://www4.unfccc.int/submission> Accessed, 2017, February, 10

government of Nigeria. The contrast resonates from the demand for measure able 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) in 1994 ratifying its Kyoto Protocol in 2004. Nigeria submitted its First National Communication (FNC) in 2003 and a Second National Communication in February 2014 (APP, 2016).

BNRCC. (2011) 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 includes 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.

Thus far, according to the London School of Economics and Political Science, Nigeria is yet to have any climate change specific law enacted by the National legislature and assented to by the President as required. The country has extant laws bordering 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).

In 2012, the Federal Executive Council adopted a comprehensive strategy policy on climate change referred to as the “Nigeria Climate Change Policy Response and Strategy” (NCI., 2015) which this study 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 (UNFCCC., 2015).

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: implement mitigation measures that will promote low carbon as well as sustainable and high economic growth; strengthen national capacity to adapt to climate change; raise climate change-related science, technology and R and D to a new level that will enable the country to better participate in international scientific and technological co-operation on climate change; significantly increase public awareness and involve the private sector 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.

In its observation, the LSEPS. (2013) stated that the success or failure of the policy was obviously too early to determine given its recent adoption. Yet, 5 years onward, it's a circle still preparing to take off and evident in demands as seeking to establish a national climate change commission that would coordinate climate issues nationwide (Imo, 2014).

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. Commendably 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) 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.

Furthermore, Cloete (2003) suggest four fundamental elements of governance that are central herein to the NCC-PRS 2012 in Nigeria. They are:

- Degree of trust in government
- Degree of responsiveness in the relationship between government and civil society
- Government degree of accountability to its voters
- 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 evidently rolls-out constantly executive policy instruments and “orders” for climate change management as seen in the NCC-PRS 2012 policy.

This governance response contrast the National Legislature’s intent towards climate change amongst other constituent exigencies of national “public interest”. Though the Nigeria National Assembly (NASS) legislative process is rigor driven as seen in Fig. 2 with eleven stages of legislative process of which Fig. 3 illustrates the reality of the modus operandi using the 2015 legislative year. The National Assembly comprises two chambers of the Senate which received 299 total Bills intended to be passed and made Laws and members sat for only 96 times in the whole year 2015. While the second chamber referred to as the Houses of Representative received 685 Bills with members sitting for 104 times. 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 (Figure 3 seen 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 Nigeria 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. Put succinctly, the ideals of lobbying to pass legislative bills into Acts of “Law” in Nigeria cannot be done most time without applying the same “method” mostly used for winning elections-money/other “trade off” incentives.

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 three 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 Nigeria 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.

APPENDIX



Fig. 2: Nigeria legislative making template

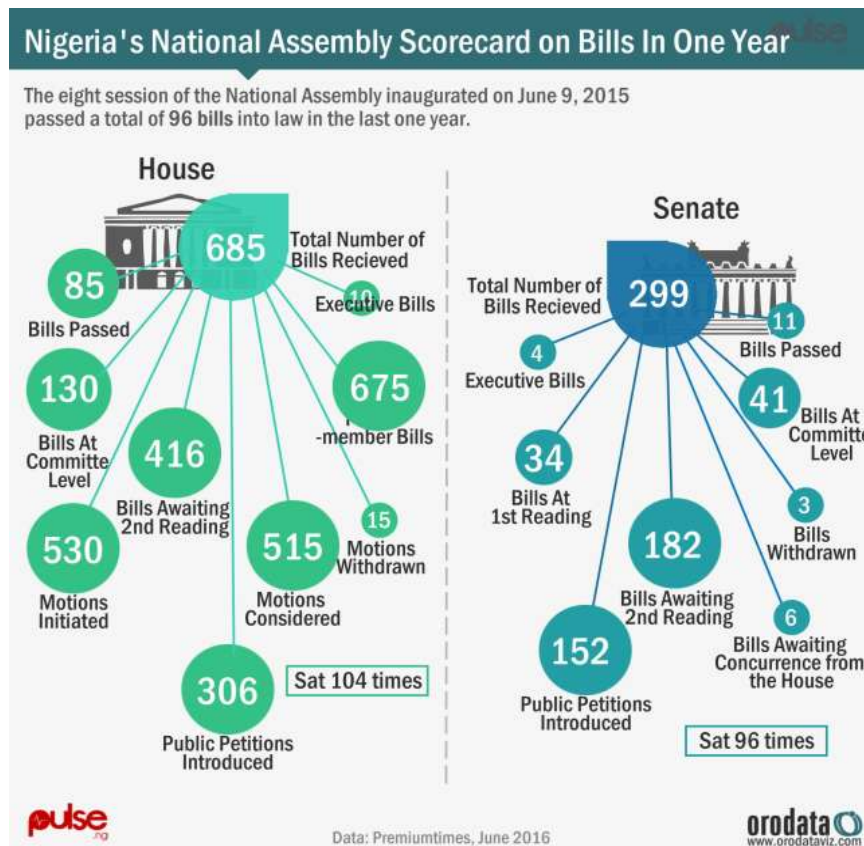


Fig. 3: National legislative assembly bill passage 2015; Pulse news; Premium Times news&www.orodata.com (2016) accessed February, 13 2017

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