

# THE NIGERIAN CLIMATE CHANGE ACT 2021: NIGERIA'S ANTIDOTE TO THE GLOBAL CLIMATE CRISES



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*“We do not inherit the earth from our ancestors; we borrow it from our children”.*

*Chief Seattle (1786-1886)*

In this year's edition of the Conference of the Parties to the United Nations Framework Convention on Climate Change, more commonly referred to as “COP26”, world leaders and other stakeholders met yet again to discuss the realities of the threats posed by climate change and the need to put in place measures to combat it as well as cushion its effects.<sup>1</sup> Very importantly, the conference was also the deadline for countries to make good on their promises (as per the Paris Agreement of COP21) to submit their Nationally Determined Contributions (“NDCs”), that is, the pledges made by countries to keep global temperature levels at 1.5 degrees through a range of deliberate steps including but not limited to a move away from fossil fuels to sustainable renewable energy sources, afforestation measures and climate dedicated financing.

Like her counterparts across the globe, Nigeria is fraught with the many crippling effects of climate change and the realities it presents. How then has Nigeria responded to these climatic threats and what are the steps it has taken towards fulfilling its obligations to combat climate change under the various international agreements it has subscribed to? These are the

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<sup>1</sup>The COP Conference is the United Nation's climate change focused conference that has held annually since 1995. This year's edition, being the 26<sup>th</sup> edition is colloquially referred to as 'COP 26'.



questions this article seeks to address. In doing so, it shall examine specifically the provisions of the Nigerian Climate Change Act, 2021 as an important step taken by the Nigerian Government to address climate change, and it shall proffer pertinent recommendations for addressing the problem.

### ***The Meaning, Import and Implications of Climate Change for Nigeria.***

The United Nations Framework Convention on Climate Change ('UNFCCC') provides a highly functional definition of the concept of climate change as “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods”<sup>2</sup>. It is important to understand, that whilst the concept of climate change is often used interchangeably with global warming, they are not one and the same as the latter is only but a subset of the larger and more serious issue of climate change. In delineating this distinction, America's National Aeronautics and Space Administration (NASA) explains climate change vis-à-vis global warming thus:

“A broad range of global phenomena created predominantly by burning fossil fuels, which add heat-trapping gases to Earth's atmosphere. These phenomena include the increased temperature trends described by global warming, but also encompass changes such as sea-level rise; ice mass loss in Greenland, Antarctica, the Arctic and mountain glaciers worldwide; shifts in flower/plant blooming; and extreme weather events.”<sup>3</sup>

Indeed, what is clear from the above is that climate change is occasioned by a broad range of human activities which harm the environment and the totality of life on the planet earth as we know it. Although it is true that climate change affects both developed and developing nations alike, however, its disastrous effects in these developing nations like Nigeria are exacerbated owing to a range of factors such as: low level of technological advancements; lack of proven policies including but not limited to poor social security structures to accommodate the windfalls of climate change; poor mechanized agricultural systems; and low level adaptation techniques.

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<sup>2</sup> Article 1 of The United Nations Framework Convention on Climate Change (UNFCCC), United Nations 1992.

<sup>3</sup> Youmatter, ' Climate Change: Meaning, Definition, Causes, Examples And Consequences ' <  
<https://youmatter.world/en/definition/climate-change-meaning-definition-causes-and-consequences/> >  
Accessed 8 December, 2021.



In recent times the African continent has been plagued by a litany of the disastrous consequences of climate change which include, amongst others, extreme weather conditions, outbreak of diseases, food crises (occasioned by reduction of arable lands and grazing land following desert encroachment), rising sea levels and coastal erosions. One major incident depicting the African situation in the light of climate change is the damage occasioned by the Tropical Cyclone Idai in 2020. According to a Reuters report, the cyclone displaced thousands of people and killed an estimated 1,000 people in Mozambique, Zimbabwe and Malawi. In Mozambique, the Cyclone caused the deaths of about 602 persons; injured 1,641 persons; damaged 239, 682 houses, damaged 715, 378 hectares of land; and occasioned about 4,979 cholera cases<sup>4</sup>.

Amidst these sufferings, what is most worrisome is that Africa as a continent has been the least responsible for the global chaos been occasioned by climate change. In a 20xx report by the UNFCCC, Africa was adjudged to be only responsible for 3% of global carbon emissions. Yet, the continent continues to suffer the brunt of the effects of fossil fuel combustion the benefits of which (for example electricity generation) are enjoyed in the distant countries of Europe and Asia.

It is against this background, that the idea of climate justice has emerged – advocating that those who have contributed least to climate change should not be left to suffer its untold hardships without policies put in place to cushion same. This ideology of climatic justice has been and continues to be manifested in diverse ways globally. Notable examples are the inclusion of the need to take action to combat climate change and its impacts as of one of the United Nation's Sustainable Development Goal (Goal 13 – Climate Action) and the financial commitments made by countries to combat climate change such as the \$100-billion-dollar fund to be raised pursuant to the Paris Agreement.

But beyond all of the lofty desirables of climate justice, is the emphatic writing on the wall requiring Nigeria, Africa at large and indeed all states globally disadvantaged in the climate change discourse, to step up to the challenge of taking concrete steps to fight climate change by contributing their quota to

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<sup>4</sup> Reuters, 'Cyclone Idai's Death Toll over 1,000, Hundreds of Thousands Displaced' < <https://www.reuters.com/article/us-africa-cyclone-toll-idUSKCN1RR0NA> > Accessed 9 December, 2021.



the ambitious goals of keeping global temperature levels at 1.5 degrees as agreed at COP26.

### ***Nigeria's Response ('X-raying' the Climate Change Act, 2021)***

In a most commendable step, the Nigerian Government, in recognizing the need for an adequate response strategy to climate change, passed the Nigerian Climate Change Act, 2021 ("the CC Act") which was further assented to by the President on the 18<sup>th</sup> of November, 2021. Indeed, and very importantly, the Act demonstrates Nigeria's commitment to net-zero emissions as reiterated by President Buhari at the COP26 conference in Glasgow.

The Act provides for an all-inclusive and comprehensive regulatory and legal framework for achieving Nigeria's long-term climate goals which encompasses a net-zero carbon emission target, adequate climate financing, environmental and economic accountability and championing/prioritizing climate change actions.

Notable highlights of the Act include:

#### **a) Scope and Purpose:**

A most commendable feature of the Act is its wide scope as it applies to institutions and agencies of government as well as private and public entities, and compulsory mandates them to adhere to all governmental regulations on climate change.

Section 1(a) –(i) of the Act very importantly sets the years 2050-2070 as the target time frame to achieve net zero carbon emissions. To achieve this aim, the prioritization of climate change adaption finance, national climate resilience and focus on other climate change combating policies are set out by the act.

#### **b) Establishment of the National Climate Council and Secretariat:**

The CC Act establishes the National Climate Council as a body saddled with the responsibility of implementing Nigeria's climate change action plan. The Council shall be headed by the President as its Chairman, the Vice President as its Vice Chairman and cross-section of other players in



government and stakeholders which include the Ministers of Environment, Budget and National Planning, Power, Transportation, Petroleum Resources, Agriculture and Rural Development, Water resources, among others.

The Council is empowered to perform a number of functions which amongst others include: the mobilization of finance for climate change adaptation, overseeing the country's carbon tax regime, implementation of the country's climate change plan etcetera.

In furtherance of the objectives of the Council, the Act also establishes a Secretariat, to be headed by a Director-General, which shall aid the Council in the performance of its duties and objectives.

- c) **Carbon Budget:** It is the general norm for the mention of 'budgets' to be associated with financial expenditure, this is however different here. A Carbon Budget is essentially the amount of carbon a country will be permitted to emit within a given period. The CC Act saddles the Federal Ministry of Environment with the responsibility of setting up the Country's budget. The budgets which usually have a five-year circle are put in place with the overall aim of ensuring that Nigeria achieves its net-zero carbon emission target between 2050-2070. Each budget circle is to be submitted to the Federal Executive Council for approval before implementation.
- d) **Climate Fund:** The Act also establishes a Climate Change Fund to be administered by the Council. The Fund is to be funded by budgetary allocations by the National Assembly, fines obtained from entities found to have breached the provisions of the Act and other funding sources to be prescribed by the Council from time to time. Amongst several objectives, the overall intent of the fund is to aid climate change mitigation and adaptation.
- e) **Nation Climate Change Action Plan:** The Act mandates the Secretariat to setup an action plan lasting a five-year circle. The plan amongst other things will ensure Nigeria's emissions are in tandem with her carbon budgets, proffering guides for the achievement of the nation's climate goals and ensuring the climate proofing of national infrastructure, that is the process of ensuring that various infrastructure such as buildings remain usable even as the environment changes.



## ***Where Do We Go from Here?***

In seeking to ensure compliance with the provisions of the Act on carbon emission reduction, the Act commendably imposes varying degrees of required compliances from entities in Nigeria – government agencies and private entities alike. For example, by the extant provisions of the Act, MDAs are mandated to adhere to stipulated carbon budgets, as failing to do so attracts the sanctioning of principal officers or the imposition of fines. Private entities are required to submit annual reports to the Secretariat of Council, detailing their efforts at adhering to stipulated carbon budgets as well as their climate adaption plans.

Indeed, for the umpteenth time, Nigeria must be commended for joining the league of responsible nations who have prioritized the global climate crises by contributing their quota in the fight for climate justice through meaningful and pragmatic legislation. To ensure however, that the legislation is not all bark and no bite, the Nigerian government must take the further step of ensuring that the legislation is backed with the necessary will to implement its lofty and laudable provisions geared at combating the climate change crises.

In all, kudos to President Muhammadu Buhari and the National Assembly!

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