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A Critical Evaluation of the Legal Framework for Climate Mitigation, Adaptation and Governance in Developing Countries: The Nigerian Experience.

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ABSTRACT: The Nigerian Climate Change Act 2021 stands as a laudable stride towards addressing environmental imperatives, yet its efficacy hinges on the imperative need for bolstered capacity to engender heightened awareness and underpin sustainable development. The absence of explicit provisions delineating the promotion of adaptation and mitigation actions, coupled with a dearth of mechanisms for emission reduction within the Act, underscores the pressing need for substantive enhancements. The onus rests squarely on the Nigerian government to fortify the Act's provisions and ensure their diligent application and enforcement, thereby necessitating unwavering support from individuals, businesses, and governmental entities alike. The Act's transformative potential stands as contingent upon a unified and concerted effort from all stakeholders. Without collective commitment and collaborative endeavors, the Act's potency will remain unrealised, and Nigeria's climate objectives will languish unattained. It is imperative for all parties to converge in a harmonised pursuit of environmental stewardship, thereby actualising the Act's full potential and propelling Nigeria towards the realisation of its climate goals.

KEYWORDS: climate change, Nigeria, migration, emissions.

I. INTRODUCTION

This study's first chapter and the one before it attempted to discuss international climate change frameworks, Nigeria's GHG emissions, the vulnerability of the nation to the effects of climate change, and the adaptation and mitigation strategies needed to combat those effects. The preceding chapters have made it abundantly clear that human activity is the primary cause of climate change. Although both developed and developing nations contribute to these activities, developing nations like Nigeria, which have few to no technological advancements, weak social structures, and low-level adaptation strategies, are more susceptible to the effects of climate change. This scenario also affects a number of African States that have been affected negatively by climate change. The depressing aspect of this predicament is that it has been established that, when compared to other continents, Africa emits the fewest greenhouse gases and, as a result, is least to fault for the global climate problem brought on by climate change. A report from the UN Climate Change Conference in 2006 states that only 2 to 3 percent of the world's carbon emissions come from industrial and energy sources in Africa. According to the Carbon Disclosure Project, only 3.8% of GHG emissions are produced in Africa, compared to 23% in China, 19% in the US, and 13% in the EU.[1] Nevertheless, the continent is the hardest hit by the effects of climate change brought on by activities that are connected to economic activity, the advantages of which are enjoyed by industrialised countries. In an effort to counteract climate change in these States, initiatives have been implemented to support emerging nations more and more frequently. For instance, as part of the Paris Agreement, Developed States committed to giving Developing States $100 billion in aid.[2]However, it cannot be overstated how important it is for African nations to create a framework system and take effective action to combat climate change by doing their part to keep the global temperature at a minimum level, addition to receiving financial compensation.

Nigeria's Response: The Climate Change Act 2021 : In recognition of the need for global efforts in combating Climate Change, Nigeria has in the last two decades taken steps in adopting and formulating Climate

[1] Carbon Disclosure Project, 'Benchmarking Progress Towards Climate Safe Cities, States, And Regions CDP' *Africa Report*, March 2020
[2] Organisation for Economic Co-operation and Development, 'Climate Finance and the USD 100 billion Goal' <https://www.oecd.org/climatechange/finance/usd-100-billion-goal/> accessed 21st September 2023

Change laws and policies including signing and ratifying the Paris Agreement of 2016,[3] formulating an NDC in 2021[4] UNFCCC's provisions and the development of the Nigeria Climate Change Policy and Strategy (NCCPRS) in 2012. However, the most significant of these laudable achievements is the signing into law of the Climate Change Act 2021.[5] The Nigerian Climate Change Act 2021 was signed into law on the 18th of November, 2021. The Act demonstrates Nigeria's commitment to net-zero emissions.[6] The Act outlines Nigeria’s policy stance on climate change, its financial plans, and the requirements it plans to meet in order to become climate resilient.[7]

II. SCOPE AND PURPOSE OF THE ACT :

The Act’s goal is to establish a legal framework for reducing greenhouse gas emissions and promoting sustainable development and green growth.[8] This is what it aims to achieve, among other things, by ensuring that strategies for adaptation and mitigation are implemented, raising and facilitating the coordination of climate change action. The Act designates 2050-2070 as the time frame for achieving net zero GHG emissions in Nigeria.[9] Section 2 of the Act extends its application to not only Ministries, Agencies, and Department but also private and public companies which are directed to comply with stated climate change strategies, policies, and targets for the development and implementation of measures put in place to attain low carbon emission levels and in the interest of the environment. The era of climate change laws binding only on the Government and its agencies alone has been eliminated, consequently, all entities both governmental, private, and public have obligations under the Act.[10]

National Climate Council and Secretariat : The National Council on Climate Change (the Council), which is established by the Act, has the authority to create policies and make decisions regarding all aspects of climate change in Nigeria.[11] It is unclear whether this authority will be used in conjunction with the Ministry of the Environment or if it will transfer to the Council all policy-making authority previously held by the Ministry of the Environment regarding climate change issues. The Federal Ministry of Environment is a ministry whose job it is to coordinate environmental issues. It also deals with climate change issues and has previously played a key role in the development of climate change legislation.[12] The Act is silent on any such collaboration for policy making purposes, however provisions are created for the Council to work with the Ministry of the Environment to implement a mechanism for carbon emission trading.[13] The Council is also responsible for regulating GHG emissions, putting sectorial targets into action, managing the Climate Action Plan, and overseeing the Climate Change Fund.[14] To create a suitable carbon tax that would probably be one of the key contributors to the Climate Fund, the Council will work with the Federal Inland Revenue Service.[15] They must examine, among other things, pertinent laws and regulations, risk levels, international agreements on climate change, and the transmission of information on these topics.[16] The composition of the Council consists of the President, some members of the public who may be appointed to the Council, and several ex-officio members.**[17]** The Act also establishes a Secretariat that would serve as the administrative, scientific and technical arm of the Council.[18]

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[3] United Nations Climate Change, ‘Parties to the United Nations Framework Convention on Climate Change’, <https://unfccc.int/node/61130> accessed 21st September 2023
[4] United Nations Climate Change, ‘Nigeria First NDC’, <https://unfccc.int/documents/497790> accessed 21st September 2023.
[5] Jumoke Lambo, et al., ‘Nigeria: The Climate Change Act 2021: Key Points for Consideration’, (2023) <https://www.mondaq.com/nigeria/climate-change/1281268/> accessed 21st September 2023
[6] Ibid.
[7] Ibid.
[8] Section 1(a)-(i) Climate Change Act 2021
[9] Section 1(f) Climate Change Act 2021
[10] Lambo (n. 184).
[11] Section 3(1) Climate Change Act 2021.
[12] Opeyemi Quadri, ‘List of 7 Agencies of Ministry of Environment in Nigeria’ (2022) <https://infomedia.com/agencies-of-ministry-of-environment-nigeria/> accessed 21st September 2023
[13] Section 4(j) Climate Change Act 2021
[14] Section 4(a) Climate Change Act 2021
[15] Section 4(i) Climate Change Act 2021
[16] Section 4(k)(1) Climate Change Act 2021
[17] Section 5(1) Climate Change Act 2021.
[18] Section 7(1) Climate Change Act 2021

Carbon Budget: The total quantity of carbon emissions allowed over time to maintain a specific temperature threshold is known as a "carbon budget".[19] This concept is based on the relationship between cumulative emissions and temperature rise. A demonstration of this phenomenon is contained in the IPCC's Report.[20] The Report states that the atmosphere can only absorb 400Gt of carbon dioxide starting in 2020 if a 1.5 degree Celsius target is to be met. If the temperature stays below 1.5 degrees Celsius, annual emissions are predicted to be 42.2 Gt, or 1,337 tonnes per second. The budget is anticipated to be spent in fewer than 8 years assuming continuous emissions.[21] The Climate Change Act defines 'carbon budget' to mean the approved quantity of GHG emissions that is acceptable over a specified time[22] and pegs its carbon budget at 2 Celsius although efforts are to be undertaken to keep the temperature increase at 1.5 Celsius above pre-industrial levels.[23] Setting the budget and budgetary period falls under the purview of the Federal Ministry of Environment, which also collaborates with the Federal Ministry in charge of National Planning. The carbon budget is also revised in accordance with Nigeria's Nationally Determined Contributions (NDC). The budget was established to make sure Nigeria meets its objective of having net-zero carbon emissions by 2070. Prior to implementation, the budget must be submitted to the Federal Executive Council for approval.[24]

Climate Fund : The Act establishes a Climate Change Fund (the Fund) to be maintained by the Council and applied towards the cost of administering the Council.[25] The Fund will be made up of money that the National Assembly has allotted for the Council, money from international organisations, fines and fees from both public and private organisations for breaking laws governing climate change, carbon taxes, and emissions trading, among other things.[26] It is laudable that the Climate Change Act 2021 includes a provision on the climate fund for fines and charges on commercial and public entities who violate the regulations on climate change as it would serve as a form of deterrence for these businesses in addition to providing funding for the Fund. Below is a discussion of the viability of using carbon taxes and emission trading to fund the Fund. Emission trading as earlier discussed in preceding chapters is a framework designed to facilitate emission levels by allowing entities that intend to reduce their emission level to buy emission allowance from countries with lower emission levels.[27] In such case, the country with low emissions sells its excess capacity to countries that are far above target, thus, a new commodity has been created in the form of emission removals.[28] Countries like China and the European Union have actively used the emission trading provisions of Article 17 of the Kyoto Protocol to achieve their goals. The Emission Trading market is significant and extremely valuable for Developing States, which are typically below emissions targets and have excess capacity that they could sell, despite concerns that Developed States will use it to buy their way out of Climate Change sanctions.[29]

Nigeria has declared her intention to enter this market to raise money for her climate change projects in accordance with Section 15(1)(e) of the Climate Change Act 2021. To further the objectives of the Act, the Nigerian government established the Emission Trading Scheme (ETS) in August 2022. This plan aims to generate $3 billion in revenue for Nigeria each year by exchanging roughly 250 metric tonnes of carbon dioxide.[30] This market may be a goldmine for the Nigerian government if it is successfully implemented, but emission trading can be a challenging process that necessitates monitoring, reporting, and verification.[31] Contrarily, a tax on carbon emissions that is necessary for the production of products and services is referred to as a 'carbon tax'. It functions as a type of 'pollution tax' that the government imposes for every tonne of

[19] Luke Sussams, 'Carbon Budget Explained Carbon Tracker', <https://carbontracker.org/carbon-budgetsexplained/> accessed 21st September 2023
[20] IPCC, 'Climate Change 2021: The Physical Basis' (Working Group I Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change) 2021
[21] Ibid.
[22] Section 35 Climate Change Act 2021
[23] Section 19 Climate Change Act 2021
[24] Section 19(3) Climate Change Act 2021
[25] Section 15 (1)(a) - (f) Climate Change Act 2021
[26] Ibid.
[27] Asian Development Bank (n.28)
[28] PwC, 'Tax Bites: Nigeria Climate Change Act - Things to know and Prepare For' (2021)
[29] Cedric Philibert, 'How Could Emission Trading Benefit Developing Countries' (1999)
[30] Okechukwu Nnodim, 'FG targets $3bn from CO2 sale', Punch Newspaper (23rd August, 2022) <https://punchng.com/fg-targets-3bn-from-co2-sale/> accessed June 29th 2023
[31] Pwc (n. 207)

greenhouse gases released during the production of a good.[32] This has the effect of making products that produce GHG emissions in their manufacturing process more expensive than those that do not, which in turn would cause a decline in the demand for such things. Carbon taxes reduce consumer demand for products that produce a lot of emissions and encourage investment in renewable energy sources.[33] The Nigerian Government in addition to emission trading has made provision for Carbon Tax as a viable source of funds for its climate change projects.[34] The implementation of a carbon tax policy has the potential to increase revenue for the nation while reducing GHG emissions and pollution levels. Additionally, it would promote a widespread switch from fossil fuels to renewable energy sources. To earn carbon credits and lower production costs, businesses would be urged to take such actions. But for Nigeria to implement this tax scheme successfully, it needs a strong mechanism for monitoring and publicising carbon emissions.[35] When there is uncertainty in emissions levels, emitting companies would only reduce their emission to a point where it is cheaper to pay tax than to reduce emission levels.[36] This defeats the purpose of the Carbon Tax System.

III. CLIMATE CHANGE ACTION PLAN

According to Section 20 of the Act, the Secretariat is required to create the Action plan every five years after consulting with the Federal Ministries in charge of the Environment, Budget, and National Planning. The Action Plan will serve as the foundation for identifying the actions necessary to ensure that the national emissions profile is in line with the carbon budget targets and to create national goals, objectives, and priorities for climate adaption.[37] The Action Plan should serve as a roadmap for achieving the nation's climate goals and, ultimately, net-zero emissions.[38] The Action Plan is subject to the Council and Federal Executive Council's approval.[39]

Obligations under the Climate Change Act : According to the Action Plan and carbon budget established by the Act, Ministries, Departments, and Agencies (MDAs) of the Federal Government of Nigeria are required to adhere to annual targets for reducing carbon emissions.[40] Both governmental and private entities are subject to the Act's responsibilities. According to Section 24 of the Climate Change Act 2021, private organisations with 50 or more employees are required to actively participate in initiatives that would help them reach the Action Plan's yearly carbon emissions target. If a private entity breaches the agreement, the Council will decide how much to fine them.[41] This provision however begs the question - Are private entities with employees fewer than 50 exempted from taking steps to further the Action Plan? This seems like the necessary inference from the provision. A public entity is an organisation or agency that renders services to the general public on behalf of the Nigerian government, according to Section 35 of the Climate Change Act 2021. By virtue of the Act, public bodies may be subject to duties linked to climate change, which the Council may also modify or remove.[42] It would seem that the obligations of public entities are not immediate like those of private entities which kick-start upon production of the Action Plan and carbon budget, the obligations of public entities in more futuristic terms depend on the actions and decisions of the Council. Regardless, any person whether private or public, that flouts any provision of the Act would be liable to a penalty be determined by the Council.[43]

Climate Change Legal Framework in Some Select Jurisdiction : In the study’s earlier phase, an evaluation of a few provisions of the Nigerian Climate Change Act 2021 was done. The Nigerian State’s responsibility for climate change is prone to some challenges and needs revisions to the laws and regulations governing it as well as the actions being taken to put these provisions into effect. Although Nigeria's climate change laws are relatively new and reasonably progressive, there is still considerable room for improvement. Except for some general requirements found in International Climate Change Agreements and binding on all member States, the

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[32] Center For Climate and Energy, ‘Carbon Tax Basics’, <https://www.c2es.org/content/carbon-tax-basics/> accessed 21st September 2023
[33] Ibid.
[34] Section 15 (e) Climate Change Act 2021
[35] Pwc (n. 207)
[36] Ibid.
[37] Section 20(4)(a) Climate Change Act 2021
[38] Section 20 (4)(b)
[39] Section 20 (3)
[40] Section 22(4) Climate Change Act 2021
[41] Section 24 (2) Climate Change Act 2021
[42] Section 23(a) & (b) Climate Change Act 2021
[43] Section 34 Climate Change Act 2021

legislative framework implemented to combat Climate Change varies from jurisdiction to jurisdiction. In reaction to the current problems facing their States, the Legislative branch enacts laws and designs them to address the expanding concerns of the State. As a result, States adopt various models for their climate change laws, leaving much to be desired or to be imitated. In order to analyse the framework systems established in both jurisdictions and identify the parts of their laws that would be applicable to the Nigerian State and that should be imitated, a comparative analysis of the climate change laws of two distinct jurisdictions will be conducted in this section.

An Overview of The Swiss Federal Act on The Reduction of CO2 Emissions : The Swiss government's response to climate change is governed by the Federal Act on the Reduction of CO2 Emissions. It is the cornerstone domestic legislation in Switzerland to combat GHG emissions and climate change. The Federal Act on The Reduction of CO2, among other things, puts into practice the objectives established by the UNFCCC, the Kyoto Protocols, and the Doha Amendment. The State filed its Nationally Determined Contribution (NDC), which set a total GHG emission target of at least 50% by 2030 compared to 1990 levels. The State ratified the Paris Agreement on October 6, 2017.[44] The Law is based on Articles 74 and 89 of the Swiss Constitution which empower the Swiss Legislature to 'legislate on the protection of the population and its natural environment against damage or nuisance'[45] and on the use of energy by installations, vehicles and appliances.[46] With the aim of limiting the increase in world temperature to less than 2 degrees Celsius, the Act aims to minimize greenhouse gas emissions, paying particular attention to CO2 emissions associated to the use of fossil fuels (thermal and motor fuels).[47] By 2020, it is intended to have cut greenhouse gas emissions by 20% from 1990 levels. Any increase above the 20% reduction can be addressed with measures taken abroad by up to 75%.[48] All of the actions to be performed in accordance with the Act are intended to achieve the reduction goals established by the Act, and principal fossil fuel consumers are given the option to voluntarily reduce their use of fossil fuels and CO2 emissions.[49]

The Act makes provisions for emissions that have been achieved abroad.[50] This would accommodate the Kyoto Protocol's recognised methods for collaborative implementation, clean development, and carbon trading. However, these actions must support sustainable development in the nations where they are implemented and must not have a negative effect; anything less would not be regarded as emission reductions.[51] The Federal Act on The Reduction of CO2 Emissions' description of technical solutions designed to lower carbon emissions is one of its outstanding accomplishments. The procedures that should be done to reduce the usage of fossil fuels and the subsequent CO2 emissions are thoroughly outlined in Chapter 2 of the Act. To ensure that the heating systems of these buildings and their carbon emissions are decreased in accordance with the specified targets, the Cantons (States) are obligated to adopt construction standards for new and old structures.[52] The Federal Council is expected to report on the degree to which the aim of reducing emissions from new passenger vehicles to an average of 130g CO2/km has been met. Manufacturers and importers of passenger vehicles are required to adhere to each particular objective for average CO2 emissions set forth by the Federal Council,[53] if the importer or manufacturer exceeds the target, they become liable to a fine. The amount to be fined is dependent on the amount of CO2/km over the individual target.[54] Chapter 3 of the Act creates an Emissions Trading Scheme. Companies that operate installations with high GHG emissions may be required to subscribe to this scheme and must surrender to the Confederation[55] emission allowance or emission reduction certificates equal to the

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[44] Gesley Jenny, 'Switzerland: CO2 Amendment Rejected by Voters' (2021) <https://www.loc.gov/item/globallegal-monitor/2021-06-25/switzerland-co2-act-amendment-rejected-by-voters/> accessed 30th June,2023
[45] Article 74 of the Swiss Federal Constitution
[46] Article 89 of the Swiss Federal Constitution
[47] Article 1 of the Federal Act on the Reduction of CO2 Emissions
[48] Article 3 of the Federal Act on the Reduction of CO2 Emissions
[49] Article 4 of the Federal Act on the Reduction of CO2 Emissions
[50] Article 5 of the Federal Act on the Reduction of CO2 Emissions
[51] Article 6 of the Federal Act on the Reduction of CO2 Emissions
[52] Article 9 of the Federal Act on the Reduction of CO2 Emissions.
[53] Article 11 of the Federal Act on the Reduction
[54] Article 13 of the Federal Act on the Reduction of CO2 Emissions
[55] Switzerland is officially known as the Swiss Confederation

emissions caused by their installations[56] in addition to the annual GHG emission reports they are required to submit to the Confederation.[57] The quantity of emission allowance would be decided by the Federal Council annually.[58] The Federal Act on The Reduction of CO2 Emissions establishes a structure in which individuals compensate for their emissions. Operators of fossil fuel thermal power stations must provide full compensation for the carbon emissions they create, although they can make partial restitution up to 50% through emission reduction certificates.[59] The Federal Council may, however, set the compensation rate at between 5 and 40 percent based on the degree to which the reduction target stated in Article 3 has been achieved and decide on the scope of domestic compensation measures. On the other hand, motor fuel distributors are only required to compensate for a portion of the CO2 emissions that are attributable to the use of motor fuel as an energy source.[60] The Act levies a 36 franc CO2 levy per tonne of CO2 on the production, extraction, and import of thermal fuels. If the interim targets set for the thermal fuels in line with Article 3 are not met, the Federal Council may raise the rate to a maximum of 120 francs.[61] Anyone who avoids paying the CO2 levy will be subject to a fine equal to three times the amount they avoided paying.[62] Building-related CO2 emission reduction initiatives are financed with a third of the CO2 levy proceeds.[63] A portion of the money raised by the CO2 levy is used to pay for loan guarantees that will lower GHG emissions, make it easier to employ renewable energy sources, or promote the utilisation of natural resources.[64] The general people and the business community receive the CO2 levy's residual funds.[65] The Federal Council has the authority to enforce and carry out the Act's requirements, and it does so in conjunction with the Cantons and other interested parties.[66]

A Comparative Analysis of the Swiss Federal Act on the Reduction of CO2 Emissions and the Climate Change Act : It is necessary to look at several crucial aspects of climate change law in Nigeria and Switzerland in order to compare and contrast the two nations' approaches to the idea of climate change. Here, an effort will be made to look at each of these nations' climate change structures.

A. Administration of Climate Change Laws in Nigeria and Switzerland: The body in charge of facilitating climate change rules under the Swiss Climate Change Act is the Federal Council. While the Swiss Act's Article 1(1) states that reducing greenhouse gases is the Act's goal, Article 1(2) specifies that the Federal Council is responsible for identifying these gases. In order to comply with international accords, the Federal Council may raise the reduction targets for GHG emissions to 40%.[67] The Swiss Federal Council calculates the individual targets and the average CO2 emissions.[68] Chapter 3 of the Swiss Climate Change Act gives the Swiss Federal Council the authority to mandate that businesses in certain categories that run installations with substantial greenhouse gas emissions take part in the emissions trading program.[69] The Federal Council is the entity with the authority to determine the amount of domestic compensation measures as well as the compensation rate.[70] The CO2 levy is also administered by the Federal Council, which has the authority to raise the rate from 36 to 120 francs if the goal established under Article 3 is not attained.[71] Following allocation in accordance with Articles 34 and 35 of the Swiss Climate Change Act, the Federal Council controls the specifics and procedure for distribution of the residual CO2 levy funds.[72] More importantly, the enforcement of the provisions of the Swiss Climate Change Act is the responsibility of The Federal Council,[73] they periodically assess the measures

[56] Article 16 of the Federal Act on the Reduction of CO2 Emissions
[57] Article 20 of the Federal Act on the Reduction of CO2 Emissions
[58] Article 18 of the Federal Act on the Reduction of CO2 Emissions
[59] Article 22 of the Federal Act on the Reduction of CO2 Emissions
[60] Article 26 of the Federal Act on the Reduction of CO2 Emissions
[61] Article 29 of the Federal Act on the Reduction of CO2 Emissions
[62] Article 42 of the Federal Act on the Reduction of CO2 Emissions
[63] Article 34 of the Federal Act on the Reduction of CO2 Emissions
[64] Article 35 of the Federal Act on the Reduction of CO2 Emissions
[65] Article 36 of the Federal Act on the Reduction of CO2 Emissions
[66] Article 39 of the Federal Act on the Reduction of CO2 Emissions
[67] Article 3 of the Federal Act on the Reduction of CO2 Emissions
[68] Articles 11 & 12 of the Federal Act on the Reduction of CO2 Emissions
[69] Article 16 of the Federal Act on the Reduction of CO2 Emissions
[70] Article 26 of the Federal Act on the Reduction of CO2 Emissions
[71] Article 29 (2) of the Federal Act on the Reduction of CO2 Emissions
[72] Article 36 of the Federal Act on the Reduction of CO2 Emissions
[73] Article 39 of the Federal Act on the Reduction of CO2 Emissions

to determine whether they are effective and whether new steps are necessary.[74] The Nigerian Climate Change Act is primarily administered by the National Council on Climate Change, the National Council is empowered to make policies and decisions on climate change matters in Nigeria.[75] Along with other responsibilities listed in Section 4 of the Nigerian Climate Change Act, the National Council is responsible for directing the execution of sectorial targets and the Action Plan, managing the Climate Fund, and creating a system for a carbon price. The National Council may suggest suitable punishments and actions where Act duties are not fulfilled satisfactorily.[76] The National Council is entrusted with advocating for and encouraging the adoption of environmentally friendly solutions to Nigeria's climate change and GHG emission problems.[77] The Council may also pass laws mandating that both public and private enterprises report annually on their efforts to reduce their emissions of greenhouse gases and detail the steps they have taken to do so.[78] The National Council is assisted in the administration of its duties by the Secretariat.[79] However, the meeting time for the National Council remains unclear. Section 5(2) of the Nigerian Climate Change Act provides that the Council shall meet when 'necessary for the performance of its functions under the Act. What then is the scope of necessity? From all indications, the climate crisis the world is currently undergoing is a case of necessity. Is the Council then required to meet at every time? Such an interpretation would lead to a manifest absurdity. The Act should provide in clear terms the period to which the Council may be conveyed either annually, biannually, or any other period that may be subscribed to. Leaving it to a case of necessity is vague especially as conditions for what is 'necessary' were not stated.[80]

B. Climate Change Measures in Switzerland and Nigeria Climate Change Laws: To effectively combat climate change and mitigate its effects, it is expedient that climate change measures be undertaken and provided for by law. Numerous guidelines and strategies for addressing climate change and achieving reduction goals are included in the Swiss Climate Change Act. According to Article 3, the reduction goal is to cut greenhouse gas emissions by 20% by 2020 compared to 1990 levels. As a result, Article 10 of the Swiss Climate Change Law mandates that by the end of 2015, the average CO2 emissions from newly registered passenger automobiles must be 130g CO2/km. Buildings that utilise fossil fuels for heating must cut back on their use in order to meet the Swiss Act's requirements.[81] Chapter 3 of the Swiss Act deals with emission trading, while Chapter 5 of the same Act deals with CO2 levies on people who generate greenhouse gases. In Article 14 of the Act, a carbon sink is also mentioned. There are few sections addressing climate change actions in the Nigerian Climate Change Act. The achievement of net-zero GHG emissions is the goal set forth in Section 1 of the Nigerian Climate Change Act, although no sufficient methods are specified in the Act to help with the achievement of this objective. The Ministry of Environment is tasked with setting a carbon budget for Nigeria in order to keep average increases in global temperature within 2°C and pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels. The carbon budget that should serve as a guide for the amount of greenhouse gases that can be emitted within a defined period is not expressly provided for.[82] It would appear that the Action Plan would include the climate change initiatives the Nigerian State intends to implement. The Climate Change Action Plan should include mitigation and adaptation measures, a carbon budget, energy conservation and renewable energy, level and trends of GHG emissions, among other things. These are all covered in detail in Section 20 of the Nigerian Climate Change Act.

C. Climate Financing in Switzerland and Nigeria : Climate finance refers to local, national, or international funding that supports climate change adaptation and mitigation efforts. It is derived from public, private, and alternative sources of funding.[83] The Swiss Federal Act on the Reduction of CO2 Emissions establishes CO2 levies as a practical method of financing climate change. The Swiss Act's Chapter 5 establishes a CO2 levy.

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[74] Article 40 of the Federal Act on the Reduction of CO2 Emissions
[75] Section 3(1) of the Climate Change Act 2021
[76] Section 22(6)(a) of the Climate Change Act 2021
[77] Section 27 of the Climate Change Act 2021
[78] Section 34 of the Climate Change Act 2021
[79] Section 7 & 8 of the Climate Change Act 2021
[80] Section 5(2) of the Climate Change Act 2021
[81] Article 9 of the Federal Act on the Reduction of CO2 Emissions
[82] Section 19 of the Climate Change Act 2021
[83] UNFCCC, 'Intoduction to Climate Finance', <https://unfccc.int/topics/introduction-to-climate-finance> accessed 27th September 2023

The Swiss Confederation imposes a CO_2 levy on the production, extraction and import of thermal fuels.[84] The levy is calculated at 36 francs per tonne of CO_2. If the interim targets set for the thermal fuels in line with Article 3 are not met, the Federal Council may raise the rate to a maximum of 120 francs.[85] The CO_2 levy's proceeds are used to pay for programmes that lower building-related CO_2 emissions,[86] finance technology for reducing GHG emissions[87] and distributed to the private and public sector.[88]The Climate Fund is the method for financing climate change under the Nigerian Climate Change Act. The Climate Fund includes funds that the National Assembly has allotted for the Council, financing from international organisations, nes and charges from private and public institutions for violating climate change regulations, carbon taxes, and emissions trading, among other things.[89] The Act also includes a carbon tax and emission trading as sources of funding for addressing climate change[90] although no provision is made on how these measures would be undertaken.

D. Enforcement of Climate Change Laws in Nigeria and Switzerland : Enforcement of laws is as important as the enactment of a law. This is because a law without an enforcement mechanism becomes a dead law. Thus, climate change laws must have adequate enforcement mechanisms to back them. In light of the above, after consulting with the cantons and interested parties, the Swiss Climate Change Act gives the Federal Council the authority to implement its provisions. Additionally, the Federal Council governs the sanctions policies.[91] Chapter 8 of the Swiss Act outlines acts that would attract criminal liabilities. The Nigerian Climate Change Act is silent on any specific enforcement measures. However, according to Section 34(2) of the Nigerian Climate Change Act, a court may issue an order in a case involving climate change or environmental issues to prevent, stop, or discontinue the performance of any act that is harmful to the environment, compel any public official to take action to prevent or stop the performance of any act that is harmful to the environment, and provide compensation to the victim who was directly harmed by the act.

An Overview of the Ugandan National Climate Change Act 2021: A result of Uganda's national response to climate change is the National Climate Change Act. It provides the Paris Agreement, the Kyoto Protocols, and the UNFCCC legal force. Additionally, it creates a system for implementing, reporting on, and monitoring climate change programmes. It offers a framework for increasing climate resilience and a model for institutional governance and management of all climate change-related activities.[92] The Act aims to establish a regulatory framework for assessing the effects of climate change and the implementation of programmes on climate change, improve adaptation strategies to foster low GHG emissions and climate resilience, establish an institutional framework to control and manage all activities related to climate change, and oversee climate change financing.[93] Worthy of note is the Ugandan Framework Strategy on Climate Change. These strategies are to aid the government when planning and budgeting for financing and monitoring climate change programs and activities.[94] The strategies are tripartite, there is the National Climate Change Action Plan, that of a Lead Agency,[95] and the District Climate Change Action Plan. The National Climate Change Action Plan represents the actions to be undertaken to combat the effects of climate by the Ugandan State and is developed by the

[84] Article 29 of the Federal Act on the Reduction of CO_2 Emissions
[85] Ibid.
[86] Article 34 of the Federal Act on the Reduction of CO_2 Emissions
[87] Article 35 of the Federal Act on the Reduction of CO_2 Emissions
[88] Article 36 of the Federal Act on the Reduction of CO_2 Emissions
[89] Section 15 of the Climate Change Act 2021
[90] Section 15(1)(e) of the Climate Change Act 2021
[91] Ibid.
[92] Joy Atakpa, "Uganda National Climate Change Act' (5th April 2023) <https://www.linkedin.com/pulse/ugandasnational-climate-change-act-joyatakpa?utmsource=share&utm_medium=member_android&utm_campaign=share> Accessed on 21st September 2023
[93] Section 3 of the Ugandan National Climate Change Act
[94] Section 5 (2) of the National Climate Change Act
[95] Section 2 of the National Climate Change Act defines a Lead agency as a Ministry, Department, Local Government or agency of government responsible for undertaking response measures for climate change in accordance with the Act and the National Climate Policy.

Department responsible for climate change in the Ministry.[96] The Lead Agency Climate Change Action Plan represents the framework strategy on climate change to be undertaken by Lead Agencies. It shall conform with the National Climate Change Action Plan and the Framework Strategy on Climate Change.[97] Each district in Uganda creates a District Climate Change Action Plan that describes the impact of climate change there, the area's vulnerability index, adaptation and mitigation strategies, and the district's plans to build climate resilience. The District Climate Change Action Plan must be in accordance with both the National Climate Change Action Plan mandated by Section 6 and the Framework Strategy on Climate Change under Section 5.[98] The Act's Section 21 specifies procedures for financing climate change. It states that after consulting with designated ministers in climate change-related fields, the minister responsible for finance shall assist climate change financing. Viable financing options should be taken into account both domestically and internationally. Such funding is meant to support study, data gathering, and systemic observations of climate change. Section 22 contains incentives for people who are working to implement steps for adaptation and mitigation of GHG emissions. Regulations governing the administration of such incentives must be made by the Minister.[99]

Perhaps what make the Ugandan Climate Change Act stand out from other laws is its accommodation of climate litigation. According to Section 26 of the Act, the High Court has jurisdiction to hear complaints against the Government, a specific person, or a private business whose actions or inaction puts adaptation and mitigation measures in jeopardy. The High Court has the authority to issue an order that would forbid, halt, or cease such a conduct or omission, require any agency or person to perform the act or omission, and pay the person who suffered damages. A claimant's failure to establish personal damage to himself or another person will not bar him from filing a court application.[100] This provision is admirable because it recognises the necessity of holding defaulters responsible for their acts, safeguarding vulnerable groups, and promoting individual reparation for wrongs committed against the environment. Section 29 of the law, which mandates that climate change education be incorporated into the national curriculum, is also important to highlight. People would become more aware of the value of the environment, practical adaptation and mitigation strategies, and the necessity of environmental protection as a result of this. People can only fully comprehend what climate change implies and the detrimental effects it has on the environment and biological life forms if they are adequately educated about these effects and how to mitigate them.[101] It would also help shape a positive attitude towards climate change and encourage the shift to clean energy.

Comparative Analysis of the National Climate Change Act and the Nigerian Climate Change Act: In the section before this one, the legal systems for addressing climate change in Nigeria and Switzerland were compared. We will now analyse some crucial areas of climate change law in Nigeria and Uganda, two African nations. Here, an effort will be made to look at each of these nations' climate change structures.

A. Climate Change Response Measures in Nigeria and Uganda : As stated earlier, climate change measures are important for attaining climate change goals. Thus, comprehensive climate change measures are provided for by the Ugandan National Climate Change Act. The Ugandan Act's Section 5 establishes a Framework Strategy on Climate Change. The Ugandan Government is guided by this Framework Strategy on Climate Change when planning and budgeting for financing and overseeing climate change programmes and activities. Although the Framework Strategy's components are yet unknown, it appears that the Climate Change Action Plans are a corollary of the Framework Strategy.[102] The Action Plans are tripartite National, Agency, and District Action Plans. The State's Action Plan is represented by the National Climate Change Action Plan. It outlines the steps that must be taken to assess and manage climate change, achieve adaptation and mitigation of the effects of climate change, conserve and improve greenhouse gas sinks and reservoirs, and build climate

[96] Section 14(2)(c) of the National Climate Change Act provides that the department responsible for climate change serves as the National information management centre for collating, verifying, refining and disseminating knowledge and information on climate change
[97] Section 7 of the National Climate Change Act
[98] Section 8 of the National Climate Change Act
[99] Section 22
[100] Section 26 of the National Climate Change Act.
[101] UN, 'Education is Key to Addressing Climate Change' <https://www.un.org/en/climatechange/climatesolutions/education-key-addressing-climate-change> accessed 21st September 2023
[102] Section 6(1) of the National Climate Change Act

change resilience.[103] The Lead Agency Action Plan is one formulated Ministries, Department, Local Government or agency of government tasked with undertaking response measures for climate change.[104] The District Climate Change Action Plan comprise the climate change assessment and measures of a district.[105] A district may create separate action plans to apply to various areas of the district, and the District Climate Change Action Plan shall apply to the entire district or to any component of a district.[106] A Climate Change Action Plan outlining the nation's climate change initiatives is also provided for by the Nigerian Climate Change Act. The Nigerian Climate Change Action Plan, unlike the Ugandan Action Plan, is only one and offers a comprehensive list of climate change mitigation and adaptation measures, a carbon budget, energy conservation and renewable energy, as well as the amount and trends of GHG emissions, among other things.[107]

B. Enforcement Mechanism for Climate Change Laws in Nigeria and Uganda: The Ugandan National Climate Act provides expressly for an enforcement mechanism for its provisions. It embraces climate litigation by vesting the court with jurisdiction to entertain cases and providing remedies for victims.[108]On this crucial matter of law, the Nigerian climate law is silent. However, according to Section 34(2) of the Nigerian Climate Change Act, the court may issue an order in a case involving climate change or environmental issues to prevent, stop, or discontinue the performance of any act that is harmful to the environment, compel any public official to take action to prevent or stop the performance of any act that is harmful to the environment, and compensate the victim who is directly harmed by the act that is harmful to the environment.

C. Climate Change Education in Nigeria and Uganda : Promoting climate action requires education. It aids individuals in comprehending and addressing the effects of the climate catastrophe by equipping them with the information, know-how, values, and attitudes necessary to engage as change agents.[109]The Ugandan National Climate Change Act contains multiple provisions encouraging climate change education and sensitization. The District Environment and Natural Resources Committee is tasked by Section 19(2)(d) of the Ugandan Act with disseminating knowledge about climate change through outreach and education initiatives. Additionally, Lower Local Government committees are required to run climate change education and awareness initiatives in their local jurisdictions.[110] The Ministry of Education should see to it that research and education on climate change are incorporated into the national curriculum.[111] A similar provision for climate change education exists in the Nigerian Climate Change Act, but unlike the Ugandan Act, it does not apply to all levels of government. The Secretariat shall, with the approval of the Council, advise the Ministries, Departments and Agencies of the Federal Government of Nigeria responsible for regulating educational curriculum in Nigeria on the integration of climate change into the various disciplines and subjects across all educational levels, according to Section 26 of the Nigerian Climate Change Act.

D. Climate Change Duties of Private Entities and Individuals in Nigeria and Uganda : According to Section 23 of the Ugandan National Climate Act, the minister is in charge of making rules that specify what obligations belong to private organisations and individuals. The requirement to create mitigation and adaptation plans is one of the obligations highlighted by legislation.[112] Mitigation and adaptation plans are strategies private entities develop to reduce their greenhouse gas emissions and adapt to their impact as part of their transition to a green economy. These plans are to meet the specific needs and circumstances of the entity.[113] Compliance with the minister's prescribed nature and process for reporting on the performance of private entities and persons is another obligation placed on individuals and private entities.[114] The minister is empowered to formulate

[103] Section 6(2) of the National Climate Change Act
[104] Section 2 and 7 of the National Climate Change Act
[105] Section 8 (2) of the National Climate Change Act
[106] Section 8 (3) of the National Climate Change Act
[107] Section 20 of the Climate Change Act 2021
[108] Section 26 of the National Climate Change Act
[109] UNESCO, 'Climate Change Education', <https://www.unesco.org/en/climate-change-/education> accessed 27th September 2023
[110] Section 20 (2) (c) of the National Climate Change Act
[111] Section 29 of the National Climate Change Act
[112] Section 23 (b) of the National Climate Change Act
[113] Ibid.
[114] Section 23 (c) of the National Climate Change Act

mechanisms for monitoring and evaluating compliance with the provisions of the Act.[115] Similar to the Ugandan Act, the Nigerian Climate Change Act establishes obligations for private organisations but does not apply it to individuals. Private entities located within the geographical limits of Nigeria are covered by Section 2 of the Nigerian Climate Change Act, which extends its application to them for the creation and implementation of mechanisms aimed at promoting lowcarbon emission, environmentally sustainable, and climate resilient societies. The National Council may also pass legislation mandating that "private entities" report annually on GHG reductions and reduction strategies, have corporate climate change obligations, and reduce GHG emissions in their respective sectors and across sectors.[116]

E. Climate Change Incentives in Nigeria and Uganda : Climate Change Incentives act as a form of economic incentive that promote behaviour through price signals as opposed to overt directions on emissions control standards or practises.[117] The potential benefits these economic-incentive tools could provide over conventional command-and control strategies have attracted the attention of environmental policy makers in recent years. Theoretically, when economic incentive instruments are properly created and implemented, low GHG emissions can be accomplished at the lowest possible overall cost to society because they encourage businesses to reduce GHG emissions to the greatest extent possible.[118] Consequently, according to Section 22 of the Ugandan National Climate Act, the minister may specify the type of incentives and the requirements for their granting or withdrawal. The minister in charge of finances must be consulted before the incentive is paid out. People undertaking responses to adaptation and reduction of greenhouse gas emissions are the recipients of these incentives.[119] The Nigerian Climate Change Act also includes incentives for both public and private organisations that reduce GHG emissions, which must be described in the Climate Change Action Plan.[120] The National Council may also pass laws establishing financial incentives to stimulate the reduction of GHG emissions and the involvement of the private sector in climate action.[121]

IV. CONCLUSION

The Nigerian Climate Change Act 2021 is a positive move, but it still has room for improvement in terms of its capacity to increase awareness and support sustainable development. The Act does not contain any particular provisions explaining how to promote adaptation and mitigation actions and reduce emissions. The Nigerian government must enhance the Act and make sure that it is properly applied and enforced. Individuals, businesses, and governmental organisations will all need to support this. The Act won't work to its full potential and the nation won't meet its climate goals without a concerted effort from all parties.

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