

Proceeding Paper

# Climate Change, Sustainable Health and COVID-19 Pandemic in Nigeria: The Legal Issues in Perspective <sup>†</sup>

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**Abstract:** The paper examined legal impediments to sustainable health in Nigeria due to the impact of climate change (CC) exacerbated by coronavirus (COVID-19). COVID-19 has presented the world with a crisis greatly accentuated by the urgency with which we need to fight the CC debacle, making the need for sustainable development (SD) more obviously acute than ever and requiring a response rooted in the principles of SD. On 29 September 2020, a total of 1 million COVID-19 deaths had occurred worldwide, while in Africa, there were about 35,954 cumulative fatalities. In Nigeria, the situation was similar. This paper found that despite the ravaging COVID-19 pandemic, health is still a low priority in Nigeria; 4.526 percent of the country's budget was appropriated to the health sector in 2021 and 4.3 percent in 2022, contrary to the 2001 Abuja Declaration by African leaders and the 15 percent value stipulated by the WHO. The challenge is that Nigeria's efforts in attaining sustainable health and eradication of COVID-19 are arbitrary and have been hampered by the absence of tested laws on CC and COVID-19, thereby resulting in avoidable fatalities. Using analytical research methodology and drawing from global best practices to achieve sustainable health, this paper recommended the incorporation of legal and institutional frameworks to combat COVID-19 pandemic in Nigeria.

**Keywords:** climate change (CC); COVID-19; sustainable health



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## 1. Introduction

The COVID-19 pandemic has caused far greater disruption around the world than any other global event in this century. It has altered the trajectories of sustainable developments around the world in such a way that to be successful, a country must navigate the crisis by generally implemented policies which will accelerate these transformations in the direction of sustainability. It has also done so in a way which easily reinforces the type of blinkered, bordered thinking which has become so common. When astronomical infection rates can be blamed not on the failure to implement a comprehensive test-and-trace system, but on a “China Virus” or the actions of certain marginalized religious groups, what sorts of policy solutions are demanded by such a narrow framing of the question? While this approach may score short-term political points, the coronavirus cannot be defeated this way, and nor can any of the global challenges of the 21st century, but sustainable development provides solutions. Needless to say, a wall cannot be built around climate change.

The pathway to sustainable development is governed by six major transformations: the digital revolution; human capacity and demography; consumption and production; decarbonization and energy; food, biosphere and water; and smart cities.

The COVID-19 pandemic has altered the trajectories of each of these transformations around the world in both positive and negative ways. Countries which have successfully navigated the crisis have generally implemented policies which will accelerate these transformations in the direction of sustainability, while countries which have failed to rise to the challenge have reinforced patterns which will make sustainable development harder

to achieve in the future. Following what some successful countries have accomplished, policymakers can distil some sets of tools to save the lives of their citizens, preserve the health of their economy and build the foundation for a sustainable future.

The paper seeks to examine the legal challenges that impede the attainment of sustainable health in Nigeria due to the impact of CC exacerbated by COVID-19. COVID-19 has presented the world with a crisis which has greatly accentuated the urgency in the fight against the climate change debacle, making the need for sustainable development more obviously acute than ever.

On 29 September 2020, the global number of deaths reported due to COVID-19 passed one million. Similarly, although Africa accounts for 17% of the global population, only 3.5% of these global deaths were officially attributed to COVID-19. Africa accounted for a cumulative total of about 35,954 [1]. In Nigeria, the situation is not different. This paper finds that although the Federal Government of Nigeria enacted the “COVID-19 regulation 2020” together with some additional measures geared towards restricting the spread of the virus and plummeting its overall impact on the vulnerable population, these efforts have proved inadequate in the fight against the pandemic, resulting in the death of many people in Nigeria. The paper finds that Nigeria budgeted a paltry sum of 4.526 percent (about NGN 592.166 billion) of the proposed NGN 13.082 trillion budget for health in the 2021 budget [2] and about 4.3 percent in 2022 [3], contrary to the 2001 Abuja Declaration by African leaders in 2001 and the World Health Organization’s (WHO’s) advice that countries allocate at least 15 percent of yearly national budgets to health. The challenge, therefore, is that although Nigeria is a signatory to the SDGs, it has no specific law on coronavirus, and its efforts towards the eradication of the virus, the achievement of sustainable health and general well-being have been arbitrary, resulting in avoidable deaths of Nigerians. Nigeria is also a signatory to the SDGs, but it is yet to elevate health in the country to the highest political level in line with the WHO requirement.

This paper argues that the lack of a specific law on the COVID-19 pandemic foists on the Nigeria’s health sector a weak institutional and regulatory framework which poses a major challenge to the efforts to improve the sustainable health of Nigerian people.

In this treatise, this paper conceptualizes the key terms and provides the nexus between climate change (CC) and COVID-19. It also reviews the International Framework for combating COVID-19 and CC internationally and nationally in Nigeria. Thereafter, a vignette examines the legal issues and challenges that impede the fight against the impact of CC and the attainment of sustainable health in Nigeria. This paper also offers salient recommendations following global best practices and local considerations.

### *Conceptual Clarification*

*Climate change (CC):* CC generally refers to the variability in our climate that has been identified since the early 20th century [4]. Over a period of time, this has resulted in a change in the climate pattern with a multidimensional worldwide impact. To address the challenges posed by CC, the United Nations established the Kyoto Protocol (KP) as a complementary instrument to the United Nations Framework Convention on Climate Change (UNFCCC) [5].

*Coronavirus disease (COVID-19) pandemic:* Coronavirus disease 2019 (COVID-19) is a communicable respiratory disease caused by a new strain of coronavirus, called severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2, that causes illness in humans [6].

*Sustainable Health:* Sustainable health is a personal commitment to maintaining and taking responsibility for your own health through preventative (proactive) means. This means not only having regular exercise and minding what we eat, but also maintaining a healthy and balanced state of mind [7].

The sustainable health principles include the fact that (a) your health is fundamentally directly related to your mental condition and the toxins we put into our bodies, through what we eat, drink and breathe. (b) Chronic and terminal illnesses do not just happen but are sign that you and your body may be out of balance or “sync” with your environment.

Thus, it has been argued that the pandemic threatens to slow the progress on SDGs even further, combining the economic shock of a depression with rising death tolls in countries at every level of development. Specifically, the SDG3 recognizes that humankind will only be able to defend against the COVID-19 pandemic in areas where the populations can access or afford basic resources to weather the natural storms of human life. It behoves the policymakers to renew their focus on Universal Health Coverage (UHC) as a starting point to improve the health and well-being of populations around the world.

With regard to the nexus between CC and COVID-19, it would appear that COVID-19 has suspended normality across the globe. Global attention is on fighting the virus. This has some implications for the fight against CC and for sustainable health in Nigeria. This paper holds the view that a good understanding of the similarities between COVID-19 and CC will provide the reader with requisite enlightenment for the discussions in other segments of the paper.

- i. There have been many forewarnings from experts of CC and COVID-19 crises which were not taken seriously until disaster struck.
- ii. CC is not merely a physical risk, but is also a major risk to our financial system (the so-called combination of physical and transition risks). In the same vein, the implications of COVID-19 have been adjudged to be both physical-, health and finance-related.
- iii. These global catastrophes will require unprecedented global coordination and massive capital investment by both the public and private sector to achieve a positive outcome.
- iv. Each crisis creates a global public health challenge. While this is obvious in the case of COVID-19, CC will result in diseases that peak in the warmer months of the year, particularly vector-borne infections. For example, according to the WHO, between 2030 and 2050, CC will cause approximately 250,000 additional deaths per year from malnutrition, malaria and heat stress [8]. Furthermore, as temperature increases, the permafrost melts. The permafrost releases a tremendous number of sequestered pathogens each with their potential for pandemic implications.
- v. While there will be short-term adverse consequences from COVID-19, the climate issue is so important to our future well-being that it is likely to come back stronger and will take a role at the forefront of the global geopolitical agenda alongside healthcare. In the interim, COVID-19 has brought with it some implications for the climate change agenda.
  - a. Unlike COVID-19, where the solution lies in the development of vaccine(s), CC will require immediate action to prevent the most problematic long-term impacts from occurring.
  - b. COVID-19 has produced a new working environment (virtual platform) and a reduction in travel whether air and land. There is a growing familiarity with the exciting technological solutions enabling people to more easily work from home as a short-term behavioural response to COVID-19. This 'adaptive' behaviour has likely longer-term implications such as noticeable decreases in carbon emissions, including a positive impact on global carbon emissions in favour of CC management.
  - c. With the drop in both the demand and prices of oil, there is a greater impetus for renewables to become a greater part of the energy mix in Nigeria over the next 20 years and ultimately be a critical solution to delivering a net-zero carbon future. However, fossil-fuel-based utilities and oil and gas companies are also facing many new challenges as a result of COVID-19, and the medium- to long-term prognosis for the renewable industry remains very positive. In addition, many renewable projects under construction are going to experience short-term supply chain issues.

- d. As the connection between COVID-19 and climate change becomes better articulated and broadly understood, global citizens increasingly demand and expect that both governments and corporations will take the necessary actions to achieve a net-zero future [9].
- e. In February, weather experts from the World Meteorological Organization (WMO) in Geneva warned that the coronavirus pandemic risks disrupting key forecasting services, including early warning alerts around the world. While calling for better weather data, the organization noted that both the quantity and quality of weather observations and forecasts, including atmospheric and climate monitoring, are at stake.

From the above discussions, one can discern that there is a strong nexus between climate change and COVID-19 and that the fight to combat COVID-19 to this extent is actually the fight against the impact of climate change (pollution and demand for sustainable health). In effect, it means that the fights against the impact of CC and COVID-19 are fights to ensure sustainable health which will enhance SD. Climate issues no doubt will continue to take center stage in the global geopolitical agenda alongside healthcare to ensure sustainable living.

## 2. Legal Frameworks

### 2.1. International Framework for Combating COVID-19 and Climate Change

Some of the salient international regulations for combating COVID-19 are discussed below. In 1969, the World Health Assembly (WHA) adopted the International Health Regulations (IHRs) as its legal instrument for implementing its constitutional responsibility for controlling the international spread of infectious diseases. The IHRs were an evolution of the International Sanitary Regulations previously adopted by the fourth WHA in 1951. The objective of the IHRs was “to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks and which avoid unnecessary interference with international traffic and trade” [10]. Several African countries including Nigeria implement the Integrated Disease Surveillance and Response (IDSR) strategy as their means for achieving the IHRs [11].

The principles of environmental law provide the protection of the general environment. For instance, the UN Charter for Nature stipulates that nature shall be respected and its essential processes shall not be impaired [12]. Furthermore, the Convention on Biodiversity (CBD) SBSTTA Recommendation REC/XXI/314 (December 2017 [13]) promotes a holistic one health approach, which is the integration of one health into all international natural habitat Conservation Agreements, and strengthens national implementation. The UN also noted the links between biodiversity and the Sustainable Development Goals and the role of the 2030 Agenda for Sustainable Development in providing an enabling environment [14]. In line with this move, UNESCO, the IUCN and Peace Parks encourage the protection of the Geo-Parks, biosphere reserves, World Heritage Areas and Transboundary Protected Areas. Similar provisions are also found in the Ramsar convention and that citing the protection of protected wetlands and the fight against illegal wildlife trade, while the Amazon agreement and the African Regional wildlife conventions encourage the building of National Implementation Capacity for Regional treaties.

Furthermore, the UNEA-3 Resolution on Environment and Health [15] recognizes not only that biodiversity loss is a health risk multiplier, but that human, animal, plant and ecosystem health are interdependent; in this regard, it emphasizes the value of the “one health” approach [16], encourages Member States and invites relevant organizations to mainstream the conservation and sustainable use of biodiversity to enhance ecosystem resilience, as an important safeguard for current and future health and human well-being.

With regard to CC, the UNFCCC and the KP constitute the legal frameworks for remedial and precautionary action to tackle adverse effects of climate change [17]. The target is to cut GHG emissions by 2008–2012 to overall levels that are about 5.2 percent

below the 1990 levels [18]. Building on the convention, on 12 December 2015 at COP21 in Paris, parties to the UNFCCC reached a landmark agreement to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low-carbon future. The objective of the Paris Agreement was to keep the global temperature rise well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

## 2.2. Legal Framework for Addressing the Impact of CC and COVID-19 in Nigeria

(a) Under the Constitution of Nigeria, three tiers of government share the constitutional responsibilities for health [19].

(b) The Integrated Disease Surveillance and Response Policy (IDSR) was adopted to replace the Disease Surveillance and Notification system which had been put in place following a yellow fever outbreak in 1986/87. It identified the need for coordination with the National Health Management Information System (NHMIS) of 2014 to avoid duplication. The technical guidelines contain a list of forty one diseases and conditions of importance to be tracked in Nigeria [20]. The Nigerian public health laws of 1958 are already outdated

(c) National Health Information System policy (NHDGC): This recommends a health data governance structure for Nigeria with the Minister of Health as the chair of the National Health Data Governance Council (NHDGC). It also proposes the creation of Health Data Governance Councils at the state level to be chaired by the respective Commissioner of Health in each state with the similar representativeness of members across the data-generating units in the state.

(d) The Quarantine Act of 1926 remains the active National Law on disease surveillance in Nigeria. Its purpose was to “provide for and regulate the imposition of quarantine and to make other provisions for preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases”.

(e) The National Health Act (NHA) (2014) provides some further support towards the implementation of the NHMIS. Part IV section 35 subsection (1) states that “The Federal Ministry of Health shall facilitate and coordinate the establishment, implementation and maintenance by State ministries, local government health authorities and the private health sector of the health information system at the national, State and local government levels in order to create a comprehensive NHMIS”. The act has a section on disease surveillance.

The Quarantine Act and the National Health Act are the current laws that govern disease surveillance in the country. However, the Quarantine Act is archaic, having been established as a law in 1926, several decades before the IHRs came into effect. One of the diseases identified in the document was eradicated over 35 years ago, highlighting the need for a revision. The National Health Act, which was signed into law in 2014, identified the need for the strengthening of the NHMIS in order to be able to deliver on its mandate.

(f) The national public health bill: The bill has been waitlisted since 2004 in the Nigerian Senate for possible enactment as a law [21]. Although there is presently no specific law on coronavirus, the Federal Government of Nigeria enacted the “COVID-19 regulation 2020” together with additional measures geared towards restricting the spread of the virus and plummeting its overall impact on the vulnerable population. A part of the measure is the distribution of palliatives consisting of food items and cash transfers to Nigerian households considered as the most vulnerable. From an initial number of 2.5 million beneficiaries under the conditional cash transfer register, President Buhari ordered an increase to 3.5 million people.

The Senate also gave accelerated approval to President Buhari’s request to raise a new loan of NGN 850 billion from the domestic capital market to finance projects in the 2020 budget. At the same sitting, the Senate also suspended Order 11 of the Senate Standing Order as Amended in order to enable the senators to speak from seats not belonging to them to enable them to comply with social distancing.

In addition, some stakeholders from the private sector under the name Nigeria Private Sector Coalition Against COVID-19 raised about NGN 25bn in cash and in kind. Additional donations were also made both at the national and state levels. Items donated were distributed directly by the donors, private organizations and the state government and included foodstuffs, cooking ingredients, table water, beverages and cash. As part of its response to the pandemic, the Government of Nigeria placed movement restrictions at land borders, and few essential passenger flights were allowed in and out of the country.

Furthermore, Nigeria's NDC's strategies for health and sanitation include:

- (a) Undertaking research to better understand the health impacts of climate change in Nigeria.
- (b) Strengthening disease prevention and treatment for those diseases expected to increase as a result of climate change.
- (c) Promoting and facilitating the adoption of practices and technologies that reduce exposure and health impacts from extreme heat.
- (d) Establishing early warning and health surveillance programs.

### 3. Challenges and Strategies

#### 3.1. Lack of Legal Framework for Addressing the Impact of CC and COVID-19 in Nigeria

The Quarantine Act and the National Health Act are the current laws that govern disease surveillance in the country. However, the Quarantine Act is archaic, having been established as a law in 1926, several decades before the IHRs came into effect. One of the diseases identified in the document was eradicated over 35 years ago, highlighting the need for a revision.

The National Health Act, a 2014 legislation, identified the need for the strengthening of the NHMIS in order to deliver on its mandate. The level of detail in the National Health Act for disease surveillance is considered inadequate by most respondents as it was not enacted for this purpose. A revision of existing laws was necessary to address emerging issues. The Public Health Bill has been awaiting assent in the Nigerian Senate since 2004. The challenge is for the government to show leadership by ensuring an immediate review of the long waitlisted bills for passage by the legislatures. Hopefully, this will provide some opportunities for structured responses to infectious diseases. Several other bills are also awaiting review. The long delay in finalizing this bill is a huge challenge to the health sector. Furthermore, the further challenge is that the unavailability of adequate laws for the system will make it impossible to achieve its goal of sustainable health and the SDGs.

#### 3.2. Lack of Institutional Framework for Addressing the Impact of CC and COVID-19 in Nigeria

A major challenge in the fight against CC and COVID-19 is that the Nigeria is yet to elevate health and CC to the highest political level. In Nigeria, issues bordering on health such as environmental matters are on the concurrent list meaning that the three tiers of government can legislate on it. This makes the enforcement of such law difficult as various states will have varied priorities. Thus, the availability of various legal instruments at the national level for different diseases and conditions does not necessarily mean that these are being adhered to in the states which have different administrative levels of government. The states in this regard are independent.

#### 3.3. One Health

The health of all life on the planet is connected. The COVID-19 outbreak starkly reminded us of a basic fact that cannot be ignored: human, animal, plant and environmental health and well-being are all intrinsically connected and profoundly influenced by human activities. Health entails more than the absence of infectious disease. The challenge for the government is how to strategically evolve its own concept of "one health", bearing in mind the peculiar socioeconomic, political, evolutionary and environmental factors while considering individual attributes, behaviors and aspirations coupled with global best practices.

### 3.4. Budget

The budget for health is generally low, just like the budget for environment: 16%. It is on a concurrent list. The budget for health is usually a paltry sum and an indication of the level of seriousness the government attaches to such very vital issues. COVID-19 and climate change are challenging the government to pay more attention to environmental and health matters.

### 3.5. Mono-Economy

Nigeria has a mono-economy. The further challenge is that in view of the social-economic effect of COVID-19 coupled with the falling oil prices, Nigeria's revenue has dwindled due to heavy dependence on oil. The World Health Organization has warned African countries that the fight against malaria and mass vaccinations against other diseases should not be disrupted while fighting COVID-19, because this would pose an additional risk to the current health system.

Although there is a need to expand the number of beneficiaries, the major challenge for a country already suffering from the effects of a dwindling mono-economy and no social security, immersed in external debt, exacerbated by the impacts of CC and COVID-19 is how to secure long-term commitments to provide the needed sustainable financing for even the already identified beneficiaries. A good strategy should be for the government to realize that in Nigeria, the need for a strong resilient future with a healthy population is not negotiable in the quest for sustainable health. Therefore, the diversification of economy is imminent and is part of the solution to the long-term mitigation of the impacts of climate change and a healthier environment.

### 3.6. Data

Presently, Nigeria's population data are outdated, which makes it very challenging to plan effectively, especially in the health sector. Aggregated data on health remain a major tool in this two-pronged fight.

## 4. Recommendations and Conclusions

This paper has examined the legal challenges that impede the attainment of sustainable health in Nigeria due to the impact of CC exacerbated by COVID-19. COVID-19 has presented the world with a crisis which has greatly accentuated the urgency in the fight against the CC debacle, and it makes the need for sustainable development more obviously acute than ever.

No doubt the Nigerian government has made an appreciable effort in the fight against COVID-19. However, the success story would have been more positive if COVID-19 had been met with a more equipped health sector on arrival. COVID-19 has highlighted the need for global collaboration to achieve a solution which is essential for CC negotiations and for the fight against COVID-19 in the march towards sustainable health. This paper argued that a fundamental step toward a reliable system is a legal or regulatory framework that establishes and enforces the surveillance system in a country. It asserted that while reviewing obsolete laws in line with current realities, there is the need to elevate environmental and health matters to the highest political level backed by segregated data and sustainable financing. In conclusion, this paper avowed that for Nigeria to attain sustainable health, the fight against CC and COVID-19 must be elevated to the highest political level.

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