IMPACTS OF CLIMATE CHANGE ON THE LEGAL RIGHTS OF NIGERIAN CHILDREN: COMPARATIVE INSIGHTS FROM INTERNATIONAL JURISDICTIONS.

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Abstract
Climate change has emerged as one of the most significant global challenges of the twenty-first century, with far-reaching implications for human rights, sustainable development, and social welfare. In Nigeria, the effects of climate change—including recurrent flooding, desertification, drought, coastal erosion, and environmental degradation—pose serious threats to the survival, development, and protection of children. This study examines the impact of climate change on the rights of the Nigerian child within the framework of domestic and international legal instruments. The research adopts a doctrinal and comparative legal methodology, relying on primary and secondary sources of law, including statutes, judicial authorities, international treaties, journal articles, textbooks, policy documents, and reports of international organizations. The study found that although Nigeria has taken notable steps toward addressing climate change through policies and legislation such as the Climate Change Act 2021 and commitments under the Paris Agreement, significant challenges persist in implementation. The study concluded that climate change constitutes not only an environmental problem but also a pressing human rights issue with severe implications for the rights and welfare of children. It recommended the strengthening of environmental governance, effective enforcement of climate obligations, incorporation of child-sensitive adaptation measures into national policies, amongst others. The study further advocated for a rights-based approach to climate governance to ensure the effective protection of the Nigerian child against the growing impacts of climate change.
Key Words: Climate Change, Child, Rights, Comparative.

1.0. Introduction

Climate change is no longer a distant environmental concern; it is a present and escalating human rights issue. In Nigeria, the adverse effects of climate change have become recurring realities. Children, by reason of their physical, developmental, and social vulnerability, bear a disproportionate share of these impacts.[1] The importance of children and their protection cannot be overemphasized.[2] In recognition of the growing climate crisis, Nigeria enacted the Climate Change Act, 2021, and remains a party to several international and regional instruments, including the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, which impose obligations on the State to protect children from environmental harm. Despite these legal and policy commitments, significant gaps remain in the integration of child-specific concerns within Nigeria's climate governance framework. Although national policies such as the National Climate Change Policy (2021–2030) acknowledge the vulnerability of children to climate change, child-centered protections and enforcement mechanisms remain insufficiently developed within existing legal instruments and institutional responses.[3]

Against this background, this paper examines the phenomenon of climate change in Nigeria, undertakes a comparative analysis of international legal and policy responses, and evaluates the impact of climate change on the rights of the Nigerian child in comparison with other jurisdictions. The paper further explores the adequacy of existing legal frameworks and proposes measures for strengthening child-sensitive climate governance in Nigeria.

2.0. Concept of Climate Change

Climate change has occurred throughout Earth's history as a result of natural factors such as changes in solar radiation, greenhouse gas concentrations, volcanic activity, and the movement of land masses. At different periods, the Earth experienced extreme warming and cooling, including the "Snowball Earth" era when much of the planet was covered in ice, and warmer periods characterized by high atmospheric carbon dioxide levels.

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[1] A strong and widely cited scholarly authority supporting this position comes from United Nations Children's Fund (UNICEF), particularly its landmark report "*The Climate Crisis Is a Child Rights Crisis"* (2021)

[2] Anyogu, F., & Umeobika, C. Q. (2020). Children's Rights and Current Trends in Child Protection in Africa. *IRLJ*, *2*, 47.

[3] Climate Change Act 2021, Act No. 22 of 2021, Laws of the Federation of Nigeria.

These historical climate variations demonstrate the important role greenhouse gases play in regulating global temperatures. However, contemporary climate change differs from past natural changes because it is largely driven by human activities such as fossil fuel combustion, deforestation, and industrial emissions.

Climate change refers to the adjustments, transformation, shifts and alteration that takes place in the climate. It[4] means a change of climate, which is attributed directly or indirectly to human activity or natural climate variability that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods. It refers to long-term shifts in temperatures and weather patterns. Such shifts can be natural, due to changes in the sun's activity or large volcanic eruptions. But since the 1800s, human activities have been the main driver of climate change primarily due to the burning of fossil fuels like coal, oil and gas. Burning fossil fuels generate greenhouse gas emissions that act like a blanket wrapped around the Earth, trapping the sun's heat and raising temperatures.[5]

Nigeria experiences climate change across multiple ecological zones: Northern Nigeria faces desertification, drought, and water scarcity. The Middle Belt is affected by erratic rainfall and conflicts over shrinking arable land. Southern Nigeria, particularly coastal and riverine areas, suffers from flooding, erosion, rising sea levels, and environmental pollution arising from oil and gas exploration. These environmental changes have profound socio-economic consequences, including displacement of families, disruption of education, increased child labour, malnutrition, and heightened exposure of children to abuse, trafficking, and early marriage.[6]

3.0 Major Impacts of Climate Change

The impact of climate change on children is both severe and disproportionate. According to UNICEF, over 820 million children are highly exposed to heatwaves, 330 million to riverine flooding, and 240 million to coastal flooding. More alarmingly, almost every child worldwide is exposed to at least one major climate or environmental hazard, while approximately 2.2 billion children face multiple overlapping climate-related risks. Children in Africa are among the most vulnerable due to their high exposure and limited adaptive capacity, underscoring the urgent need for child-centred climate action. [7]

Climate change has significant environmental, social, economic, and public health consequences worldwide. It has intensified the frequency and severity of extreme weather events, including floods, droughts, storms, heatwaves, and wildfires, resulting in loss of life, destruction of property, displacement of communities, and damage to critical infrastructure.[8]

Climate change also accelerates biodiversity loss by degrading ecosystems, destroying natural habitats, increasing the risk of species extinction, and disrupting essential ecosystem services such as pollination, water purification, and carbon sequestration.[9] In the agricultural sector, rising temperatures, erratic rainfall, prolonged droughts, flooding, and increased pest outbreaks reduce crop yields and livestock productivity, thereby exacerbating food insecurity, particularly in developing countries.[10]It also threatens water security by reducing freshwater availability during droughts and increasing water contamination during floods.[11]

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[4] Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2014: Synthesis Report*. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (Core Writing Team: R.K. Pachauri and L.A. Meyer (eds.)), IPCC, Geneva, Switzerland, 2014, p. 120

[5] "What is Climate Change? <https://mlgp4climate.com/uploads%2FMLGP%20Library%2FUseful%20Documents%2FEnglish%2FL474%20english.pdf,>, accessed on 27/7/2026

[6] Olawale O. Olaniyan et al, "Climate change and child malnutrition: A Nigerian perspective," *Food Policy* 113 (2022) (linking climate change–related environmental shifts to child malnutrition and livelihood impacts).

[7] One billion children at 'extremely high risk' of the impacts of the climate crisis - UNICEF , <https://www.unicef.org/press-releases/one-billion-children-extremely-high-risk-impacts-climate-crisis-unicef>, 18/7/2026

[8] "Climate change, environmental extremes, and human health in Australia: challenges, adaptation strategies, and policy gaps", < https://www.sciencedirect.com/science/article/pii/S2666606523002547>, accessed on 18/7/2026

[9] Venkata Srinivas Saladi, "Climate change, its impact on biodiversity, and the significant role of human activities in driving these crises", <https://www.researchgate.net/publication/380403452_Climate_change_its_impact_on_biodiversity_and_the_significant_role_of_human_activities_in_driving_these_crises>, accessed on 18/7/2026

[10] Omokpariola, D.O., Agbanu-Kumordzi, C., Samuel, T. *et al.* Climate change, crop yield, and food security in Sub-Saharan Africa. *Discov Sustain* 6, 678 (2025).

[11] Maridelly Amparo-Salcedo , Ana Pérez-Gimeno and Jose Navarro-Pedreño , 'Water Security Under Climate Change: Challenges and Solutions Across 43 Countries', <https://www.researchgate.net/publication/389236146_Water_Security_Under_Climate_Change_Challenges_and_Solutions_Across_43_Countries>. accessed on 18/7/2026.

Furthermore, climate change poses serious risks to human health through heat-related illnesses, the spread of vector-borne diseases, poor air quality, malnutrition, and mental health challenges associated with climate-related disasters.[7] These impacts also contribute to poverty, displacement, resource conflicts, and increased vulnerability among children, women, older persons, persons with disabilities, and other marginalised populations.[9]

Overall, the impacts of climate change are interconnected and reinforce one another, posing serious challenges to sustainable development, environmental protection, and the enjoyment of fundamental human rights. Effective climate governance, adaptation, and mitigation measures are therefore essential to reduce these adverse impacts and protect present and future generations.

4.0 Legal Rights of the Nigerian Child

In law, who a child is, is determined by the age of the person being considered as a child. The term *child* may refer to anyone below the age of majority. However, the laws, both international and domestic, have laid down different minimum ages below which a person is referred to as a child. The definition of a child is, therefore, made 'dependent on each respective legal system to accommodate the different economic, social, political, cultural and legal systems of the respective state'. In Nigeria, the child is generally defined as "a person under the age of eighteen years," while "age of majority" is defined as the age at which a person attains eighteen years.[12] For the purpose of this discourse, we shall adopt the CRA's definition of a child.[13]

Childhood has come to be recognized as a special status warranting the adoption of special measures of protection. In recent years the children's rights movement has gathered considerable strength and the adoption of international legal standards has been viewed by many as a particularly useful means to entrench in national law the notion that children have rights. In general those rights overlap significantly with all human rights, but they also extend to a variety of special measures to which children are entitled by virtue of their special vulnerability. [14]

Human rights and climate change are inextricably linked. Therefore, a child-rights based approach to climate change mitigation and adaptation is called for. Such an approach entails that states are required to take affirmative measures to respect, protect, promote, and fulfil the human rights of all children and integrate their rights in all climate mitigation and adaptation policies and actions. While it is critical, as UNICEF says, to view the 'climate crisis as a child rights crisis', such a perspective requires further unpacking, given that children in different parts of the world are not all affected by climate change in the same way.

In Nigeria, a child enjoys dual protection under the law, both as a citizen and as a minor requiring special care and protection. These rights are guaranteed under various international legal instruments ratified by the nation and domestic laws. However, for the purpose of this study, attention shall be limited to the rights most relevant to the impact of climate change on the Nigerian child. The rights include:

a. **Right to life, survival and development**[15]

   Every child is guaranteed the inherent rights to life, survival, and development. These rights must be interpreted holistically alongside other rights, including the rights to health, nutrition, an adequate standard of living and a healthy environment.[16] The right to survival requires States not only to refrain from unlawfully depriving children of life but also to take positive measures to protect and prolong children's lives. Such measures include addressing preventable threats such as malnutrition, disease, inadequate healthcare, poor sanitation, lack of safe drinking water, and other conditions that endanger children's well-being[17]

   The right to development extends beyond physical growth to encompass the child's mental, psychological, emotional, spiritual, moral, social, cultural, cognitive, economic, and sexual development. The CRC Committee emphasizes that development should be assessed individually, drawing on expertise from multiple disciplines while avoiding discrimination based on gender, race, or social class[18] States are to ensure children's survival and development "to the maximum extent possible."[19]

[12] Section 277 of the CRA

[13] Umeobika, C. Q., & Oti-Onyema, L. A. (2025). Incongruity In Definitions of a Child: Implications For Criminal Responsibility In Nigeria. *Law And Social Justice Review*, *6*(2).

[14] https://www.culturalsurvival.org/publications/cultural-survival-quarterly/childrens-rights-international-law

[15] See section 33 of the 1999 Constitution of Nigeria and 4 of the Child's Right Act

[16] Committee on the Rights of the Child, 2005; 2006).

[17] (OHCHR, 2007; Committee on the Rights of the Child, 2005).

[18] (Committee on the Rights of the Child, 2003; 2016; 2017; Tobin, 2019).

[19] Tobin 2019

b. Right to health and health services[20]

Every child is entitled to enjoy the best attainable state of physical, mental and spiritual health. Every Government, parent, guardian, institution, service, agency, organisation or body responsible for the care of a child shall endeavour to provide for the child the best attainable state of health. Every Government in Nigeria shall- (a) endeavour to reduce infant and child mortality rate; (b) ensure the provision of necessary medical assistance and health care services to all children with emphasis on the development of primary health care; (c) ensure the provision of adequate nutrition and safe drinking water; (d) ensure the provision of good hygiene and environmental sanitation; amongst others. This right and all the provision relating to its safeguards will suffer immediate violation under any kind of climate change.

The right to health and the right to a healthy environment are closely interconnected. A clean, healthy, and sustainable environment is a fundamental prerequisite for the enjoyment of the highest attainable standard of physical and mental health. Environmental factors such as clean air, safe drinking water, adequate sanitation, healthy ecosystems, and a stable climate significantly influence human health and well-being.

5. Legal Protection of the Child from the Impacts of Climate Change

5.1 *The UN Framework Convention on Climate Change*

The United Nations Framework Convention on Climate Change (UNFCCC) is an international environmental treaty adopted at the United Nations Conference on Environment and Development (Earth Summit) in Rio de Janeiro, Brazil, on 9 May 1992 and entered into force on 21 March 1994.[21]The Convention serves as the foundation of the global effort to address climate change. It recognizes that climate change is a common concern of humankind and establishes a framework for international cooperation to stabilize greenhouse gas concentrations in the atmosphere.

The Convention's objective is to stabilize greenhouse gas concentrations at a level that prevents dangerous anthropogenic interference with the climate system.[22] This stabilization should allow ecosystems to adapt naturally; ensure food production is not threatened and enable sustainable economic development.[23]

Article 3 of the Convention establishes the guiding principles that Parties (countries) should follow when implementing the Convention. These principles have shaped international climate policy and later agreements such as the Kyoto Protocol and the Paris Agreement. The key principles are the No-harm Principle, Sustainable Development, Precautionary Principle, Common but Differentiated Responsibilities and Polluter Pays Principles.

The *Sustainable Development principle* is that Parties should protect the climate system for the benefit of present and future generations on the basis of equity.[24] The *Common but differentiated responsibilities and respective capabilities (CBDR-RC)* recognizes that all countries share responsibility for addressing climate change. Developed countries should take the lead because of their greater historical contribution to greenhouse gas emissions and their superior economic and technological capacities.[25]Additionally, the specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration. The *Precautionary principle* proposes that countries should take preventive measures against climate change even when scientific certainty is incomplete. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures.[26]

The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus

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[20] Ibid s. 13

[21] <https://unfccc.int/process-and-meetings/united-nations-framework-convention-on-climate-change>, accessed on 12/2/2026

[22] <United Nations Framework Convention on Climate Change https://www.sciencedirect.com/topics/agricultural-and-biological-sciences/united-nations-framework-convention-on-climate-change> accessed on 12/2/2026

[23]Julian Scott Yeomans , Sustainability, Climate Change and Energy Use in Buildings, "*The International Journal of Environmental, Cultural, Economic, and Social Sustainability: Annual Review*" Issue 1, Vol 5, 259 – 270.

[24] Article 1

[25] *Ibid.*

[26] *Article 3*

enabling them better to address the problems of climate change.[27]The state parties made certain commitments under the Convention. Under *Article 4(1)*, all Parties are required to:

- Develop, periodically update, publish, and make available national inventories of greenhouse gas emissions and removals.
- Formulate and implement national and regional programmes to mitigate climate change and facilitate adaptation.
- Promote sustainable management and conservation of greenhouse gas sinks and reservoirs, such as forests and oceans.
- Cooperate in the development, application, and transfer of environmentally sound technologies.
- Integrate climate change considerations into national social, economic, and environmental policies.
- Promote scientific research, systematic observation, and the exchange of information related to climate change.
- Encourage education, training, and public awareness on climate change.

These commitments establish a universal framework for climate action applicable to all Parties.

5.2 *The Paris Agreement*:

The Paris Agreement is a legally binding international treaty on climate change adopted in 2015 and came into force precisely 4th day of November 2016 to adequately replace the Kyoto Protocol which was birthed in 1997 to reduce actual or specific reduction levels of GHG as a result of plethora of challenges experienced by the Kyoto Protocol. The agreement was to improve on the lacunas in the Kyoto Protocol and serves as the primary global framework for addressing climate change through international cooperation, climate resilience, and sustainable development. The Agreement aims to strengthen the global response to climate change by:

- holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C;
- enhancing the capacity of countries to adapt to the adverse effects of climate change and build climate resilience; and
- making financial flows consistent with pathways towards low greenhouse gas emissions and climate-resilient development[28].

Unlike the Kyoto Protocol, which imposed binding emission reduction targets primarily on developed countries, the Paris Agreement requires all Parties to contribute to global climate action through Nationally Determined Contributions (NDCs). Each Party is required to prepare, communicate, maintain, and periodically update its NDCs, with progressively more ambitious targets over time, reflecting the principle of common but differentiated responsibilities and respective capabilities in light of different national circumstances.[29]

The Agreement also establishes key mechanisms for:

- Climate change adaptation, requiring Parties to strengthen resilience and reduce vulnerability to climate impacts;[30]
- Climate finance, whereby developed countries are expected to provide financial resources to assist developing countries with mitigation and adaptation efforts;[31]
- Technology development and transfer to support low-carbon development;[32]
- Capacity building for developing countries;[33]
- Transparency and accountability, through an enhanced transparency framework for reporting emissions, climate actions, and progress toward NDCs;[34] and
- a Global Stocktake, conducted every five years to assess collective progress toward achieving the Agreement's long-term goals and to inform future climate action.[35]

5.3 Constitutional Framework for Climate Change in Nigeria

The Constitution of the Federal Republic of Nigeria 1999 (as amended) does not expressly mention climate change. Nevertheless, it provides the constitutional basis for environmental protection and climate governance through several provisions. The foremost constitutional provision is *section 20*, which mandates that *"the State*

[27] *Article 3(5)*
[28] *Art. 2*
[29] Arts. 3–4.
[30] Art 7
[31] Art 9
[32] Art 10
[33] Art 11
[34] Art 13
[35] Art 14

shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria." Although this provision predates contemporary climate change discourse, it imposes a constitutional duty on the State to conserve the environment and serves as the foundation for policies and legislation aimed at climate change mitigation, adaptation, biodiversity conservation, and sustainable development.[1] This provision imposes a responsibility on the Nigerian government to not only shield Nigeria from the detrimental impacts of climate change but also to take measures that prevent Nigeria from contributing to the causes of climate change.[36]However, *section 20* is contained in Chapter II of the Constitution under the Fundamental Objectives and Directive Principles of State Policy. By virtue of *section 6(6)(c),* the provisions of Chapter II are generally non-justiciable, meaning they cannot ordinarily be enforced by the courts unless they are implemented through legislation or otherwise made enforceable by the Constitution.[2] This has limited the direct enforcement of environmental obligations under *section 20*.

The Constitution empowers the National Assembly to legislate on matters relating to environmental protection and climate governance through *section 4* and the relevant legislative lists. Exercising this constitutional authority, the National Assembly enacted the Climate Change Act 2021, Nigeria's first comprehensive climate legislation. The Act establishes the National Council on Climate Change, provides for carbon budgeting, promotes greenhouse gas emission reduction, supports climate adaptation, and creates a legal framework for implementing Nigeria's climate commitments.[3]

Nigeria's participation in international climate agreements is governed by *section 12* of the Constitution, which provides that treaties entered into by the Federation do not have the force of law unless enacted by the National Assembly.[4] Consequently, treaties such as the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement become enforceable within Nigeria only after domestic legislative incorporation.

It is important to note that the Constitution does not accord children a distinct or special status in its catalogue of fundamental rights. Rather, the rights of children are subsumed within the general rights guaranteed to all citizens. Consequently, the Constitution does not expressly recognize the unique vulnerabilities and developmental needs of children or provide specific constitutional safeguards tailored to their protection. This gap underscores the need for complementary legislation, such as the Child Rights Act, to ensure that children's rights are specifically recognized, protected, and promoted in accordance with international human rights standards.

5.4 Child's Rights Act 2003

The Child's Rights Act 2003 (CRA) is Nigeria's principal legislation for the protection and promotion of children's rights. Enacted to domesticate the United Nations Convention on the Rights of the Child (CRC) and to give effect to the African Charter on the Rights and Welfare of the Child (ACRWC). The Act consolidates the rights and welfare of children in Nigeria.[37] Although the Act does not expressly recognise a standalone right to a healthy or clean environment, several of its provisions implicitly protect children against environmental degradation by guaranteeing rights that depend upon a safe, clean, and sustainable environment.

The foundation of the Act is the best interests of the child principle, which provides that in every action concerning a child, whether undertaken by public or private institutions, courts, administrative authorities, or legislative bodies, the best interests of the child shall be the primary consideration.[1] Environmental policies, climate change measures, and decisions relating to pollution, deforestation, mining, waste disposal, and industrial development should therefore be implemented in a manner that safeguards children's health, survival, and future well-being.[38] The Supreme Court of Nigeria in *Esabunor v Faweya & Ors*[39] dismissed an appeal seeking to quash the order of a magistrate court for the transfusion of blood to a baby. The appellants contended that the court had no jurisdiction to make the order. The crux of the case was whether the parents' right to consent to the child's treatment based on religious beliefs supersedes the child's right to live. The Court in considering the best interest principle of child protection decided that the child's right to live supersedes the right of the parents to their religious belief.

[36] Vahyala Adamu Tari & Emmanuel Christopher Diah , "Challenges and Prospects of the Legal Frameworks for Combatting Climate Change in Nigeria". AKSU Journal of Administration and Corporate Governance, Volume 4 Number 1, April 2024, p.112

[37]Elohor I.J. and Ikehuchukwu G.P. (2026) "The Legal Protection of Children Under Child's Right Act 2003 and Human Rights in Nigeria", *Global Journal of Politics and Law Research*, 14(2),54-70

[38]Mary George Noor Aziah Mohd Awal, The Best Interest Principle Within Article 3(1) Of The United Nations Convention on the Rights of The Child, International *Journal of Business, Economics and Law*, Vol. 19, Issue 4 (August), p.31

[39] (2019) LPELR 46961 (SC)

The Act also guarantees every child the right to survival and development.[40] The right to health and health services further reinforces environmental protection under the Act. Section 13 of the Child's Rights Act 2003 guarantees every child the right to enjoy the highest attainable standard of physical, mental, and spiritual health. The provision imposes a shared responsibility on governments, parents, guardians, institutions, and other persons responsible for children to ensure that children have access to adequate healthcare and health services.[41] The Act places specific obligations on all levels of government to reduce infant and child mortality, provide accessible medical care with emphasis on primary healthcare, ensure adequate nutrition and safe drinking water, promote hygiene and environmental sanitation, combat disease and malnutrition, provide appropriate healthcare for expectant and nursing mothers, and support community-based primary healthcare programmes through technical and financial assistance.

Section 13 also establishes a legal duty for parents and guardians to ensure that children under the age of two years receive full immunisation. Failure to comply constitutes an offence punishable by a fine or imprisonment, and the court may additionally order that the child be immunised.

While the Act recognizes every child's right to the highest attainable standard of health and imposes various responsibilities on government authorities, many of these obligations are framed in aspirational terms, using expressions such as "shall endeavour," which suggest a duty of effort rather than a strict, enforceable obligation. This distinction is evident in *Section 13* of the Act. Whereas parents and guardians who fail to ensure the immunisation of children under the age of two are subject to criminal sanctions, the Act does not prescribe any corresponding sanctions or remedies where the government fails to provide essential healthcare services, adequate nutrition, safe drinking water, or environmental sanitation. The absence of accountability mechanisms for public authorities weakens the practical enforcement of children's health rights and creates an imbalance in the allocation of legal responsibilities.

The Family Court has jurisdiction to enforce rights under the Child's Rights Act but its effectiveness is constrained by broader constitutional and institutional challenges. In particular, the socio-economic nature of the right to health often raises questions about justiciability, especially when viewed alongside Chapter II of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which contains non-justiciable Fundamental Objectives and Directive Principles of State Policy. Consequently, constitutional limitations have frequently been invoked to resist the enforcement of socio-economic rights, including aspects of children's right to health and a healthy environment.

Although the Child Rights Act guarantees the rights to life, survival, development and health, it was enacted long before climate change emerged as a dominant human rights concern. Consequently, the Act does not expressly recognise environmental rights or climate justice despite the growing evidence that environmental degradation threatens virtually every aspect of children's welfare. The omission creates uncertainty regarding the scope of governmental obligations where environmental harm results in violations of children's rights. The continued reliance on implied environmental protection is no longer adequate in light of Nigeria's increasing vulnerability to climate change.

5.5 *Climate Change Act, 2021*[42]

The Climate Change Act 2021 is Nigeria's first comprehensive legislation specifically enacted to provide a legal framework for climate change mitigation, adaptation, and the transition to a low-carbon economy. Although the Act does not expressly create a distinct right of the child to a healthy environment, its objectives, principles, and institutional mechanisms are highly relevant to the protection of children's rights because children are among the groups most vulnerable to the adverse impacts of climate change.

The central focus of the Act is to provide for the mainstreaming of climate change actions, establish the National Council on Climate Change; and for related matters.[43] The Climate Change Act applies broadly to all Ministries, Departments and Agencies (MDAs) of the Federal Government of Nigeria, as well as public and private entities operating within the territorial boundaries of Nigeria. This expansive application underscores the Act's intention to establish a whole-of-government and whole-of-society approach to climate governance. This broad applicability of the Act is consistent with Nigeria's obligations under international climate instruments, including the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement,

[40] Child Rights in Nigerian Society: A Comprehensive Overview, <https://marblepartnerslp.com/2024/09/23/child-rights-in-nigerian-society-a-comprehensive-overview/>, accessed on 18/7/2026.

[41] Phoebe C M Williams, Justin Beardsley, David Isaacs, Anne Preisz and Ben J Marais, 'The impact of climate change and biodiversity loss on the health of children: An ethical perspective', <https://pmc.ncbi.nlm.nih.gov/articles/PMC9895790/>, accessed on 18/7/2026.

[42] Act No. 22 of 2021

[43] See the Preamble to the Act

which require State Parties to implement economy-wide measures to reduce greenhouse gas emissions and enhance adaptive capacity.

Section 1 of the Act sets out its objectives by establishing the legal framework for promoting low greenhouse gas (GHG) emissions, inclusive green growth, and sustainable economic development in Nigeria. The Act seeks to mainstream climate change considerations into national development planning and policymaking while supporting the country's long-term climate objectives.

The Act aims to ensure that Nigeria develops and implements programmes for climate change mitigation and adaptation, promotes coordinated climate action across all sectors, and mobilises the financial, technical, and institutional resources required for effective climate governance[44]. It further requires climate change policies and actions to be integrated with related socio-economic and environmental policies to promote sustainable development and environmental integrity[45].

In addition, the Act establishes a long-term target of achieving net-zero greenhouse gas emissions between 2050 and 2070 in line with Nigeria's international climate obligations.[46] It also emphasises the identification of climate-related risks and vulnerabilities, the strengthening of resilience and adaptive capacity, and the implementation of mitigation measures that support a low-carbon economy and sustainable livelihoods[47]. Finally, the Act requires both public and private sector entities to comply with national climate change strategies, prescribed emission reduction targets, and the National Climate Change Action Plan[48].

The Act establishes the National Council on Climate Change (NCCC) as the apex policymaking and coordinating body responsible for climate change governance in Nigeria[49]. The Council is vested with the authority to formulate policies and make decisions on all matters relating to climate change in the country.[50].

The Act establishes a carbon budgeting framework as a key mechanism for achieving Nigeria's climate change mitigation objectives. Under *Section 19*, the Federal Ministry responsible for Environment, in consultation with the Federal Ministry responsible for National Planning, is required to set a national carbon budget aimed at limiting the increase in global average temperature to well below 2°C while pursuing efforts to limit warming to 1.5°C above pre-industrial levels, in line with the objectives of the Paris Agreement.

The Act establishes the Climate Change Fund**,** to mobilise and provide financial resources for the implementation of the National Climate Change Action Plan, among others. The Fund also supports the achievement of Nigeria's Nationally Determined Contributions (NDCs) under the Paris Agreement and other international climate obligations[51].

The Act establishes the National Climate Change Action Plan (Action Plan) which serves as the national blueprint for climate governance. Under *Section 20(1)*, the Secretariat, in consultation with the Federal Ministries responsible for Environment, and Budget and National Planning, is required to formulate the Action Plan every five years, ensuring that national climate policies remain responsive to emerging environmental and developmental priorities.

The Act imposes specific climate change obligations on private entities employing 50 or more persons, reflecting the important role of the private sector in achieving Nigeria's climate objectives.[52] Such entities are required to implement measures that enable them to meet the annual carbon emission reduction targets established under the National Climate Change Action Plan.[53]

To promote compliance, the Act provides that any private entity that fails to achieve the prescribed emission reduction targets is liable to a monetary penalty determined by the National Council on Climate Change. These obligations demonstrate the Act's regulatory approach of integrating climate accountability into private sector operations.

The Act recognises education as a key instrument for promoting climate awareness. Under *Section 26*, the encourages the integration of climate change into subjects and disciplines at all levels of Nigeria's educational

[44] s. 1(a)–(d)
[45] s. 1(e).
[46] s. 1(f)
[47] s. 1(g)–(h)
[48] s. 1(i))
[49] s. 3(1))
[50] s. 3(2)
[51] ss. 1(d), 4(c), 20–24
[52] s. 24(1)
[53] s. 24(1)(a)

system[54].By embedding climate change education across all levels of learning, the Act seeks to build environmental awareness, enhance scientific knowledge, and develop the skills required to support Nigeria's transition to a climate-resilient and sustainable economy.

The Act creates offences for conduct that undermines Nigeria's climate change mitigation and adaptation efforts. Under *Section 34(1)*, any person or public or private entity whose actions negatively affect measures adopted under the Act commits an offence and is liable to a penalty as determined by the NCCC[55]. This provision establishes a broad basis for enforcing compliance with the Act and deterring activities that compromise national climate objectives.

The Act also strengthens judicial enforcement by empowering courts to grant appropriate remedies in climate change and environmental matters. Where proceedings are instituted before a competent court, the court may issue orders to restrain or discontinue environmentally harmful activities, compel public officials to take action to prevent or stop such activities, and award compensation to persons directly affected by environmental harm.[56]

Although the Climate Change Act 2021 represents a significant legislative milestone in Nigeria's climate governance framework, it remains largely institutional rather than rights-based. The Act establishes governance structures, carbon budgeting, climate finance, and emission reduction targets, yet it fails to recognise children as a particularly vulnerable group requiring special legal protection. Consequently, children's environmental rights remain dependent on indirect interpretation rather than express statutory guarantees, thereby limiting their enforceability.

Furthermore, the Act adopts broad policy language without creating enforceable duties owed specifically to children. Unlike the South African constitutional framework, which expressly protects environmental rights, the Nigerian Act focuses primarily on institutional coordination and climate policy implementation rather than individual rights.

5.7 NESREA Act

The National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007 does not specifically regulate climate change as well as the child but it provides the legal framework for environmental protection, pollution prevention, and the enforcement of environmental standards that contribute significantly to climate change mitigation and adaptation.
The Act establishes the Agency and empowers it to:

- Enforce compliance with environmental laws, regulations, standards, and guidelines.
- Enforce compliance with international environmental treaties, conventions, and protocols ratified by Nigeria.
- Protect and develop the environment, conserve biodiversity, and promote sustainable use of natural resources.
- Prevent and control environmental pollution, including air pollution.
- Conduct environmental monitoring and inspections.
- Develop environmental regulations and standards for pollution control and environmental quality.

These functions support climate change mitigation by reducing activities that contribute to greenhouse gas emissions and environmental degradation.[57]
Section 8 grants NESREA powers to enforce the Act against violators. These enforcement powers ensure compliance with environmental standards that indirectly contribute to climate change mitigation through pollution control and improved environmental management.

5.8 Environmental Impact Assessment (EIA) Act

The Environmental Impact Assessment (EIA) Act requires that all projects likely to have significant environmental effects undergo a thorough assessment before approval. This mechanism is designed to prevent or mitigate environmental harm by ensuring that potential impacts are identified and addressed at the planning stage. However, enforcement of EIA requirements has often been inconsistent, limiting its effectiveness in practice. Although the Act does not explicitly mention climate change, its provisions require the assessment of environmental impacts that encompass climate-related considerations, such as greenhouse gas (GHG) emissions, ecosystem degradation, vulnerability to climate hazards, and adaptation measures. Section 2 requires that, before

[54] s. 26(1)
[55] s. 34(1)
[56] s. 34(2)(a)–(c)
[57] Section 7

any public or private project likely to significantly affect the environment is undertaken, an environmental impact assessment must be conducted and approved. This requirement provides the legal basis for evaluating climate-related impacts, including projected GHG emissions, effects on carbon sinks, and the project's resilience to climate risks such as flooding, drought, sea-level rise, and extreme weather events

6. Judicial Approach to Environmental and Climate-related Claims in Nigeria

The Nigerian judiciary has gradually played an important role in shaping environmental and climate law, particularly through the recognition of environmental rights as integral to fundamental human rights although there has not been a specific decision on the child's environmental right . A landmark case in this regard is ***Gbemre v Shell Petroleum Development Company***[58]in which the Federal High Court ruled that the Ogoni community in the Niger Delta had the right to a healthy environment and ordered Shell to cease gas flaring in the region. The applicant instituted an action against (i) the Nigerian government for its failure to stop the oil and gas company Shell in gas flaring for decades and (ii) Shell for engaging in massive and unceasingly intense gas flaring in the community, in the course of its exploration and production activities (jointly respondents). The applicant argues that Shell failed to consider the environmental impact of its activities on the communities' means of livelihood, collective survival, as well as the gas flaring's contribution to the adverse and potentially life-threatening effects of climate change. The applicant claimed that such gas flaring activities violated the community's rights to life and human dignity as constitutionally guaranteed. The Federal Hight Court held that these constitutionally guaranteed rights inevitably include the rights to a clean, poison and pollution free environment. The judge further ruled that Shell's failure to carry out an EIA is a clear violation of the EIA Act and a violation of said rights. The Judge's ordered them to take immediate steps to stop gas flaring.

Another interesting decision on climate change is ***Centre for Oil Pollution Watch (COPW) v Nigeria National Petroleum Corporation (NNPC)***[59].The Centre for Oil Pollution Watch (COPW) commenced legal action against the Nigerian National Petroleum Corporation (NNPC) over an oil spillage in ACHA Community of Abia State of Nigeria. The oil spillage was allegedly caused by the defendant's negligence resulting from its pipeline, which had corroded due to lack of maintenance, had ruptured, fractured and spewed its entire Contents of persistent hydrocarbon mineral oil into surrounding streams and river of lneh/Aku, resulting in contaminating two community streams that were the major sources of water supply to the community. The plaintiff alleged that the spillage had harmful effect on living resources, marine life, human health and other usage of the streams. The Supreme Court noted particularly, for the first time, that: "there is no gain saying in the fact that there is increasing concern about climate change, depletion of the ozone layer, waste management, flooding and global warming etc… Further, the national resources of earth… "must be protected and conserved for the benefit of present and future generations through careful planning and management as appropriate". The Supreme Court also made significant strides in 'greening' the Nigerian Constitution and confirming the existence and enforceability of environmental human rights in Nigeria, in a manner that increases the possibility of successful climate change litigation in the country, especially by allowing public interest litigation. First, the Supreme Court held that Section 20 of the Nigerian Constitution on duty to protect the environment by the State is justiciable when read together with, and in the context of, a provision like section 4(2) of the Constitution, on the power to make laws to give effect to section 20. Second, the Supreme Court explicitly recognized for the first time, that section 33 of the Constitution which guarantees the Right to Life, implicitly includes and constitutes a fundamental right to a clean and healthy environment for all. Third, the Supreme Court explicitly affirmed the enforceability of the environmental right in Article 24 of the African Charter on Human and Peoples' Rights as domesticated in Nigeria by the African Charter.

This case demonstrates a significant positive paradigm shift in the attitude of the Supreme Court to environmental and climate change related claims. It provides additional human rights and constitutional tools for potential climate litigation in Nigeria. Similarly, cases brought by the Socio-Economic Rights and Accountability Project (SERAP) have sought to hold the Nigerian government accountable for environmental degradation and climate-related policy failures.[60] While some of these cases have faced challenges in enforcement or judicial reluctance, they illustrate an emerging trend of rights-based climate litigation, linking constitutional guarantees to environmental protection. Despite these precedents, climate-related litigation in Nigeria remains limited in scope and frequency. Procedural hurdles often restrict the ability of communities and civil society organizations to seek redress. Nevertheless, the judiciary's recognition of environmental rights.

[58] Suit No. FHC/B/CS/53/05 [
[59] [(2019) 5 NWLR (Pt. 1666) 518
[60] ECW/CCJ/JUD/18/12

7. Other jurisdictions

7.1 *South African Climate Change and Child's Right*

South Africa has established a comprehensive legal framework for environmental protection and climate change, anchored in the Constitution of the Republic of South Africa[61], the National Environmental Management Act[62], the Climate Change Act[63], and the Children's Act[64] amongst others.

Section 24 of the Constitution guarantees everyone the right to an environment that is not harmful to their health or well-being and requires the State to adopt reasonable legislative and other measures to prevent pollution and ecological degradation, promote conservation, and secure ecologically sustainable development for present and future generations. The constitutional guarantee is implemented through NEMA, which establishes the duty of care under *section 28(1)*, requiring any person who causes or may cause significant pollution or environmental degradation to take reasonable measures to prevent, minimise, and remedy such harm. NEMA also incorporates the polluter-pays principle, placing the financial responsibility for preventing and remedying environmental damage on the polluter.

To provide a unified climate governance framework, South Africa enacted the Climate Change Act, whose objectives include promoting climate resilience, reducing greenhouse gas emissions, facilitating a just transition to a low-carbon economy, implementing South Africa's international climate obligations, and strengthening cooperative governance. The Act is guided by the principles of sustainable development, intergenerational equity, the precautionary principle, the polluter-pays principle, public participation, and evidence-based decision-making. It binds all organs of state and requires climate change considerations to be integrated into legislation, policies, planning, and decision-making while providing enforcement mechanisms for non-compliance. Offences include failing to provide required information, submitting false or misleading information, failing to submit a greenhouse gas mitigation plan, or failing to comply with ministerial notices or prescribed measures.[65]

The Children's Act does not expressly address environmental protection or climate change, but it provides important safeguards for children whose rights are adversely affected by environmental degradation. *Sections 7, 8, and 15* collectively require that the best interests of the child remain paramount, impose positive obligations on the State to protect and promote children's rights, and grant broad standing to children, their representatives, and public interest litigants to seek judicial protection where those rights are threatened. These provisions, read together with section 24 of the Constitution, provide a legal basis for protecting children from the adverse effects of pollution, hazardous waste, and climate change.

South African courts have reinforced this framework through climate litigation. In *EarthLife Africa Johannesburg v Minister of Environmental Affairs and Others,*[66] the High Court held that environmental authorities must consider the climate change impacts of a proposed coal-fired power plant before granting environmental authorisation. The Court ruled that the failure to conduct a Climate Change Impact Assessment rendered the authorisation unlawful, thereby affirming that climate change is a relevant consideration in environmental decision-making and strengthening the constitutional protection of environmental rights.

7.2 Climate Change and Children's Rights in Kenya

The principal legislation governing climate change in Kenya is the Climate Change Act[67], which came into force on 13 May 2016 anchored in the Constitution of Kenya, 2010, particularly the environmental rights guaranteed under Chapter Four (the Bill of Rights). *Article 42* provides that *"every person has the right to a clean and healthy environment."* This constitutional guarantee encompasses the protection and conservation of natural resources, sustainable utilisation of the environment, conservation of biodiversity, and environmental protection for the benefit of present and future generations.

Further constitutional support is provided under *Articles 69 and 70*, which impose obligations on the State to ensure the sustainable exploitation, utilisation, management, and conservation of natural resources, encourage

[61] 1996
[62] 107 of 1998 (NEMA)
[63] 22 of 2024
[64] 38 of 2005
[65] Section 35
[66] [2017] 2 All SA 519 (GP) or 2017 (3) SA 412 (GP)
[67] No. 11 of 2016

public participation in environmental governance, establish systems of environmental impact assessment, eliminate activities that are likely to endanger the environment, and provide effective legal remedies for violations of environmental rights. These constitutional provisions provide a firm legal foundation for climate governance and climate litigation in Kenya.

The objectives of the Climate Change Act are set out in *section 3*, which seeks to enhance climate resilience, promote low-carbon development, mainstream climate change into national and sectoral planning, establish institutional arrangements for climate governance, strengthen capacity-building, and facilitate the implementation of Kenya's international climate commitments. In implementing these objectives, *section 4* requires all public and private entities to be guided by the principles of sustainable development, public participation, transparency, accountability, intergenerational and intragenerational equity, the precautionary principle, the polluter-pays principle, and the ecosystem approach.

The Act further promotes participatory climate governance. Under *section 24*, public institutions are required to facilitate the participation of citizens, civil society organisations, the private sector, and other stakeholders in climate change policy formulation, implementation, and decision-making. The importance of meaningful public participation was affirmed in *Save Lamu & 5 Others v National Environmental Management Authority (NEMA) & Another*[68], where the National Environmental Tribunal set aside the Environmental Impact Assessment Licence granted for the proposed Lamu Coal-Fired Power Plant after finding that the licensing process failed to comply with the public participation requirements under the Environmental Impact Assessment and Audit Regulations. The decision was subsequently upheld by the Environment and Land Court, reinforcing the constitutional status of public participation in environmental decision-making.
The Climate Change Act also establishes an important mechanism for climate justice. Under *section 23*, any person may institute proceedings before the Environment and Land Court pursuant to *Article 70* of the Constitution where an act or omission has adversely affected, or is likely to adversely affect, climate change mitigation or adaptation efforts. Significantly, an applicant is not required to demonstrate personal loss or injury before commencing proceedings, thereby facilitating public interest climate litigation and strengthening access to environmental justice.

Although the Children Act, 2022 does not expressly address environmental protection or climate change, it protects children's rights that are intrinsically dependent upon a safe, healthy, and sustainable environment. *Section 5(1)* provides that:

> *"The State shall take measures to progressively achieve the full realization of the rights of the child set out in this Part."*

The rights protected under the Act—including the rights to life, survival, health, development, education, and welfare—cannot be fully realised in the face of environmental degradation and climate change. The Act is intended to operate consistently with the Constitution of Kenya, 2010, particularly Article 42, which guarantees every person the right to a clean and healthy environment, *Article 43*, which guarantees the right to the highest attainable standard of health, and *Article 53*, which guarantees children's rights to basic nutrition, shelter, healthcare, protection from abuse, and recognises that the best interests of the child are of paramount importance in every matter concerning the child.

7.3 Summary of the Comparative Analysis

South Africa and Kenya have more developed climate change legal frameworks than Nigeria. Both countries constitutionally guarantee the right to a clean and healthy environment, whereas Nigeria's constitutional environmental provision under section 20 is non-justiciable. Although all three countries have enacted climate change legislation, South Africa and Kenya provide stronger rights-based frameworks and broader access to environmental justice.

Regarding children's rights, neither South Africa nor Kenya expressly addresses climate change in their children's legislation. However, their Children's Acts, when read together with their Constitutions, protect children from environmental harm through the rights to health, development, welfare, and the best interests of the child. Nigeria's Child Rights Act similarly protects children's welfare but contains no express environmental or climate change provisions, leaving such protection to be inferred from broader constitutional and statutory rights.

[68] [2019] eKLR

8. Conclusion/Recommendations

Climate change severely undermines the rights of the child in Nigeria, affecting health, nutrition, education, protection, and psychosocial development. While Nigeria has developed domestic legislation and policy frameworks to address climate change, these instruments do not yet provide explicit and enforceable protection of children's rights in climate-related contexts. Thus, the damaging situation of climate change in the life of the child has remained without adequate solution or redress. This study has demonstrated that although Nigeria possesses an emerging climate governance framework, the absence of explicit recognition of children's environmental rights, constitutional justiciability, and effective enforcement mechanisms significantly limits the protection available to Nigerian children.

In light of the foregoing the following recommendations are proposed:

1. Like Articles 2(5) and 2(6) of the Kenya Constitution, which provides for the incorporation of general rules of international law and ratified treaties into the law of Kenya, Nigeria should adopt a legal framework that facilitates the automatic incorporation or expedited domestication of key international climate instruments, particularly the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, into domestic law. This would ensure that Nigeria's international climate obligations are directly enforceable by domestic courts and effectively implemented by public authorities.
2. The Climate Change Act or the Child Rights Act should be amended to expressly recognize children's environmental rights and provide clear mechanisms for their enforcement through judicial and administrative processes.
3. The right to a clean, healthy, and sustainable environment should be expressly recognized as a constitutionally justiciable and enforceable fundamental right in Nigeria like the South African and Kenyan constitutions. This would strengthen governmental accountability, promote compliance with environmental obligations, and align Nigeria's constitutional framework with emerging international and comparative constitutional standards.
4. Enhanced Public Participation and Environmental Education are imperative for child protection against the impacts of climate change. Governments at all levels should strengthen public participation in environmental decision-making by ensuring that communities, particularly children and young people, have meaningful opportunities to contribute to climate and environmental policies that affect them. Environmental education should also be integrated into school curricula and public awareness programmes to promote environmental stewardship, climate literacy, and informed civic engagement from an early age.