#### ACHIEVING ENVIRONMENTAL JUSTICE AND JUST ENERGY TRANSITION IN NIGERIA: CHALLENGES ND LEGAL SAFEGUARDS

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#### **Presentation Outline**

- Introduction Objectives, Methodology and Theoretical foundations
- Contextualizing Environmental Justice in contemporary society
- The Nexus between Environmental Justice and Energy Transition
- Background to Environmental Justice in Nigeria
- Legal and policy framework for EJ and Energy transition in Nigeria
- Challenges to Just Energy Transition in Nigeria
- Recommendations -The way forward

## Introduction

- Nigeria, being Africa's most populous nation and a major oil producer, faces a myriad of environmental challenges, including pollution, deforestation, and the adverse impacts of climate change.
- These issues disproportionately affect vulnerable communities, exacerbating existing socio-economic inequalities and deepening the divide between the privileged and the poor.
- Achieving environmental justice requires addressing these disparities and ensuring equitable access to a healthy environment and resources.
- Simultaneously, Nigeria is undergoing an energy transition, aiming to diversify its energy resources and reduce dependence on fossil fuels.
- This transition presents opportunities for sustainable development, but it also poses challenges such as infrastructure development, policy implementation, and social acceptance.
- Ensuring a just energy transition requires mitigating adverse impacts of extant environmental practices and policies on communities, particularly those already marginalized, and ensuring equitable distribution of clean and affordable energy resources.

#### Objectives

• Examine the Current State of Environmental Justice in Nigeria

- Identify the Challenges in Achieving Environmental Justice during Energy Transition
- Evaluate Legal Safeguards for Environmental Justice and just Energy transition in Nigeria
- Propose Recommendations for Enhancing Environmental Justice during Energy Transition

**Methodology:** Doctrinal Approach- analyzes and interprets legal sources, such as statutes, case law, treaties, and other legal documents, to achieve the research objectives

#### Theoretical foundations for the discourse

- Environmental Justice Theory
- Just Transition Theory
- Political Ecology



#### **Contextualizing Environmental Justice in Contemporary Society**

- According to the UNDP, 'the concept of environmental justice has arisen [as a] a mechanism of accountability for the protection of rights and the prevention and punishment of wrongs related to the disproportionate impacts of growth on the poor and vulnerable in society from rising pollution and degradation of ecosystem services, and from inequitable access to and benefits from the use of natural assets and extractive resources.
- The importance of the normative make-up of the concept is encapsulated by Principle 10 of the Rio Declaration which declared "Environmental issues are best handled with the participation of all concerned citizens, at the relevant level.
- At the national level, public authorities must provide access to environmental information, including hazardous items and community activities, and allow citizens to participate in decision-making.



Challenges in Contemporary Society:

• Climate Change and Global Environmental Crisis - Environmental justice is essential in this context to ensure that the burden of mitigating and adapting to climate change is shared equitably and that vulnerable communities are not disproportionately affected.

• Environmental Racism and Inequality - Environmental justice is deeply entwined with issues of racism and inequality

• Access to Natural Resources and Clean Environment - Inequitable access to natural resources, such as clean air, water, and green spaces, remains a prevalent concern in contemporary society

• Energy Transition and Sustainable Development - The urgent need for an energy transition towards renewable and sustainable energy sources is a central challenge in contemporary society

• Globalization and Trans-boundary Environmental Issues - Globalization has led to increased interconnectedness, with environmental issues transcending national boundaries.

• Environmental Governance and Policymaking- The inclusion of diverse perspectives and participation of marginalized communities in decision-making processes are essential for ensuring equitable and just environmental policies

#### The Nexus between Environmental Justice and Energy Transition

The transition from fossil fuel-based energy systems to sustainable and renewable alternatives is vital to mitigate the adverse impacts of global warming. However, it is crucial to ensure that this energy transition also addresses environmental justice concerns. The intersection between environmental justice and the energy transition is highlighted as follows:

• Environmental Inequities and the Energy Transition- Marginalized communities have borne the brunt of environmental injustices caused by fossil fuel-based energy systems. The energy transitio. presents an opportunity to rectify these disparities.

• Renewable Energy Access and Affordability - While renewable technologies such as solar and wind power have gained traction in recent years, they remain inaccessible to many disadvantaged communities due to financial barriers.

• Green Jobs and Economic Opportunities- without a deliberate foc. on environmental justice, there is a risk that opportunities in ET may bypass marginalized communities, inclusive energy transition is crucial.

• Community Engagement and Participation- Central to environmental justice is involving local communities in decisionmaking processes related to renewable energy projects and infrastructure development.

#### **Background to Environmental Justice in Nigeria**

The background to environmental justice in Nigeria includes examining the historical, social, and economic factors that have shaped the country's environmental landscape.

• Historical Perspective: Nigeria's environmental justice concerns can be traced back to the colonial era when European powers exploited the nation's resources for economic gain. This extraction-focused approach led to environmental degradation and the displacement of local communities from their ancestral lands. Post-independence, with rapid industrialization and urbanization, which further strained its environment, the impacts of environmental degradation were often felt most acutely by marginalized communities with limited access to legal protection and resources.

• Oil Exploitation and Environmental Injustice: The discovery of oil in the Niger Delta in the 1950s marked a significant turning point in Nigeria's environmental history. Oil exploration and production brought unprecedented wealth to the nation, but it also exacerbated environmental challenges and heightened social inequalities. The Niger Delta region, rich in oil reserves, bore the brunt of environmental degradation and injustice.

• Social and Economic Inequalities: Environmental injustices in Nigeria are inextricably linked to social and economic inequalities. Despite the country's significant oil wealth and vast natural resources, a large portion of the population lives in poverty. The unequal distribution of resources and economic opportunities further compounds environmental injustices. Marginalized communities, including indigenous groups and rural populations, bear the brunt of environmental degradation while having little influence over decision-making processes and resource allocation.



**Background to Environmental Justice in Nigeria** (cont'd)

- Environmental justice in Nigeria cannot be discussed without a delve into the major instances of environmental injustice and human rights violations in Nigeria. These include;
- Koko Incidence of 1988
- The wasting of Ogoni land and the eventual execution of Ken Saro-Wiwa and eight other MOSOP members in November of 1995.
- Deliberate extermination of minority communities with the aim of seizing their territories and exploiting their natural resources.
- The oppression of native minority populations due to the exploitation of natural resources which results in environmental decline.



#### Legal Safeguards for Environmental Justice and Energy transition in Nigeria

Some legal safeguards put in place to protect the environment, promote sustainable development, and ensure that all citizens have equal access to benefits and resources in Nigeria include:

• Constitution of the Federal Republic of Nigeria (As Amended) 1999 s. 20. It provides that the State shall protect and improve the environment and safeguard the water, air and land, forest, and wildlife of Nigeria.

• **The Petroleum Industry Act 2021** The Act banned the use of chemicals in petroleum upstream operations except with the license of the commission. The Act also mandates remediation fund as a condition for the grant of a license. The Act prohibits the flaring of natural gas and consequently provided penalties for violations.

• The Climate Change Act To address climate change, Nigeria passed the Climate Change Act, 2021. This Act supports the Federal Government's COP 26 pledge to integrate climate change mitigation initiatives nationwide. Nigeria's long-term climate goals are supported by the Act. This framework contains aims for net-zero carbon emissions, climate financing, environmental and economic accountability, and climate change prioritization.

• Environmental Laws and Regulations: Environmental Impact Assessment Act, the National Environmental Standards and Regulations Enforcement Agency (NESREA) Act, and the National Oil Spill Detection and Response Agency (NOSDRA) Act. Environmental laws in Nigeria impose legal liability on entities responsible for environmental harm and promote access to Justice.



• Community Rights and Participation: The Environmental Impact Assessment Act 1992 mandates public consultation and participation during the project approval process, ensuring that the concerns and interests of affected communities are taken into account.

• Enforcement Agencies: the National Environmental Standards and Regulations Enforcement Agency (NESREA) and the National Oil Spill Detection and Response Agency (NOSDRA); National Agency for Science and Engineering Infrastructure (NASENI); the Rural Electrification Agency (REA).

• Renewable Energy Policies and Regulations: the Renewable Energy Master Plan; the Nigerian Electricity Regulatory Commission (NERC) regulations.

• International Commitments in compliance to various international environmental agreements and conventions, such as the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement; Basel Convention 1989.

#### **Challenges to Just Energy Transition in Nigeria**

- **Heavy Reliance on Fossil Fuels**: This dependency creates inertia and resistance to adopting renewable energy sources. The reluctance to shift away from fossil fuels is further exacerbated by vested interests and the deeply entrenched nature of the oil and gas sector in the country's economy.
- **Inadequate Infrastructure**: Nigeria's energy infrastructure is underdeveloped and outdated, hindering the integration and distribution of renewable energy sources. Insufficient grid capacity and transmission networks limit the effective incorporation of renewables into the national energy mix.
- **Financial Constraints:** Nigeria's economic challenges, including fluctuating oil prices, fiscal deficits, and limited access to international financing, make it difficult to secure the necessary funds. The private sector's involvement in energy transition projects is also hampered by regulatory uncertainties, bureaucratic hurdles, and concerns about the stability of the investment environment.
- **Inadequate Policy and Regulatory Framework**: Nigeria's energy policies have been inconsistent, lacking clear and long-term objectives for promoting renewable energy adoption.
- Limited Awareness and Capacity:. Many individuals and businesses remain unaware of the benefits of renewable energy and the negative consequences of continued fossil fuel use. Additionally, there is a shortage of skilled personnel and technical expertise in renewable energy technologies, hindering the deployment and maintenance of renewable energy systems.
- **Security Concerns**: Nigeria's energy infrastructure faces security challenges, particularly in areas with a history of unrest and conflict. The risk of vandalism and attacks on energy facilities deter investments and pose significant obstacles to the reliable operation of renewable energy projects.
- Land Use and Environmental Concerns: Renewable energy projects often require large land areas for installations, which can raise conflicts over land use and environmental conservation. Balancing the need for energy development with environmental protection and land rights can be a complex issue that slows down the transition process.





## The Way Forward

- Diversification of Energy Sources
- Strengthening Energy Infrastructure
- Enabling Policy and Regulatory Environment
- Public Awareness and Education
- Capacity Building and Skill Development
- Community Engagement and Participation
- Addressing Security Concerns
- Financing and Investment
- Green Job Creation
- Mandatory Environmental Impact Assessment (EIA)

# HANK YOU

## FOR LISTENING



## Inequalities in the production and use of cement and concrete, and their consequences for decarbonisation and sustainable development

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## How is cement and concrete relevant to development?

- **Cement** is the main binding material in concrete.
- **Concrete** is widely used in buildings and infrastructure which help deliver societal outcomes.

#### But...

- Cement and concrete is produced on a very large scale consumes **raw materials and fuel**.
- Global concrete production is >20 GT/year.
- Cement production is responsible for 5-8 wt.% of global CO<sub>2</sub> emissions.





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## Why are inequalities relevant to cement and concrete?

- Cement and concrete industry aspires to transition to more sustainable practices.
- **'Carbon tunnel vision'** a focus on technical solutions for decarbonization, and neglect of wider facets of sustainable development.

Knowledge gaps / research questions:

- 1. Which current inequalities intersect with cement and concrete?
- 2. To what extent is "reducing inequalities" included in **industry perspectives** of sustainable development?
- 3. How might inequalities pose **risks** to aspirations of decarbonization and sustainable development in future?



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#### Methodology

Exploratory Research:

*"illuminate how a phenomenon is manifested and is especially useful in uncovering the full nature of a little-understood phenomenon"* (Hunter et al., 2019)

Applied different research methods for each knowledge gap / research question.



Source: CNN, https://edition.cnn.com/2014/06/13/opinion/hammondworld-inequality/index.html

## **Knowledge gap #1**: Which current inequalities intersect with cement and concrete?

Inequalities are intrinsically linked to **power dynamics** (Phillips, 2017).

Inequality is conceptualized through drawing on **Lukes' 3 dimensions** of power (Lukes, 2005):

- 1<sup>st</sup> Dimension Overt displays of power
- 2<sup>nd</sup> Dimension Influencing public discourse and narratives
- 3<sup>rd</sup> Dimension Underlying power dynamics such as ideology
- Distinguish inequalities relating to cement and concrete as **commodities**, and concrete in **built assets**.





#### Key finding #1: Numerous inequalities intersect with cement and concrete

| Stage of use | Inequality  | Lukes' dimension(s) |
|--------------|---|---------------------|
| Commodities  | Affordability of cement   | Third               |
|              | Competitiveness and market regulation                             | First<br>Second     |
|              | Efficiency and safety of concrete production practices            | Third               |
|              | Gender representation within cement and concrete sector workforce | First<br>Third      |

Inequalities exist across:

- Commodities and built assets
- Lukes' three dimensions

Cement and concrete sector has direct influence over:

- Gender representation in workforce
- Competitiveness

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**Knowledge gap #2**: To what extent is "reducing inequalities" included in industry perspectives of sustainable development?

- Industry associations important role in representing sector and its interests
- Global Cement and Concrete Association + 28 affiliated national/regional associations
- Analysed keywords and content in associations' public-facing online documents





#### Key finding #2: Room for improvement in cement and concrete sector perspectives





 $\rightarrow$  Reducing inequalities is not considered as widely as other SDGs by industry associations

29/07/2023



## **Knowledge gap #3**: How might inequalities pose risks to aspirations of decarbonization and sustainable development in future?



- Decarbonisation is a sectoral priority
- How could we frame...
  - Inequalities as a risk to decarbonization?
  - Decarbonisation as a risk for inequalities?





#### Key findings #3: Inequalities are likely risk factors for sectoral aspirations

| Current inequalities   | Developments in cement<br>and concrete  | Risk  |
|------------------------|---|---|
| Income<br>inequalities | Decarbonisation strategies<br>which increase price of<br>cement<br>(e.g. carbon capture &<br>storage) | Exacerbated inequalities in affordability of cement (and housing) |

#### Next steps

How can we work towards resolving inequalities around cement and concrete, and enabling transitions towards more just practices that have positive environmental and social impacts?

E.g...

- What democratic structures can improve decision-making in investment and design of housing and infrastructure?
- How can the **opportunities and burdens** of decarbonisation be distributed most fairly?



#### Summary

- 1. The **concrete and cement industry** underpins the construction industry globally it is highly relevant to broad issues around just transitions and environmental justice.
- 2. Cement and concrete intersects with inequalities in multiple ways, both as commodities and as built assets.
- 3. Generally, industry associations aspire to sustainable development, but their perspectives of inequalities is limited.
- 4. Current inequalities are likely to present a **risk to decarbonizing** the cement and concrete sector, and achieving transitions to development practices that are both socially and environmentally sustainable.
- 5. Future research is needed to understand these complex issues, especially in relation to enabling **transitions** towards **more just practices** that have **positive environmental and social impacts**.



#### Thank you for listening!

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POTHOLES ON THE ROAD TO A JUST TRANSITION: POWER DYNAMICS MISTAKES TO AVOID FOR A POST OIL FUTURE IN NIGERIA.

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The analogy of potholes is very widely understood and aptly illustrates our journey to a post oil future. Road construction contracts are awarded on paper and excitedly talked about. The road is later commissioned with so much fanfare, cultural dance and a big ceremony,

Few weeks after the commissioning of the road, after the first rains, there are potholes, on the road, deep enough to damage the vehicle tyres and delay the transition.

This illustrates how the technicalities and paper work are properly done but the power dynamics that determine the allocation of resources, who pilots the vehicle to a just transition, the process of selection of those who make the law and operationalize the just transition



#### Conceptualization

A FRAMEWORK encompassing a range of social interventions to ensure the sustainability of livelihoods of communities/workers in the transitioning of economies to sustainable production, combatting climate change and protecting biodiversity (UNDP,2022).

The origin of just transitions, being the US trade unions in the 1980s (UNDP, 2022:3), demonstrates a precedence of a *bottom up* approach.

ILO defines just transitions as **greening the economy** in a fair and inclusive way, leaving no one behind. This implies that just transitions can be **disruptive** creating a new vista of challenges, from lost of livelihoods, to displacements

the meaning and application of just transitions is contested among scholars (ref) This implies that though there are generally accepted components, like sustainable livelihoods, sustainable production with the underlying reason of combatting climate change by reducing net zero carbon emissions, interpretation of what constitutes that, and its operationalization, primarily rests on the state

#### Nigeria Energy statistics

- -7<sup>th</sup> largest gas reserves
- -Crude oil reserve -37.2b
- -Gas reserves-187 trillion cubic feet
- Contributes 1/6 of global gas flaring (Paehler, 2007)
- Energy poverty : over 90m without electricity (Okoh, 2017)
- Energy demand-55TWh per year

Hydropower potential (est)- 1852 TWh /year (Bala, 2013)

#### Nigeria's journey to Just transition

**-1994**- Signing of Kyoto protocol as a non-Annex 1 member (Technically acceded to the protocol)

-2004 Ratifying of Kyoto protocol

#### -2008-2012

a. National Adaptation Strategic plan of action

b. Global climate observing system report: Building Nigeria's response to climate change (BNRCC 2011)

- 2015 Paris COP 21 (Inclusion of the language of just transition) -2016- UNFCC

**2018**- Poland COP 24 (Heads of state adopt solidarity and just transition salesia declaration)

2021 Nov Glasgow COP 26

-Nigeria moved the goal post of reducing green house gas (GHG) from 2030 to 2060

- Signed the climate bill into law
- -The climate change law provides for the establishment of a national council on climate change

**2022** July President appointed Salisu Dahiru as Pioneer DG/CEO National council on climate change

**Pothole 1:** NDCs At Cross Purposes with Nigeria's Economic Recovery and Growth Plan (ERGP)

-Nigeria's NDCs work at cross purposes with Nigeria's Economic Recovery and Growth Plan (ERGP) AND VISION 2020 is Nigeria's documented pathway out of poverty towards economic recovery.

-The projected economic growth and recovery is hinged on fossil -led growth! (Sambo, 2009; Cervigni et al., 2013; Okoh, 2020:47).

At present, over 75% of Nigeria's energy needs are met by fossil fuels and 20% from renewable energy like hydropower and solar (Sambo,2009, Cervgni et al., 2013).

The present economic recovery plan which is heavily dependent on fossil fuel, cannot ensure a sustainable transition. That means the state either has to adjust its economic recovery plan to accommodate a transition.

-The implication of the apparent opposing plans of the ERGP and the NDCs is that it fuzzies the political will to sincerely operationalize.

-Thus, the implication on laws is that the documents and laws around the subject become convoluted and leaves room for interpretive lacuna so they can be wielded either way to enable the state renege on agreed deliverables.

Also, while in the legal limbo of interpreting the law, funds by donors can be channelled ostensibly to pressing aspects of sustaining livelihoods.

#### Pothole 2: Political will-

Nigeria signed ACFTA free trade then closed borders.

Gender mainstreaming agenda- how far? -Nigeria started producing oil but 70 years after oil, Nigeria doesn't have 1 functional refinery, and oil hasn't brought the state out of poverty. HDI is not good

-Nigeria also has the tendency to build infrastructure and technical papers without the internal mechanisms being effective. This also suggests that no matter how effective the technical wordings are, the internal postcolonial power dynamics can stifle the state from achieving Nigeria's nationally determined contributions An attempt at the definition of what is conceived as a lack of political will:

It is not a lack of capacity but it limits capability and effectiveness. It is deliberate ignorance. Not that we do not know what to do, but we shall not do it so as not to fracture patrimonial and primordial affiliations.

The display of the lack political will is evident in the deliberate chaos, deliberate foot dragging! Confusion, compromise and corruption in high places. Everything happening points to the fact that there are moles in the corridors of power who do not want the policies to work. (Fieldwork interview July 2022)

#### Mixed messages on climate change

-February 2023- Tinubu said climate change wasn't relevant to the election

-after election- we recognize the importance of climate change -we need climate financing to help us Pothole 3: Disruption of Fossil and Biomass Economy and Its Propensity to Conflict

One of the assumptions and key hinges of Just transition is that transition has to be operationalized sustainably and taking into account the livelihoods (UNDP, 2022).

Without a transition framework that adequately guarantees a *JUST* transition and demonstrates a commitment to sustainability of livelihoods, the disruptive effects on local economies- logging, mining and subsistence agriculture- has the propensity to drive conflict.

For instance, the military regime used the *Land Use Act of 1978* to vest control of state lands in the military governors appointed by the federal military regime. The act subsequently gave rise to Section 40(3) of the Nigerian constitution ascribing ownership of all natural resources to the Federal government. However, agitations continue in communities on resource control.

A recurrent demand of Niger Militants is the indigenous control of resources and a recognition that communities that host oil related operations are entitled to proceeds from the operations. *Kashwan et al., (2019)* describe this type of relationship in their power in institutions framework where a stronger institution like the government displays 'power over' a community and the weaker party like the communities display 'resistance power' to check the power wielded by the superior party.

This power dynamics between the government which grants land lease displaying 'overt and agenda power' and the 'resistance power' communities which collect payments, land levies and youth development levies with the threats of abduction or disruption of operations for defaulters, if not factored in to the just transitions framework, has implications for enduring conflict.

Without an alternative plan to ensure disrupted livelihoods, the bottom-up support and community resilience required to ensure a just transition, becomes eroded.

#### Pothole 4: The Process of Selection

The climate change law provides for the establishment of a National Council on Climate Change.

The constitution of the council on climate change

- $\checkmark$  The president
- ✓ Relevant ministers
- ✓ National security adviser
- $\checkmark\,$  Governor Central Bank of Nigeria
- ✓ Representative of Civil Society with spaces reserved for women, youth, persons with disabilities, private sector.
- $\checkmark\,$  DG/CEO National council on climate change -July 2022.

The underlying factor in the constitution of the council is that all the above mentioned are appointed by the president. This is problematic in 2 ways

- ✓ It is a top down selection and defeats the bottom up component for a transition to be just
  - Most of the offices have transparency issues. And their accounts are classified. Eg the NSA, CBN, presidency and some ministers.

#### Pothole 5: Rentier Economy Neopatrimonial Alignments

It can afford to do this because it is a **degenerate rentier and neopatrimonial** state with a distorted nature and structure that inhibits state effectiveness a

where the operators of the state are loyal to a primordial public that fractures the state and prevents it from fulfilling its basic functions identified as provision of basic amenities, ensuring security and welfare, provision of a favourable environment for business, growth and development.

In October 2014 Federal executive council awarded a contract of N9.2b to a South African firm for the provision of initial 750,00 units of cooking stoves and accessories for the national clean cooking scheme to help rural women.

## Pothole 6: Multiple Regulatory Agencies with overlapping Duties (and Double Budgeting)

For instance, the agencies involved in the oil industry

- ✓ Nigeria's Upstream regulatory commission
- $\checkmark$  Nigeria's midstream and downstream petroleum regulatory authority
- ✓ Federal ministry of petroleum
- ✓ NNPC -Nigeria National Petroleum Corporation (NNPC)

The Federal Ministry of Petroleum Resource can issue oil licences, give contracts for pipeline surveillance, marketing etc but a state's taskforce on petroleum can shut down any of those operation and even temporarily suspend the oil licence issued by DPR.

#### MULTIPLE REGULATORY AGENCIES WITH OVERLAPING DUTIES

|   |   | FUNCTIONS   |
|---|---|---|
| Federal Ministry Of<br>Petroleum Resource.        | Section 8(1) and<br>9(1) of the<br>petroleum act 1969                 | Import, export,<br>transport, general<br>supervision,<br>management guidelines  |
| Federal Ministry of<br>Environment (FMoE)         | Executive order<br>2000. FEPA<br>established by<br>Decree 51 of 1988. | Environmental<br>watchdog, management,<br>supervision, response<br>oil spillage |
| National Emergency<br>Management Agency<br>(NEMA) | Decree 12, 1999   | Policies, guidelines,<br>Response, supervision                                  |
| State Environmental<br>Management Agencies        |   |   |
| National Maritime<br>authority                    |   |   |

