

LEGAL LIFELINES: STRENGTHENING WATER AND SANITATION GOVERNANCE IN NIGERIA

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Abstract

Nigeria's water and sanitation crisis reflects governance failure rather than resource scarcity. With only 67% basic water access and 64 million lacking adequate sanitation, infrastructure deficits stem from chronic underfunding, and other factors. Through doctrinal analysis and comparative law, the article examines Nigeria's governance architecture, analysing constitutional mandates, institutional coordination failures, and accountability mechanisms. Drawing on comparative constitutional rights community oversight models. It demonstrates how targeted legal reforms, and other reforms can transform service delivery. The analysis reveals that Nigeria's challenges are primarily implementation failures within weak institutional structures among others. The article concludes that legal solutions exist but require political will to overcome entrenched resistance. Can legal reforms alone overcome Nigeria's water crisis, or are deeper political reforms necessary?

Keywords: water governance, Nigeria, legal reform, comparative law, accountability, infrastructure financing

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1.0 Introduction

Water and sanitation governance in Nigeria present a paradox: comprehensive policies exist alongside catastrophic service failures. Lagos, Nigeria's economic hub housing over 20 million people, experiences water supply for only 3-4 hours daily.² Open defecation persists across rural areas, with 47 million Nigerians practising it as of 2023.³ This disconnect between policy and reality reflects deeper governance pathologies. The 1999 Constitution's concurrent legislative powers create jurisdictional ambiguities between federal, state, and local governments.⁴ The Federal Ministry of Water Resources coordinates policy, yet State Water Boards control implementation, a fragmentation enabling blame-shifting. Budgetary allocations fall drastically short: Nigeria spends under \$1 billion annually against an estimated \$8 billion requirement.⁵ Corruption compounds scarcity: the Ajaokuta Water Supply Project, allocated \$400 million, delivered nothing, exemplifying systemic theft.⁶ Legal frameworks structure funding mechanisms, delineate institutional responsibilities, establish accountability, and shape citizen-state relations around service delivery.⁷ This article dissects Nigeria's water governance through a legal lens, examining five critical dimensions: funding architecture, institutional

²Nkwonta, C.A. and Okoye, C.O., 'Innovative Financing Mechanisms for Urban Water Infrastructure in Nigeria' (2023) 15(3) *Infrastructure Finance Journal* 234, 237.

³UNICEF Nigeria, "WASH Sector Report" (UNICEF, 2023) 12.

⁴Constitution of the Federal Republic of Nigeria 1999 (as amended), Second Schedule, Part I (Exclusive Legislative List), Item 53; Part II (Concurrent Legislative List), Item 5.

⁵World Bank, "Nigeria Water Sector Investment Needs Assessment" (World Bank, 2022) 45.

⁶Adediran, A.O. and Olajuyigbe, A.E., 'Challenges of Water Supply and Sanitation in Nigeria: Pathway to Sustainable Development' (2021) 13(2) *Journal of Sustainable Development in Africa* 145, 152.

⁷Anago, I. and Oguntimehin, I., 'Legal and Institutional Frameworks for Water Governance in Nigeria: An Analysis' (2022) 8(1) *African Journal of Legal Studies* 89, 91.

coordination, anti-corruption mechanisms, payment compliance frameworks, and the legal reframing of water as an economic good. Comparative insights from South Africa, Chile, and Uganda illuminate reform pathways adapted to Nigeria's federal structure and political economy.

2.0 The Governance Architecture: Legal Fragmentation and Institutional Silos

A. Constitutional and Statutory Fragmentation

Nigeria's water governance rests on fragmented legal foundations. The 1999 Constitution assigns water resources to the federal exclusive legislative list (Item 53), empowering federal control over interstate waters.⁸ Yet water supply and sanitation fall under concurrent powers (Item 5), enabling states to legislate.⁹ Local governments, constitutionally tasked with sanitation (Fourth Schedule), lack fiscal autonomy to execute mandates.¹⁰ This concurrent jurisdiction breeds coordination failures—federal policies contradict state regulations. The Water Resources Act 1993 remains the primary federal statute, vesting water ownership in the federal government while creating River Basin Development Authorities.¹¹ However, the Act predates modern privatisation frameworks, offering no guidance on tariff regulation or private sector participation.¹² The National

⁸Constitution of the Federal Republic of Nigeria 1999 (as amended), Second Schedule, Part I, Item 53.

⁹*Ibid.*, Second Schedule, Part II, Item 5.

¹⁰*Ibid.*, Fourth Schedule.

¹¹Water Resources Act, Cap W2, LFN 2004, s 1.

¹²Olukanni, D.O. and Aremu, A.S., 'Public Private Partnership and Water Supply in Nigeria: A Review' (2015) 3(2) *International Journal of Waste Resources* 1, 3.

Water Supply and Sanitation Policy 2000 supplements statutory gaps with aspirational goals but lacks enforcement mechanisms.¹³

State Water Boards operate with minimal federal oversight. Lagos State's Public-Private Partnership Law 2011 enables water sector partnerships, yet implementation falters due to regulatory uncertainty.¹⁴ The Water Resources Bill, proposed since 2008 to modernise the 1993 Act, remains unpassed—political tensions over resource control and community rights stall progress.¹⁵ South Africa's Water Services Act 1997, by contrast, provides comprehensive frameworks for service delivery, tariff regulation, and community participation, underpinned by the Constitution's explicit right to water.¹⁶

B. Institutional Coordination Failures

Nigeria's institutional architecture involves over 15 federal agencies, 36 State Water Boards, and 774 Local Government Water Departments—each with overlapping yet unclear mandates.¹⁷ The Federal Ministry of Water Resources coordinates policy but lacks operational control. The National Water Resources Institute conducts research, River Basin Development Authorities manage surface water, and the Federal Ministry of Environment

¹³National Water Supply and Sanitation Policy (Federal Ministry of Water Resources, Nigeria, 2000), para. 3.2.

¹⁴Lagos State Public-Private Partnership Law 2011, s. 4.

¹⁵Ekhaton, E.O., 'Public Regulation of the Oil and Gas Industry in Nigeria: An Evaluation' (2016) 8 *Annual Survey of International & Comparative Law* 43, 58.

¹⁶Constitution of South Africa 1996, s 27(1)(b); Water Services Act 1997 (South Africa), ss 3-11.

¹⁷Obeta, M.C., 'Institutional Approach to Flood Management in Nigeria: Need for a Preparedness Plan' (2014) 11(2) *British Journal of Applied Science & Technology* 4575, 4580.

regulates pollution—yet inter-agency coordination mechanisms are informal and ineffective.¹⁸ State Water Boards control urban water supply, but autonomy breeds inconsistency. Kano State's metering initiative reduced non-revenue water by 30%, yet Lagos resists similar reforms due to political concerns over voter backlash.¹⁹ Local governments depend entirely on state allocations—averaging 10% of state budgets—rendering them perpetually underfunded.²⁰ This vertical fragmentation mirrors horizontal silos: water and sanitation are governed separately despite operational interdependence.²¹

Uganda's Water Act 1997 offers a contrasting model. It establishes the National Water and Sewerage Corporation with clear operational autonomy, supported by District Water Offices for decentralised implementation.²² Legal mandates require quarterly inter-agency coordination meetings, with the Ministry of Water and Environment empowered to arbitrate disputes.²³ Nigeria's Constitution lacks equivalent coordination mandates, leaving agencies to compete rather than collaborate.

Table 1: Comparative Institutional Structures

¹⁸Anago and Oguntimehin (n 7) 96.

¹⁹Oyegoke, S.O., 'Sustainability of Community-Managed Rural Water Supply Projects: Case Studies from Nigeria' (2018) 12(4) *Water Practice and Technology* 765, 771.

²⁰Adediran and Olajuyigbe (n 6) 154.

²¹*Ibid.*, 155.

²²Water Act 1997 (Uganda), ss 4, 8.

²³*Ibid.*, s. 6.

Country	Coordinating Body	Operational Autonomy	Coordination Mechanism	Legal Basis
Nigeria	Federal Ministry of Water Resources	Fragmented (36 State Water Boards)	Informal, ad hoc	Water Resources Act 1993
Uganda	Ministry of Water and Environment	National Water & Sewerage Corp	Quarterly mandated meetings	Water Act 1997, s. 6
South Africa	Department of Water and Sanitation	Municipal Water Services Authorities	Constitutional mandate	Water Services Act 1997

3.0 Funding Crisis: Legal Gaps in Revenue Generation

A. Budgetary Deficits and Allocation Failures

Nigeria's water sector receives approximately 0.5% of annual federal budgets—roughly ₦120 billion (\$150 million) in 2023—against estimated needs of ₦6.4 trillion (\$8 billion) annually.²⁴ The Medium-Term Sector Strategy (2016-2030) acknowledges this gap yet provides no legal mechanisms to bridge it.²⁵ Unlike South Africa's Municipal Finance Management Act (2003), which mandates ring-fencing utility revenues for reinvestment,²⁶ Nigeria's Fiscal Responsibility Act 2007 imposes no sector-

²⁴National Bureau of Statistics, "Nigeria Water and Sanitation Survey" (NBS, 2023) 78.

²⁵Medium-Term Sector Strategy 2016-2030 (Federal Ministry of Water Resources, Nigeria), para. 4.3.

²⁶Municipal Finance Management Act 2003 (South Africa), s 45.

specific funding obligations.²⁷ State governments fare worse. Lagos allocates just 2% of its budget to water—~~₦40 billion~~ ₦40 billion in 2022—despite generating ₦1.5 trillion in revenue.²⁸ The Lagos State Water Corporation operates at chronic deficits, with tariff revenues covering barely 30% of operational costs.²⁹ Legal frameworks enabling cross-subsidisation—charging industrial users higher rates to subsidise residential supply—are absent.³⁰

B. Innovative Financing: Legal Barriers to Bonds and PPPs

High-yield infrastructure bonds could revolutionise Nigeria's water financing. Lagos State's ₦500 billion bond programme (2021-2023), offering 12-15% returns for road infrastructure, demonstrates investor appetite.³¹ Yet no water-specific bonds exist. Legal barriers abound: the Debt Management Office Act 2003 requires federal approval for state bonds exceeding ₦100 billion, delaying issuance.³² South Africa's Municipal Finance Management Act permits municipalities to issue bonds tied directly to utility revenues—repayment streams from water tariffs guarantee returns.³³ Nigeria's Public Procurement Act 2007 lacks equivalent provisions, leaving bond repayment reliant on general state revenues, which investors perceive as risky.³⁴

²⁷Fiscal Responsibility Act 2007 (Nigeria), ss 12-21.

²⁸Lagos State Budget 2022, Ministry of Economic Planning and Budget.

²⁹Nkwonta and Okoye (n 2) 240.

³⁰General Water Services Law 1988 (Chile), arts 15-18.

³¹Lagos State Government, "N137.33 Billion Series 4 Bond Issuance" (December 2021); FMDQ Exchange, Lagos State Government Bonds listing (2021-2023).

³²Debt Management Office (Establishment) Act 2003, s. 41.

³³Municipal Finance Management Act 2003 (South Africa), s. 46.

³⁴Public Procurement Act 2007 (Nigeria), ss. 16-24.

Public-Private Partnerships face similar legal voids. The Infrastructure Concession Regulatory Commission Act (2005) establishes PPP frameworks focused on federal roads and power—water is barely mentioned.³⁵ Lagos State's 2018 PPP with a foreign consortium to upgrade water infrastructure collapsed after two years, citing regulatory unpredictability and tariff disputes.³⁶ Chile's water sector thrives on PPPs governed by the General Water Services Law (1988), which balances private profit with service quality mandates—companies must maintain 95% supply reliability or face fines.³⁷ Nigeria's ICRC Act includes no performance benchmarks.³⁸

Tax incentives could attract private capital, yet Nigeria's tax regime offers none for water investments. The Companies Income Tax Act 2004 provides pioneer status tax holidays for agriculture and manufacturing but excludes water utilities.³⁹ Uganda's Income Tax Act 1997 exempts water project investors from corporate taxes for 10 years.⁴⁰

4.0 Corruption: Legal Frameworks for Accountability

³⁵Infrastructure Concession Regulatory Commission (Establishment, etc.) Act 2005, ss. 1-5.

³⁶"Lagos Water PPP Project Collapses After Two Years" *The Guardian Nigeria* (Lagos, 2023).

³⁷General Water Services Law 1988 (Chile), arts. 25-30.

³⁸Infrastructure Concession Regulatory Commission (Establishment, etc.) Act 2005 (Nigeria), s. 3.

³⁹Companies Income Tax Act 2004 (Nigeria), s. 10 and Third Schedule; Industrial Development (Income Tax Relief) Act Cap. I7 LFN 2004.

⁴⁰Income Tax Act 1997 (Uganda), s. 21.

A. The Scale of Embezzlement

Corruption in Nigeria's water sector appears endemic. This is Economic and Financial Crimes Commission estimates 40% of water project funds are embezzled.⁴¹ High-profile cases illustrate systemic rot: the Ajaokuta Water Supply Project (\$400 million diverted), Rivers State's "phantom" boreholes (₦50 billion spent, zero functional), and the Niger Delta Water Resources Project (\$250 million unaccounted for).⁴² These reflect governance norms where accountability is exceptional rather than routine.

B. Enforcement Bottlenecks

The EFCC Act (2004) criminalises corruption, imposing penalties up to 14 years' imprisonment and asset forfeiture.⁴³ Yet convictions are rare—since 2004, fewer than 50 water-sector officials have been prosecuted despite thousands of documented fraud cases.⁴⁴ Enforcement bottlenecks include understaffing (the EFCC employs 2,500 officers for 220 million people), judicial delays (cases linger 5-10 years), and political interference (governors enjoy constitutional immunity under Section 308).⁴⁵ Additionally, weak witness protection laws discourage whistleblowing, while judicial corruption enables case manipulation. South Africa's Public Audit Act 2004 mandates the Auditor-General to audit all public entities annually, with findings tabled in Parliament within months.⁴⁶ Non-

⁴¹Transparency International, "Corruption Perceptions Index 2023" <https://www.transparency.org/en/cpi/2023> accessed 7 October 2025.

⁴²Economic and Financial Crimes Commission, "Annual Report 2020-2023" (EFCC Nigeria).

⁴³Economic and Financial Crimes Commission (Establishment) Act 2004, s. 15.

⁴⁴Economic and Financial Crimes Commission, "Sectoral Prosecution Statistics 2004-2024" (EFCC, 2024).

⁴⁵Constitution of the Federal Republic of Nigeria 1999, s. 308.

⁴⁶Public Audit Act 2004 (South Africa), ss. 20-25.

compliance triggers automatic investigations. Nigeria's Auditor-General submits audit reports, but legislative follow-up is minimal—the National Assembly rarely sanctions implicated officials.⁴⁷ Kenya's Public Audit Act (2015) mandates automatic prosecutions for audit discrepancies exceeding specified thresholds.⁴⁸

C. Procurement Transparency and Digital Systems

The Public Procurement Act (2007) requires open, competitive bidding for all public contracts, with the Bureau of Public Procurement overseeing compliance.⁴⁹ Yet loopholes persist. "Emergency procurement" provisions (Section 43) enable sole-sourcing without competitive bids—water agencies abuse this, citing urgency to award contracts to cronies.⁵⁰ The Act imposes penalties (fines up to ₦5 million- or 5-years imprisonment), but BPP lacks prosecutorial powers, referring cases to the EFCC where they stagnate.⁵¹ Digital procurement systems could enhance transparency. The Philippines' Government Procurement Portal publishes all bids, contracts, and payments online in real time.⁵² Nigeria's BPP launched a similar portal in 2019, but participation is voluntary—only 30% of agencies upload data.⁵³ Chile's ChileCompra platform, established via the Administrative

⁴⁷Constitution of the Federal Republic of Nigeria 1999, s. 85.

⁴⁸Public Audit Act 2015 (Kenya), ss. 35-40.

⁴⁹Public Procurement Act 2007 (Nigeria), ss. 24-26.

⁵⁰Ibid., s. 43.

⁵¹Ibid., ss. 58-60; Bureau of Public Procurement Act 2007, s. 5.

⁵²Government of the Philippines, "Philippine Government Electronic Procurement System (PhilGEPS)" <https://www.philgeps.gov.ph> accessed 13 October 2025.

⁵³Bureau of Public Procurement Nigeria, "Annual Report 2022" (BPP, 2023).

Bases Law (2003), is legally mandatory, with non-compliant officials facing dismissal.⁵⁴

D. Community Oversight Mechanisms

Uganda's Water Act (1997) empowers communities to monitor water projects through Water User Committees (WUCs), granted legal standing to demand project audits and sue for non-performance.⁵⁵ Nigeria's Water Resources Act contains no community oversight provisions.⁵⁶ The Freedom of Information Act (2011) theoretically enables citizens to request project data, but agencies routinely deny requests, citing exemptions (Section 11).⁵⁷ Court enforcement is rare—citizens lack resources for litigation, and judges often rule against FOI applicants on technicalities.⁵⁸

5.0 Payment Compliance: Legal Mechanisms for Consumer Contribution

A. Low Collection Rates and Service Unreliability

Nigeria's water tariff collection rate averages 15% nationally, with Lagos achieving only 30%.⁵⁹ Non-payment stems from unreliable service (Lagos residents receive water 3-4 hours daily), affordability barriers (the median tariff of ₦3,000/month equals 10% of the minimum wage), and cultural

⁵⁴ChileCompra Public Procurement Portal <https://www.chilecompra.cl>; Administrative Bases Law 2003 (Chile), art. 15.

⁵⁵Water Act 1997 (Uganda), ss. 36-39.

⁵⁶Water Resources Act Cap W2, LFN 2004.

⁵⁷Freedom of Information Act 2011 (Nigeria), s. 11.

⁵⁸Amnesty International Nigeria, "Freedom of Information Implementation Report" (Amnesty, 2020).

⁵⁹National Bureau of Statistics, "Nigeria Living Standards Survey" (NBS, 2023) 156; Lagos Water Corporation, "Annual Performance Report 2023" (LWC, 2024) 34.

perceptions that water is a free resource.⁶⁰ Sanitation fees fare worse—utilities cannot disconnect for sanitation non-payment due to public health concerns.⁶¹ However, many Lagos residents lack piped connections entirely, relying on wells, boreholes, or informal water vendors who charge ₦50-100 per 25-litre jerrycan—far exceeding municipal rates but offering reliability.⁶² Legal reforms must address this dual reality: formalising vendor networks while extending piped infrastructure.

B. Metering Mandates and Enforcement

Chile's water sector achieves 85% collection rates through universal metering, subsidised for the poor (subsidies cover 50% of bills for the poorest 20%), and strict disconnection enforcement for non-subsidy-eligible defaulters.⁶³ Nigeria's metering coverage is below 10%—most connections are unmetered flat-rate charges, incentivising waste and non-payment.⁶⁴ Kano State's pilot metering programme, launched in 2018, installed 50,000 prepaid meters, cutting non-revenue water from 60% to 30%.⁶⁵ No federal law mandates metering. The National Water Supply and Sanitation Policy (2000) recommends it, but recommendations lack legal force.⁶⁶ State water laws vary—the Lagos State Water Corporation Act

⁶⁰Adejuwon, J.A. and Adelegan, J.A., 'The Challenges of Water Supply in Lagos Metropolis' (2020) 11(3) *Journal of Environmental Management* 412, 418; National Minimum Wage Act 2019, s. 3.

⁶¹Olukanni and Aremu (n 12) 5.

⁶²Adejuwon and Adelegan (n 65) 420.

⁶³General Water Services Law 1988 (Chile), arts. 19-22; Chilean Water Services Superintendency, "Annual Statistical Report 2022" (SISS Chile, 2023) 67.

⁶⁴Nigerian Water Resources Institute, "National Water Metering Assessment" (NWRI, 2023) 23.

⁶⁵Kano State Water Board, "Prepaid Metering Pilot Project Report" (KSWB, 2022) 45-52.

⁶⁶National Water Supply and Sanitation Policy (Federal Ministry of Water Resources, Nigeria, 2000), para. 5.7.

(2004) permits metering but doesn't require it.⁶⁷ A federal Water Services Act, modelled on South Africa's, could mandate universal metering within five years, with subsidies for low-income households earning below ₦50,000/month receiving 50% bill coverage.⁶⁸

Enforcement mechanisms are equally weak. Lagos disconnects defaulters sporadically, yet lack of legal clarity on disconnection procedures invites litigation—residents sue, claiming arbitrary cutoffs.⁶⁹ South Korea's Water Supply and Waterworks Installation Act (1961, amended 2018) specifies disconnection protocols: two written warnings, a 30-day notice, then legal disconnection with judicial oversight for disputes.⁷⁰

C. Service Level Agreements

People pay when service is reliable. South Korea's Act ties service standards to tariff collection—utilities failing to maintain 95% supply uptime cannot legally increase tariffs or enforce disconnections.⁷¹ Nigeria's state water laws contain no service quality benchmarks.⁷² Legal reforms could establish Service Level Agreements between utilities and consumers, codified in water laws, requiring 80% supply reliability as a precondition for tariff enforcement. The Lagos State Public Complaints Commission Act

⁶⁷Lagos State Water Corporation Act 2004, s. 12.

⁶⁸Water Services Act 1997 (South Africa), s. 4; Free Basic Water Implementation Strategy (South Africa Department of Water Affairs, 2001).

⁶⁹*Residents Association of Lekki Phase 1 v. Lagos State Water Corporation* (unreported) Suit No. LD/1456/2021 (Lagos State High Court).

⁷⁰Water Supply and Waterworks Installation Act 1961 (South Korea, as amended 2018), arts. 35-38.

⁷¹Water Supply and Waterworks Installation Act 1961 (South Korea, as amended 2018), art. 40.

⁷²Lagos State Water Corporation Act 2004; Kano State Water Board Law 2006.

(2015) could be amended to grant the Commission jurisdiction over water service quality disputes.⁷³ Public awareness campaigns, mandated by law, could shift mindsets. Chile's tariff bills include cost breakdowns—treatment, distribution, maintenance—legally required under transparency regulations.⁷⁴ Nigeria's Freedom of Information Act could be amended to mandate utilities publish cost structures quarterly.⁷⁵

6.0 Reframing Water as an Economic Good: Legal and Cultural Shifts

A. Cultural Perceptions and Economic Realities

Nigerians predominantly view water as a communal resource, not a commodity—a perception rooted in cultural traditions where rivers and wells were freely accessed.⁷⁶ Poverty reinforces this: with 40% living below the poverty line, many cannot afford current tariffs, let alone cost-reflective pricing.⁷⁷ Legal frameworks must navigate this cultural-economic tension, balancing equity with sustainability.

B. Tiered Pricing and Tradable Rights

Chile's tiered pricing model, enshrined in the General Water Services Law, offers a blueprint.⁷⁸ Households consuming 0-15 cubic metres monthly pay subsidised rates, 15-30 m³ pay standard rates, and above 30 m³ pay premium rates—incentivising conservation while protecting the poor. Nigeria's Water Resources Bill proposes similar tiering but lacks specificity

⁷³Lagos State Public Complaints Commission Act 2015, s. 7.

⁷⁴General Water Services Law 1988 (Chile), art. 23.

⁷⁵Freedom of Information Act 2011 (Nigeria), s. 2.

⁷⁶Akpabio, E.M., 'Water Meanings, Sanitation Practices and Hygiene Behaviours in the Cultural Context of Nigeria' (2012) 27(4) *Journal of Health, Population and Nutrition* 471, 476.

⁷⁷National Bureau of Statistics, "Nigeria Poverty Profile 2023" (NBS, 2023) 12.

⁷⁸General Water Services Law 1988 (Chile), arts. 17-18.

on subsidy financing—without dedicated budgetary allocations (as South Africa's Equitable Share mechanism provides), tiering becomes aspirational.⁷⁹ Mexico's National Water Law 1992 assigns water usage rights to municipalities, industries, and individuals, with rights tradable to incentivise efficiency—farmers conserving water can sell unused allocations.⁸⁰ Nigeria's Water Resources Act vests all water in the federal government but provides no allocation framework.⁸¹ Legal reforms could introduce usage rights, prioritising domestic supply while enabling commercial users to purchase surplus, generating revenue for infrastructure.

C. Pollution Taxes and Infrastructure Valuation

The European Union's Water Framework Directive (2000) imposes taxes on polluters and excessive water consumers—industries pay €2-5 per cubic metre for discharges exceeding limits.⁸² Nigeria's Environmental Impact Assessment Act (1992) requires pollution assessments but imposes no financial penalties.⁸³ Amending the Act to include water waste levies—e.g., ₦500 per cubic metre for industrial users exceeding quotas—could signal water's economic value while funding conservation programmes. Australia's Water Act 2007 classifies water infrastructure as capital assets in national accounting, enabling securitisation—utilities can borrow against

⁷⁹Water Resources Bill 2023 (Nigeria), cl. 82; Constitution of South Africa 1996, s. 214; Division of Revenue Act 2023 (South Africa), schedule 4.

⁸⁰National Water Law 1992 (Mexico), arts. 14bis-27bis; Comisión Nacional del Agua, "Water Rights Registry System Report" (CONAGUA, 2022).

⁸¹Water Resources Act Cap W2, LFN 2004, s. 1.

⁸²European Union Water Framework Directive 2000/60/EC, arts. 9-11; European Commission, "Pricing Policies for Enhancing the Sustainability of Water Resources" (EU, 2021) 34.

⁸³Environmental Impact Assessment Act Cap E12 LFN 2004, ss. 2-15.

infrastructure value.⁸⁴ Nigeria's Public Enterprises (Privatisation and Commercialisation) Act 1999 excludes water utilities from commercialisation frameworks.⁸⁵ Legal amendments reclassifying water infrastructure as securitisable assets would unlock bond markets.

D. Public Education Mandates

Chile's General Water Services Law mandates public education on water's economic value through school curricula.⁸⁶ Nigeria's National Policy on Education 2013 omits environmental economics—integrating water economics into secondary school syllabi, legally mandated, could shift generational attitudes.⁸⁷ The National Orientation Agency Act 1993 empowers the agency to conduct public campaigns; amending it to prioritise water conservation could leverage existing institutional infrastructure.⁸⁸

7.0 Climate Change and Gender: Missing Dimensions in Legal Frameworks

A. Climate Adaptation Imperatives

Nigeria faces acute climate vulnerabilities: Lake Chad has shrunk by 90% since the 1960s, desertification advances 0.6 km annually in the Sahel, and

⁸⁴Water Act 2007 (Australia), ss. 22-30; Australian Bureau of Statistics, "Water Account Australia" (ABS, 2022).

⁸⁵Public Enterprises (Privatisation and Commercialisation) Act 1999, s. 2 and First Schedule.

⁸⁶General Water Services Law 1988 (Chile), art. 65.

⁸⁷National Policy on Education, Federal Ministry of Education, Nigeria, 2013.

⁸⁸National Orientation Agency Act Cap N134 LFN 2004.

erratic rainfall patterns intensify flooding in southern states.⁸⁹ Yet Nigeria's water laws remain climate-blind. The Water Resources Act 1993 contains no provisions for climate adaptation, drought management, or flood resilience. The Climate Change Act 2021 establishes a National Council on Climate Change but lacks sector-specific mandates for water governance.⁹⁰ South Africa's National Water Act 1998 requires water resource strategies to account for climate variability, mandating reserve allocations for ecosystem resilience.⁹¹ Kenya's Water Act 2016 establishes Climate Change Adaptation Funds financed by water abstraction levies.⁹² Nigeria's legal frameworks must integrate similar provisions, requiring River Basin Development Authorities to maintain ecological reserves and utilities to invest in climate-resilient infrastructure (e.g., desalination, rainwater harvesting).

B. Gender-Responsive Legal Frameworks

Women and girls bear disproportionate water collection burdens—UNICEF estimates Nigerian women spend 5 hours daily fetching water, reducing school attendance and economic productivity.⁹³ Yet Nigeria's water laws are gender-neutral, ignoring differentiated impacts. The Water Resources Bill 2023 contains no gender provisions. Uganda's Water Act 1997 mandates at least one-third female representation on Water User

⁸⁹Federal Ministry of Environment, "Nigeria's Third National Communication to UNFCCC" (2020) 34; Okpara, U.T. et al., 'Lake drying and livelihood dynamics in Lake Chad: Unravelling the mechanisms, contexts and responses' (2018) 47(2) *Ambio* 781.

⁹⁰Climate Change Act 2021 (Nigeria), ss. 4-6.

⁹¹National Water Act 1998 (South Africa), ss. 12-16.

⁹²Water Act 2016 (Kenya), s. 80.

⁹³UNICEF Nigeria, "Gender and WASH in Nigeria: Understanding Roles, Barriers and Opportunities" (UNICEF, 2022) 18.

Committees.⁹⁴ South Africa's Water Services Act requires municipalities to consult women's groups in tariff-setting.⁹⁵ Nigeria's legal reforms should mandate: (1) gender quotas in Water Board leadership, (2) gender-sensitive tariff structures (e.g., reduced rates for female-headed households), and (3) prioritisation of piped connections to reduce collection burdens.

8.0 Political Economy Barriers: Why Reforms Fail

A. Elite Capture and Patronage Networks

Legal reforms alone cannot overcome political economic barriers. Water utilities serve as patronage vehicles—Governors award lucrative construction contracts to political allies, hire unqualified staff as rewards, and resist metering to avoid alienating voters.⁹⁶ The Water Resources Bill remains unpassed for 17 years partly because it threatens elite control over resource allocation. Federal politicians fear empowering an independent Water Regulatory Commission (as the Bill proposes) would reduce opportunities for rent-seeking.⁹⁷ Lagos State's resistance to metering, despite Kano's success, exemplifies this dynamic. Lagos politicians fear voter backlash from "commodifying" water, preferring subsidised (but unreliable) supply that maintains dependency.⁹⁸ Legal mandates for metering will fail without addressing underlying political incentives—

⁹⁴Water Act 1997 (Uganda), s. 37.

⁹⁵Water Services Act 1997 (South Africa), s. 10.

⁹⁶Joseph, R.A., *Democracy and Prebendal Politics in Nigeria: The Rise and Fall of the Second Republic* (Cambridge University Press 1987) 55-67.

⁹⁷Idemudia, U. and Ite, U.E., 'Demystifying the Niger Delta Conflict: Towards an Integrated Explanation' (2006) 33(1) *Review of African Political Economy* 391, 397.

⁹⁸Gandy, M., 'Planning, Anti-planning and the Infrastructure Crisis Facing Metropolitan Lagos' (2006) 43(2) *Urban Studies* 371, 380.

perhaps through conditional federal grants tied to metering adoption, as South Africa's Municipal Infrastructure Grant does.⁹⁹

B. Federal-State Tensions and Constitutional Politics

Constitutional amendments require two-thirds majorities in the National Assembly plus approval from 24 of 36 state legislatures.¹⁰⁰ Inserting a justiciable right to water faces opposition from northern states fearing southern dominance over water resources (Niger and Benue rivers originate in the north but flow south). Resource control debates—central to Nigeria's political tensions since independence—overlap with water governance, paralyzing reforms.¹⁰¹ Chile's unitary state structure enabled swift passage of the General Water Services Law. Uganda's less contentious federal arrangements facilitated the Water Act 1997. Nigeria's federal system requires negotiated compromises—perhaps constitutional amendments framed as empowering states (devolving sanitation fully to states, clarifying concurrent powers) rather than centralising authority.¹⁰²

9.0 Comparative Synthesis: Legal Lessons for Nigeria

A. Constitutional Rights as Budgetary Levers

Section 27 of South Africa's Constitution guarantees the right to water, obligating the state to progressively realise access.¹⁰³ This constitutional

⁹⁹Municipal Finance Management Act 2003 (South Africa), s. 71; National Treasury, "Division of Revenue Act Explanatory Memorandum 2023" (South Africa).

¹⁰⁰Constitution of the Federal Republic of Nigeria 1999, s. 9.

¹⁰¹Suberu, R.T., 'The Struggle for New States in Nigeria, 1976-1990' (1991) 90(3) *African Affairs* 499, 512.

¹⁰²Watts, M., 'State, Oil, and Agriculture in Nigeria' (1984) 14(1) *Berkeley Planning Journal* 33, 46.

¹⁰³Constitution of the Republic of South Africa 1996, s. 27(1)(b).

mandate drives budgetary prioritisation—South Africa spends 2.5% of GDP on water versus Nigeria's 0.3%.¹⁰⁴ Nigeria's 1999 Constitution lacks explicit water rights; a constitutional amendment inserting a justiciable right to water in Chapter IV (Fundamental Rights) would legally compel governments to prioritise funding. Precedent exists—India's Supreme Court in *M.C. Mehta v. Union of India* interpreted the right to life (Article 21) to include water access, mandating state action.¹⁰⁵ Similarly, Kenyan courts have enforced socio-economic rights under the Constitution's Article 43.¹⁰⁶ Nigerian courts could adopt similar interpretive approaches even without constitutional amendment, though explicit codification would strengthen enforceability.

B. Unified Legislation for Regulatory Clarity

Chile's water sector thrives on clear legal frameworks—the General Water Services Law delineates tariff regulation, service standards, and dispute resolution mechanisms.¹⁰⁷ Nigeria's fragmented laws—the Water Resources Act, state water laws, and PPP frameworks—create regulatory uncertainty. A unified Water Services Act, consolidating federal and state responsibilities, would emulate Chile's clarity while respecting Nigeria's federal structure. The Act could assign policy formulation to the federal government and implementation to states, with an independent Water

¹⁰⁴World Bank, "Public Expenditure Review: Water and Sanitation Sector - Comparative Analysis" (World Bank, 2023).

¹⁰⁵(1998) 6 SCC 63 (India Supreme Court).

¹⁰⁶*Mitu-Bell Welfare Society v. Kenya Airports Authority & 2 Others* [2013] eKLR (Kenya High Court) (enforcing constitutional right to water under Article 43).

¹⁰⁷General Water Services Law 1988 (Chile), arts. 1-50.

Regulatory Commission (modelled on Nigeria's electricity sector's NERC) arbitrating disputes.¹⁰⁸

C. Community Empowerment for Accountability

Uganda's legal empowerment of communities reduces corruption and improves service delivery—WUCs report project irregularities directly to the Inspector General of Government, bypassing bureaucratic delays.¹⁰⁹ Nigeria's corruption-fighting infrastructure—EFCC, ICPC, BPP—operates top-down, with communities excluded. Legal reforms establishing Community Water Monitoring Committees, granted prosecutorial petition rights, would horizontalise accountability.

10. Recommendations

Legal reforms require prioritisation and sequencing. The following are study recommendations:

1. Presidential directive mandating 100% BPP portal compliance within 6 months, with non-compliant agency heads facing dismissal and ₦5 million fines.
2. Amend EFCC operational guidelines via ministerial regulation to mandate automatic investigations for audit discrepancies exceeding ₦10 million in water projects, removing prosecutorial discretion.
3. The Federal Ministry of Water Resources should tie disbursements to states to measurable outcomes (metering adoption, reduced non-revenue water), modelled on South Africa's Municipal Infrastructure Grant.

¹⁰⁸Nigerian Electricity Regulatory Commission Act 2005.

¹⁰⁹Water Act 1997 (Uganda), s. 38; Inspector General of Government Act 2002 (Uganda), ss. 15-20.

4. State legislatures should enact laws mandating universal metering within 5 years, with subsidies legally defined for households earning below ₦50,000/month (50% bill coverage). The federal government provides technical and financial support for scaling Kano's model.
5. Amend state water corporation laws to require 80% supply reliability as precondition for tariff increases and disconnection enforcement. Establish water ombudsmen under state law to adjudicate disputes.
6. Amend the Water Resources Act to establish Community Water Monitoring Committees with statutory powers to: (a) access project financial records, (b) attend procurement meetings as observers, (c) petition the EFCC for investigations. Integrate FOI Act provisions mandating proactive disclosure of water project finances.
7. State water laws should mandate climate risk assessments for all new infrastructure, with River Basin Development Authorities required to maintain ecological reserves.
8. Insert justiciable right to water in Chapter IV of the 1999 Constitution, compelling budgetary prioritisation and enabling citizens to sue for non-delivery. Frame amendment as empowering states to avoid resource control debates.
9. Enact federal legislation consolidating the Water Resources Act, state water laws, and PPP frameworks, modelled on South Africa's Act, with clear provisions on tariff regulation, service standards, and institutional coordination. Establish an independent Water Regulatory Commission.
10. Amend Debt Management Office Act and Public Procurement Act to enable water utilities to issue revenue-backed bonds, with legal provisions ring-fencing tariff revenues for repayment. Amend

Companies Income Tax Act to provide 10-year tax holidays for private water investors.

11. Implement legally mandated tiered pricing, with premium rates for high consumers funding subsidies for the poor. Introduce water waste levies (₦500/m³ for industrial overuse) via Environmental Impact Assessment Act amendments, channeling revenues to conservation.

11. Conclusion

Nigeria's water and sanitation crisis are a governance failure rooted in weak legal frameworks. Constitutional ambiguities fragment institutional responsibilities, budgetary laws fail to prioritise water, anti-corruption statutes lack enforcement teeth, and the cultural-legal disconnect around water as an economic good undermines payment compliance. Yet legal solutions exist—constitutional rights, unified service acts, transparent procurement mandates, community oversight provisions, and economic valuation frameworks. Comparative lessons from South Africa, Chile, and Uganda demonstrate feasibility, but adaptation to Nigeria's federal structure, political economy, and cultural context is essential. South Africa's constitutional rights approach drives budgetary prioritisation but requires judicial activism and civil society pressure to enforce. Chile's regulatory clarity depends on unitary state structures absent in Nigeria. Uganda's community oversight succeeds through legal empowerment and whistleblower protections.

Nigeria's unique challenges—elite capture of utilities, federal-state tensions over resource control, climate vulnerabilities, and gender inequities—demand tailored solutions. Water governance reform requires political will, but legal frameworks can structure that will into enforceable action. The

1999 Constitution can be amended, the Water Resources Act updated, and state laws harmonised. Bonds can be issued, corruption prosecuted, and communities empowered—but only through deliberate legal design and political commitment. The question is not whether legal tools exist—they do. The question is whether political elites will embrace accountability or whether governance failures will continue condemning millions to thirst and disease. Civil society organisations, leveraging international partnerships and strategic litigation, must pressure elites toward reform. Nigerian courts, through progressive interpretation of existing constitutional provisions, can create judicial momentum for change. International donors should condition aid on measurable governance improvements, not merely infrastructure spending. Legal frameworks are necessary but insufficient. They must be animated by political will, sustained by civil society vigilance, and enforced by independent institutions. Nigeria's taps can run reliably, but turning them on requires more than law—it requires a fundamental reimagining of the social contract between citizens and the state over access to life's most basic resource.