LEGAL APPRAISAL OF THE INFLUENCE OF INTERNATIONAL HUMAN RIGHTS AND NORMS ON INTERNATIONAL TRADE CONCERNING NIGERIA: THE NIGER DELTA IN VIEW

Chioma Stanley Amaehule[1]

ABSTRACT

This article provides a rigorous legal appraisal of how evolving transnational human rights norms influence international trade frameworks concerning Nigeria, keeping the persistent socio-ecological realities of the Niger Delta in view. Utilizing a doctrinal legal methodology, the study evaluates Nigeria's commercial profile under preferential and regional trade regimes, including the United States' AGOA, the European Union's GSP, and the AfCFTA. It uncovers a profound constitutional and institutional dissonance within the Nigerian state, where the strict dualist constraints of Section 12(1) of the 1999 Constitution operate as a structural bottleneck to the municipal enforcement of signed trade treaties. Focusing on the extractive energy sector, the paper analyses the acute legal friction arising when export imperatives clash with human dignity. Examining regional jurisprudence and recent transnational tort litigation like Alame v. Shell, the article charts the evolution of corporate accountability. It evaluates contemporary, highly contested asset divestments by oil multinationals which, under recent United Nations expert scrutiny, risk setting a dangerous precedent of corporate evasion. The article concludes that global commerce and human rights are increasingly interdependent, requiring Nigeria to statutorily codify corporate due diligence frameworks and enforce strict environmental remediation.

KEYWORDS: *International Trade, Human Rights, Niger Delta, Constitution, Corporate Accountability*.

1.0 INTRODUCTION

The nexus between international trade and international human rights represents one of the most contested and consequential frontiers of contemporary international law.[2] While trade regimes historically pursued market access and tariff reduction as ends in themselves, a paradigm shift over the last three decades has brought human rights increasingly into the calculus of trade diplomacy, preference schemes, investment frameworks, and corporate accountability.[3] Yet, these domains are neither mutually exclusive nor inherently incompatible. This is structurally evidenced by the World Trade Organization (WTO) Agreement's preamble, which avoids treating free trade as an ultimate goal; it instead frames the objectives of the multilateral trading system in terms of raising global living standards and ensuring sustainable development principles that closely mirror the

* LL. B, BL, LLM, PhD. (in view). Email: chiommy4real2002@yahoo.com; Phone Number: 07039305415.

[2] S. Joseph, *Blame It on the WTO? A Human Rights Critique of the Global Economy* (Oxford University Press 2011) p45

[3] Marrakesh Agreement Establishing the World Trade Organization, 15 April 1994

international human rights framework.[4] In the hierarchical architecture of international law, human rights norms particularly those attaining the status of *jus cogens* or customary international law possess a peremptory character that naturally supersedes conflicting treaty obligations, including reciprocal trade commitments.[5]

Nigeria occupies a particularly pivotal position in this evolving landscape. As Africa's most populous nation, its largest economy, and a major global oil exporter, Nigeria's trade profile is both enormous in scale and deeply complicated by persistent human rights challenges from oil-related environmental degradation in the Niger Delta to labour rights deficits, governance failures, and corporate complicity in abuses, as held in the landmark cases of S*ocial and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria*,[6] and *Shell Petroleum Development Company of Nigeria Ltd v Nwawka*.[7] These challenges have attracted sustained scrutiny from international bodies, trading partners, civil society, and multilateral institutions.[8]

While the seminal African Commission decision in the *SERAC* case historically established state responsibility for environmental rights,[9] the battleground for corporate accountability has migrated to transnational courts.[10] This shift is typified by the recent landmark judgment in *Alame v. Shell Plc*[11] where the court evaluated the horizontal enforceability of fundamental human rights under the Nigerian Constitution[12] and the African Charter directly against multinational oil conglomerates operating within Nigeria's international trade networks.[13] The litigation in this case involved over 14,000 claimants from the Bille and Ogale communities of the Niger Delta who instituted a massive environmental class action against the UK parent company, Shell Plc, and its local subsidiary, the Shell Petroleum Development Company of Nigeria Ltd (SPDC). The claimants alleged that decades of systematic, unresolved oil spills from the defendants' pipelines severely contaminated their lands, rivers, and groundwater, thereby destroying their ancestral livelihoods and violating their fundamental human rights.

[4] R. Howse, 'Human Rights in the WTO: Whose Rights, What Humanitarian Standards?' *Journal of International Economic Law* (2017) (20) 41, 45
[5] Vienna Convention on the Law of Treaties, 1969
[6] (2001) AHRLR 60 (ACHPR 2001)
[7] [2003] 6 NWLR (Pt 815) 184
[8] R.T. Ako, *Ecological Justice and the Extractive Industries in Africa: A Study of the Niger Delta Region* (Routledge 2014) 88;
[9] Howse (n 4)
[10] Amnesty International, *Negligence in the Niger Delta: Decoding Shell and Eni's Poor Pollution Record* (Amnesty International Publications 2018) 4–9.
[11] [2025] EWHC 1539 (KB).
[12] Constitution of the Federal Republic of Nigeria 1999, s 33
[13] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004.

By mutual agreement of the parties, the English High Court convened a specialized trial dedicated exclusively to evaluating preliminary issues of Nigerian substantive law to determine whether the *Oil Pipelines Act*, common law torts, and the *1999 Nigerian Constitution* afforded a direct cause of action against the multinational conglomerate. In defence, Shell contended that it could not be held liable under Nigerian law because a significant volume of the pollution resulted from the criminal interventions of third parties engaged in illegal artisanal refining and crude oil bunkering.

Presiding over the matter, Mrs. Justice May ruled substantially in favour of the communities, holding that under Nigerian law, a petroleum corporation cannot claim an absolute defence based on third-party sabotage if it failed to implement reasonable measures to secure its pipelines. Furthermore, the court established that a failure to remediate an existing oil spill constitutes a continuous legal breach, ensuring that the statutory limitation periods under Nigerian law do not bar older, unremediated environmental claims.

The domestic enforcement of these international trade and human rights standards is fundamentally governed by Section 12 of the Constitution of the Federal Republic of Nigeria 1999.[14] This provision firmly entrenches Nigeria within the dualist legal tradition, stipulating that no international treaty shall have the force of law domestically unless it has been enacted into law by the National Assembly, as held in the case of *Abacha v Fawehinmi*. [15] Consequently, unincorporated human rights conventions or international trade protocols remain legally impotent within domestic courts, creating a systemic barrier to the seamless integration of global norms into local commercial operations.[16]

This rigid constitutional barrier forces a reliance on specific local statutes that have successfully crossed this legislative hurdle, most notably the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.[17] While the Supreme Court of Nigeria has affirmed that the domesticated African Charter possesses a unique status higher than ordinary domestic legislation, it remains strictly subordinate to the Constitution itself.[18] This hierarchical limitation means that whenever international trade commitments clash with domestic economic policies or sovereign constitutional provisions, local courts are structurally bound to prioritize the latter, reinforcing the legal friction between transnational trade expectations and domestic reality.[19]

Consequently. the question of how international human rights norms shape Nigeria's international trade relations is therefore not merely academic. It carries direct implications for Nigeria's eligibility for trade preferences worth billions of dollars, its attractiveness to foreign direct

[14] Constitution of the Federal Republic of Nigeria 1999, s 12(1).
[15] (2000) 6 NWLR (Pt 660) 228
[16] O. Elias, *The Nature and Effects of International Law in Nigeria* (Malthouse Press 2017) 67
[17] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004.
[18] Abacha v Fawehinmi (n13)228, 235
[19] I.O Agbede, 'Conflict of Laws in a Federation: The Nigerian Experience' (The Nigerian Institute of Advanced Legal Studies 1989) 44

investment, the reputational posture of multinational corporations operating on its soil, and its capacity to leverage trade for inclusive development. Keeping the socio-ecological realities of the Niger Delta in view, this article provides a comprehensive legal appraisal of how these competing international and domestic frameworks collide, analysing whether Nigeria's trade policies can be effectively harmonized with its international human rights obligations.

2.0 TRADE AND HUMAN RIGHTS IN INTERNATIONAL LAW

The relationship between international trade and international human rights is historically complex, shifting from complete separation to modern alignment. For decades, these two fields operated as distinct legal regimes: international trade law focused on economic liberalization, market access, and tariff reduction, while international human rights law focused on state obligations to protect individual freedoms, labour standards, and human dignity.[20] Trade bodies like the World Trade Organization (WTO) historically treated economic rules as neutral and separated from social issues.[21]

A major shift began in the 1990s as global supply chains expanded, demonstrating that unrestricted trade could directly cause human rights abuses. Issues like labour exploitation in manufacturing, environmental devastation from mineral extraction, and restricted access to life-saving medicines due to strict patent laws showed that trade policies cannot be isolated from human welfare.[22] International law responded by increasingly integrating human rights protections directly into economic agreements through conditional trade benefits, corporate accountability frameworks, and social protocols.[23]

Today, this intersection represents a key area of legal development. Modern trade blocks such as the African Continental Free Trade Area (AfCFTA) now routinely include protocols addressing gender equity, labour protection, and environmental sustainability.[24] The core challenge in contemporary international law is no longer deciding whether trade and human rights are connected, but resolving the legal friction that occurs when international economic rules conflict with a nation's sovereign duty to protect its citizens.[25]

2.1 THE RELATIONSHIP BETWEEN TRADE AND HUMAN RIGHTS REGIMES

At the structural level of international law, trade and human rights have historically operated as separate normative domains.[26]The General Agreement on Tariffs and Trade (GATT), and its

[20] P. Alston, 'Resisting the Merger and Acquisition of Human Rights by Trade Law: A Reply to Petersmann' *European Journal of International Law* [2002] (13)815
[21] S. Joseph, *Blame It on the WTO?: A Human Rights Critique of the Global Economy* (Oxford University Press 2011) 14.
[22] D. Kinley, *Civilising Globalisation: Human Rights and the Global Economy* (Cambridge University Press 2009) 76
[23] L. Bartels, *Human Rights Conditionality in the EU's International Agreements* (Oxford University Press 2005) 33
[24] Agreement Establishing the African Continental Free Trade Area, 21 March 2018, AT/AfCFTA/CN/1
[25] R. Howse, 'Human Rights in the WTO: Whose Rights, What Humanitarian Standards?' *Journal of International Economic Law* [2017] (20) 41.
[26] J. Pauwelyn, *Conflict of Norms in Public International Law: How WTO Law Relates to Other Rules of International Law* (Cambridge University Press 2003) 14–18

successor the World Trade Organization (WTO), were constructed primarily around the imperatives of non-discrimination, most-favoured-nation treatment, and tariff reduction. Human rights law, by contrast, evolved through a separate genealogy; the Universal Declaration of Human Rights (1948),[27] the International Covenant on Civil and Political Rights (ICCPR),[28] the International Covenant on Economic, Social and Cultural Rights (ICESCR),[29] and a vast body of treaty instruments and customary international law.[30]

Yet these domains are neither mutually sealed nor necessarily in conflict. Hence the WTO Agreement's preamble does not make free trade an end in itself; rather, it frames the objectives of the multilateral trading system in terms of the improvement of living standards for all people and sustainable development, and values consonant with the human rights framework.[31] This preamble creates interpretive space for trade norms to be applied consistently with human rights obligations.[32]

In the hierarchy of international law, human rights norms particularly those achieving the status of jus cogens or customary international law carry a peremptory character that can prevail over specific treaty obligations, including trade commitments.[33] This hierarchy has become a foundational argument for subjecting trade arrangements to human rights scrutiny: trade and investment agreements, as well as the practices of international business, must be held accountable to existing human rights law.

2.2 The UN Guiding Principles on Business and Human Rights (UNGPs)

A watershed moment in defining the relationship between business, trade, and human rights came with the unanimous endorsement by the UN Human Rights Council of the UN Guiding Principles on Business and Human Rights (UNGPs) in 2011.[34] Developed by Special Representative John Ruggie, the UNGPs established a three-pillar framework: the State duty to protect human rights, the corporate responsibility to respect human rights, and the need for greater access to remedy for affected individuals and communities.[35]

For Nigeria, the UNGPs have provided the normative template around which subsequent domestic policy has been structured, culminating in the development of its own National Action Plan on

---

[27] Universal Declaration of Human Rights (adopted 10 December 1948)
[28] International Covenant on Civil and Political Rights (adopted 16 December 1966)
[29]International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966)
[30] M. N. Shaw, *International Law* (9th edn, Cambridge University Press 2021) 250
[31] R. Howse, 'Human Rights in the WTO: Whose Rights, What Humanitarian Standards?' *Journal of International Economic Law* [2017] (20) 41, 45
[32] P. Lamy, 'The Place of Human Rights in the WTO' (Address at the Institute for Human Rights, Geneva, 13 November 2006) <http://:wto.org accessed 15 May, 2026
[33] Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331, Art 53
[34]UN Human Rights Council, *Human Rights and Transnational Corporations and Other Business Enterprises*, 16 June 2011, A/HRC/RES/17/4
[35] J. Ruggie, *Just Business: Multinational Corporations and Human Rights* (WW Norton & Company 2013) 82–85.

Business and Human Rights.[36] The principles impose on the Nigerian state an obligation to protect its citizens from business-related human rights abuses, including those by foreign multinational corporations.[37] This was clearly held in the case of S*ocial and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria*[38], The institutional legacy of the SERAC jurisprudence has found its modern, binding enforcement mechanism within sub-regional litigation, most notably before the ECOWAS Community Court of Justice.[39] In the landmark case of *Socio-Economic Rights and Accountability Project (SERAP) v. Federal Republic of Nigeria*,[40] where the plaintiff NGO challenged the federal government's complicity and regulatory failures regarding unchecked oil pollution by multinational oil corporations in the Niger Delta. Echoing the structural reasoning of SERAC, the ECOWAS Court held that the right to a clean and protected environment under Article 24 of the African Charter is an enforceable, collective right that imposes a positive obligation on the Nigerian state to prevent corporate degradation.[41] Crucially, unlike the advisory recommendations issued by the African Commission in SERAC, the ECOWAS judgment created an absolute, binding international judicial order commanding the Federal Republic of Nigeria to hold oil companies accountable, remediate the contaminated ecosystems, and provide adequate compensation to the marginalized communities.[42]

This decision simultaneously imposes on corporations, including the major oil multinationals operating in the Niger Delta, a responsibility to conduct human rights due diligence, identify and mitigate adverse impacts, and provide or cooperate in remediation.[43]

3.0 INTERNATIONAL TRADE MECHANISMS AND HUMAN RIGHTS CONDITIONALITY: NIGERIA'S EXPERIENCE

3.1 The African Growth and Opportunity Act (AGOA)

At the bilateral frontier, the African Growth and Opportunity Act (AGOA) serves as a primary lens for conducting a legal appraisal of human rights conditionality within Nigeria's preferential trade networks.[44] Enacted by the United States Congress, AGOA extends duty-free access to the American market for over 1,800 products from eligible sub-Saharan African nations. Nigeria has

[36] National Human Rights Commission, *Revised National Action Plan on Business and Human Rights* (NHRC Publications 2024) 6–9

[37] E. Emeseh, 'The Limitations of Corporate Social Responsibility in the Nigerian Oil Sector: A Legal Perspective' *Journal of World Energy Law & Business* [2019] (11)412

[38] (2001) AHRLR 60 (ACHPR 2001)

[39] S.T. Ebobrah, 'Litigating Human Rights before Sub-Regional Courts in Africa: Prospects and Challenges' [2019] 17 *African Journal of International and Comparative Law* 78.

[40] ECW/CCJ/JUD/18/12, paras 14–18.

[41] R.T. Ako, *Ecological Justice and the Extractive Industries in Africa: A Study of the Niger Delta Region* (Routledge 2014) 142

[42] T. Ipinmisho, 'Enforcement of Regional Human Rights Judgments in Domestic Jurisdictions: The Nigerian Experience' [2021] 9 *Nigerian Bar Journal* 104

[43] Amnesty International, *In the Line of Fire: Oil and Human Rights in the Niger Delta* (Amnesty International Publications 2020) 24

[44] African Growth and Opportunity Act, 18 USC s 3701 (2000).

consistently ranked as one of the primary beneficiaries of this framework; however, this position is heavily skewed by the monolithic nature of its export architecture. According to the United States Trade Representative (USTR) AGOA Biennial Report, Nigeria emerged as the single largest source of imports under the scheme, with a total trade volume of $3.8 billion, of which an overwhelming $3.6 billion was comprised strictly of crude oil exports.[45] This acute concentration underscores a fundamental structural vulnerability, demonstrating that Nigeria's trade profile under AGOA remains bound to fossil fuels rather than diversified agricultural goods, services, or manufactured items.

Crucially, the statutory nature of AGOA explicitly conditions these market benefits upon continuous domestic human rights compliance. To maintain eligibility, beneficiary states must demonstrate verifiable progress toward establishing a market-based economy, the rule of law, political pluralism, poverty reduction, and the protection of fundamental human rights.[46] The operational reality of these conditional provisions is evidenced by recent enforcement trends against non-compliant African states. For instance, Ethiopia suffered a total suspension of its AGOA privileges following severe human rights violations during the Tigray conflict, resulting in an immediate loss of approximately 100,000 textile sector jobs.[47] Similarly, countries such as Uganda, the Central African Republic, Gabon, and Niger faced statutory removal due to constitutional subversion, coups d'état, or systematic rights abuses, while Mauritania secured readmission only after executing verifiably progressive reforms regarding worker rights and the eradication of forced labour.

Consequently, a legal appraisal of Nigeria's un-interrupted eligibility under AGOA reveals a complex dynamic where geopolitical and macroeconomic calculations often supersede strict human rights audits. Nigeria's immense economic weight as Africa’s largest market and a vital global oil exporter affords the state a layer of diplomatic leverage that smaller, less resource-endowed nations do not possess. Some Legal scholars and civil society actors have critiqued this asymmetric enforcement, arguing that the United States government applies AGOA conditionality inconsistently by demonstrating a higher threshold of tolerance for human rights deficits in geopolitically strategic partner states.[48] This perceived double standard underscores the core challenge facing contemporary trade diplomacy: while conditioning commercial access on human rights compliance aligns with global best practices, the mechanism requires significantly higher

[45] Office of the United States Trade Representative, *2024 Comprehensive Report on U.S. Trade and Investment Policy in Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act* (USTR Report 2024) 42–45
[46] African Growth and Opportunity Act, 18 USC s 3703(a)(1)
[47] S Presidential Proclamation 10327 of December 23, 2021, 'To Modify Duty-Free Treatment Under the African Growth and Opportunity Act and for Other Purposes' (2022) 87 Federal Register 1
[48] L. O. Chiamogu and U.I Chiamogu, 'The Political Economy of Trade Conditionality: Assessing U.S.-Nigeria Commercial Relations Under AGOA' [2021] 9 *Nigerian Journal of International Affairs* 112, 118.

standards of transparency, consistency, and objective monitoring to remain jurisprudentially credible.

3.2 The WTO Framework and Human Rights

Unlike the explicitly conditional mechanisms embedded within AGOA, the World Trade Organization (WTO) framework, which Nigeria joined as a founding member does not contain direct, overt human rights conditionalities.[49] Instead, the WTO establishes a multilateral environment where a nation's trade behaviour is subjected to peer scrutiny, and where human rights-related justifications must be advanced through the narrow, specialized exceptions provided under the General Agreement on Tariffs and Trade (GATT).[50] Some Legal scholars analysing Nigeria's compliance portfolio within this multilateral trade regime have documented a persistent pattern of institutional non-compliance with international economic commitments. Extensive academic critique published on *Afronomicslaw* underscores that Nigeria frequently exhibits a deficit in its adherence to international trade rules, resulting in a reputation for violating the international rule of law and executing domestic economic policies that stand in direct breach of its formal international treaty obligations.[51]

This pattern of non-compliance is inextricably linked to the structural hurdles imposed by Nigeria's dualist constitutional framework and the political economy of its import-substitution industrialization policies. Under Section 12(1) of the Constitution of the Federal Republic of Nigeria 1999, no international treaty entered into by the executive branch can possess the force of law domestically unless it has been explicitly enacted into a statutory act by the National Assembly.[52] As established by the Supreme Court of Nigeria in the landmark decision of *Abacha v Fawehinmi*, an unincorporated treaty cannot supersede domestic legislation or independently grant enforceable rights within Nigerian municipal courts, regardless of its status in international law.[73]

This dualist architecture generates a profound constitutional friction within the Nigerian state. While Section 19(d) of the 1999 Constitution formally elevates the promotion of international law and treaty obligations as a core directive principle of Nigerian foreign policy, Section 12 effectively shields the domestic legal order from the automatic absorption of those very commitments.[74] The practical consequence of this constitutional arrangement is a systemic enforcement gap: while Nigeria actively signs sophisticated international trade frameworks and global human rights covenants on the transnational stage, its internal legislative machinery frequently fails to domesticate them. This leaves the country in a position of perpetual legal dissonance, where its

[49] Marrakesh Agreement Establishing the World Trade Organization, 1994
[50] R. Howse, 'Human Rights in the WTO: Whose Rights, What Humanitarian Standards?' [2017] 20 *Journal of International Economic Law* 41.
[51] Nigeria's History of Non-Compliance with International Economic Law Commitments' *Afronomicslaw* (14 March 2022) <http://:www.afronomicslaw.org accessed 15 May, 2026
[52] Constitution of the Federal Republic of Nigeria 1999, s 12(1).

international trade obligations and its sovereign human rights duties remain structurally disconnected at the municipal level.

4.0 THE NIGER DELTA: HUMAN RIGHTS, OIL COMMERCE, AND INTERNATIONAL CONSEQUENCES

The geopolitical and economic reality of petroleum extraction in the Niger Delta serves as a primary case study for evaluating the structural friction between international oil commerce and human rights protections.[53] The region's minority ethnic populations bear the heaviest environmental and social burdens of extraction while remaining largely insulated from its economic yields. Historically, this imbalance triggered widespread civil resistance against extractive infrastructures, which was met with systematic, state-backed military repression underwritten by corporate funding and strategic collusion.[54] This operational alliance exposed a critical paradox within international trade frameworks: while severe state-led human rights violations prompted external diplomatic and economic sanctions against the nation, multinational corporations continued to execute multi-billion-dollar trade and investment agreements with relative municipal impunity.[55]

This systemic accountability deficit subsequently catalysed a shift toward transnational human rights litigation, bridging the gap between local corporate abuses and international law. Civil actions brought before foreign federal courts under specialized jurisdictional instruments such as the United States' *Alien Tort Statute* successfully leveraged corporate complicity in state atrocities to secure multi-million-dollar out-of-court settlements, establishing a vital global precedent for corporate liability in developing host states, as held in the case of *Wiwa v Royal Dutch Petroleum Co*.[56]which asserted corporate complicity in summary executions, crimes against humanity, torture, and arbitrary detention connected to the state's execution of the Ogoni Nine. After thirteen years of intense interlocutory litigation, Shell entered into a historic $15.5 million settlement agreement.[57] Although the conglomerate denied any formal legal liability, characterizing the payout as a discretionary humanitarian gesture, the case set an invaluable international precedent for holding global business operations accountable for human rights violations in developing host states. Concurrently, international human rights bodies such as the African Commission on Human and Peoples' Rights formally held the federal government liable for violating the African Charter by failing to regulate corporate environmental destruction as decided in *SERAC v Nigeria.*[58]

---

[53] R.T. Ako, *Ecological Justice and the Extractive Industries in Africa: A Study of the Niger Delta Region* (Routledge 2014) 45

[54] Amnesty International, *In the Line of Fire: Oil and Human Rights in the Niger Delta* (Amnesty International Publications 2020) 14

[55] S. Joseph, *Blame It on the WTO?: A Human Rights Critique of the Global Economy* (Oxford University Press 2011) 159

[56] 226 F 3d 88 (2d Cir 2000)

[57] Center for Constitutional Rights, 'Factsheet: The Settlement in Wiwa v. Royal Dutch Shell' (CCR Legal Transcripts 2009) 2.

[58] (2001) AHRLR 60 (ACHPR 2001) paras 54–57

Although municipal implementation remains constrained by domestic constitutional dualism, these rulings firmly linked national resource management to regional human rights compliance.[59]

In the contemporary era, this operational friction has manifested in controversies surrounding the divestment of onshore assets by major multinational energy firms to domestic corporate actors. This corporate exodus has drawn sharp international condemnation from United Nations human rights and environmental rapporteurs, who argue that these high-value trade transactions are being executed without cleaning up decades of legacy pollution or compensating marginalized communities.[60] By granting regulatory approval to these asset transfers without demanding comprehensive human rights impact assessments or binding remediation covenants, the state faces severe international criticism for failing in its positive obligation to protect the right to a clean, healthy, and sustainable environment as decided in.[61] This contemporary landscape confirms that international human rights norms are no longer mere historical abstract concepts, but active, evolving constraints on how Nigeria regulates and structures its primary export trade sector.[62]

5.0 LABOUR RIGHTS, TRADE POLICY, AND GOVERNANCE DEFICITS

Beyond the extractive energy sector, Nigeria's broader international trade relationships are heavily conditioned by its domestic human rights environment, particularly regarding labour rights, anti-corruption frameworks, and the rule of law. Both the United States' AGOA and the European Union's GSP[63]frameworks explicitly require compliance with the International Labour Organization (ILO) core conventions encompassing the freedom of association, the right to collective bargaining, and the absolute elimination of forced and child labour as an unalterable prerequisite for preferential market access.[64] While Nigeria has formally ratified these fundamental ILO instruments, deep implementation and enforcement gaps persist within municipal law.[65]

For example, statutory restrictions on the freedom of association contained within the *Trade Union (Amendment) Act 2005*,[66] alongside severe deficits in domestic whistleblower protections, have

[59] T. Ipinmisho, 'Enforcement of Regional Human Rights Judgments in Domestic Jurisdictions: The Nigerian Experience' *Nigerian Bar Journal* (2021) (9)104
[60] UN Human Rights Council, *Communications of the Special Rapporteurs on Human Rights and the Environment regarding Onshore Oil Divestments in Nigeria*, UN Doc AL/NGA/03/2025 (July 2025).
[61] [54] Environmental Rights Action/Friends of the Earth Nigeria, *Left in the Dust: A Legal Critique of NUPRC's Divestment Approvals* (ERA Publications 2025) 19
[62] E. Emeseh, 'The Extraterritorial Reach of European Environmental and Human Rights Directives on the Nigerian Extractive Sector' *Journal of African Law and Commercial Studies* [2025] (14)72
[63] EU GSP Regulation (EU) No 978/2012, Annex VIII
[64] African Growth and Opportunity Act, 18 USC s 3703(a)(1)(F)
[65] International Labour Organization, *Report of the Committee of Experts on the Application of Conventions and Recommendations: Country Profile Nigeria* (ILO Geneva 2023) 144–147
[66] Trade Unions (Amendment) Act 2005, Laws of the Federation of Nigeria 2004, Cap T14.

been officially identified in Nigeria's own *National Action Plan on Business and Human Rights* as systemic institutional barriers to effective labour rights enforcement.[67]

This inward-looking statutory isolation is compounded by broader macroeconomic policies. The World Bank has historically characterized Nigeria as maintaining one of the more structurally closed economies in sub-Saharan Africa due to its highly concentrated export base and protective import-substitution measures.[68] Economic data demonstrates a direct, positive correlation between international commercial openness and a state's compliance with the international rule of law.[69] Nigeria’s structural economic closure, paired with persistent municipal governance deficits, fundamentally undermines its ability to present itself as a fully rights-compliant trading partner on the global stage. This ongoing tension confirms that for Nigeria to maximize its utility in contemporary international trade, it must systematically harmonize its internal legislative frameworks with the international human rights obligations it has voluntarily assumed on the transnational plane. [70]

6.0 RECOMMENDATIONS

To bridge the systemic gap between international commerce and municipal human rights protections, the following legislative, regulatory, and institutional reforms are highly recommended:

1. **Expedite Strategic Trade Domestication**: The National Assembly must urgently prioritize and pass a comprehensive, standalone domesticating act for the African Continental Free Trade Area (AfCFTA) and its subsequent protocols on Women and Youth in Trade, explicitly granting private citizens the horizontal right to enforce these protections within our domestic courts.
2. **Execute Constitutional Amendment on Treaty Enforcement**: Section 12 of the Constitution of the Federal Republic of Nigeria 1999 should be amended to introduce a specialized, fast-track automatic enforcement mechanism for international human rights, labour, and environmental conventions, bypassing protracted legislative delays whenever they intersect with international trade treaties.
3. **Statutorily Codify the UNGPs into Binding Municipal Law**: The Federal Government must transition from a non-binding policy approach by codifying the UN Guiding Principles on Business and Human Rights (UNGPs) into a strict statutory framework, legally forcing all transnational and domestic corporate entities to execute transparent, mandatory human rights impact assessments across their entire supply chains.

---

[67] National Human Rights Commission, *Revised National Action Plan on Business and Human Rights* (NHRC Publications 2024) 22

[68] World Bank, *Nigeria Economic Update: Jumpstarting Economic Growth through Trade Openness* (World Bank Group 2019) 33–36

[69] Ibid

[70] O. Elias, *The Nature and Effects of International Law in Nigeria* (Malthouse Press 2017) 250

4. **Condition Corporate Asset Divestments on Mandatory Environmental Remediation**: The Nigerian Upstream Petroleum Regulatory Commission (NUPRC) must immediately halt the regulatory approval of all onshore petroleum asset transfers until divesting multinational firms establish independently audited, fully funded escrow accounts dedicated exclusively to cleaning up legacy pollution and compensating host communities, in line with modern international law expectations.
5. **Establish Special Trade and Human Rights Tribunals**: The judiciary should establish specialized fast-track tribunals or dedicated divisions within the Federal High Court to adjudicate trade-related environmental, labour, and corporate human rights disputes, thereby reducing the systemic reliance on foreign or regional courts to secure domestic justice.

7.0 CONCLUSION

This legal appraisal demonstrates that the intersection of international human rights norms and international trade represents a critical legal frontier for the Nigerian state. While global trade architectures like the WTO and regional frameworks like the AfCFTA are increasingly integrating human rights values, Nigeria's ability to operationalize these progressive standards remains deeply hindered by structural and constitutional bottlenecks. The strict dualist requirement of Section 12 of the 1999 Constitution creates a systemic gap where progressive international treaties signed by the executive branch remain unenforceable in domestic courts due to legislative delays.

Furthermore, as underscored by the jurisprudence of *SERAC*, the *SERAP* ECOWAS Court judgment, and transnational litigation in *Alame v. Shell*, the extraction and trade of crude oil in the Niger Delta continues to create severe friction between commercial profits and fundamental human rights. Nigeria cannot achieve sustainable economic development if its international trade policies remain structurally detached from its domestic human rights obligations.

Hence the Niger Delta remains the epicentre of this relationship, where the intersection of oil commerce, environmental destruction, community rights, and corporate conduct has produced both Nigeria's most damaging trade-related human rights crises and its most significant steps toward institutional reform. The ongoing controversies around oil company divestments, now subject to UN expert scrutiny, demonstrate that this remains a live and evolving situation rather than a historical relic.

Environmental and resource trade conflicts inside the Niger Delta show that Nigeria cannot achieve sustainable economic development if its commercial policies remain detached from human dignity. While pioneering extraterritorial tort litigation and regional judgments, such as the landmark *SERAP v. Nigeria* ECOWAS Court decision have carved out paths for corporate and state accountability, contemporary trajectories reveal mutating forms of institutional avoidance. The recent wave of multi-billion-dollar onshore asset divestments by multinational oil conglomerates, executed with regulatory passivity from the state and without comprehensive remediation of legacy pollution, has drawn sharp international condemnation from United Nations rapporteurs. This contemporary reality confirms that human rights norms are no longer mere abstract moral arguments, but active, evolving constraints. Ultimately, Nigeria cannot secure an honourable or sustainable position in the modern global economy if its international trade policies remain structurally detached from its fundamental human rights obligations.