



ADDRESSING REGULATORY DEFICIENCIES: ENHANCING CORPORATE SOCIAL RESPONSIBILITY IN NIGERIA'S EXTRACTIVE INDUSTRY THROUGH LOCAL INFORMAL INSTITUTIONS

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Abstract:

The paper emphasises the importance of incorporating local informal institutions into Nigeria's corporate social responsibility (CSR) frameworks, particularly in regions like the Niger Delta. It underscores that recognising these community-based organisations is vital for enhancing the legitimacy and effectiveness of CSR initiatives. By fostering collaborative partnerships and establishing mechanisms for engagement, companies can better align their CSR activities with the needs and realities of local communities. The study advocates legislative reforms to make CSR a mandatory requirement in Nigerian company law, obliging corporate directors to recognise and collaborate with informal institutions. Additionally, it proposes expanding the scope of corporate fiduciary duty to encompass responsibilities towards local communities and environmental management. This change would enable companies to act as drivers of positive change, benefiting both their business interests and the well-being of local populations. Furthermore, the paper highlights the potential of Impact and Benefit Agreements (IBAs) to establish frameworks for social inclusion and to encourage the active participation of local stakeholders in corporate decision-making.

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1. INTRODUCTION

Companies operating within Nigeria's extractive sector face significant challenges in securing legitimacy from host communities, even as they actively promote their corporate social responsibility (CSR) initiatives.¹ Although substantial investments and strategic efforts are dedicated to advancing CSR activities, many local stakeholders continue to perceive a disparity between these corporate measures and their genuine needs and circumstances.² This disconnect largely stems from the persistent exclusion of informal institutional leadership structures – including community-based informal institutions, organisations, religious leaders, and youth and women's coalitions – from the official frameworks guiding CSR planning and implementation.³ These local informal institutions, organisations and stakeholders are deeply entrenched in local governance systems and play a crucial role in conflict resolution, equitable distribution of resources, and community development. However, they remain largely unrecognised within the corporate governance frameworks guiding companies in Nigeria.⁴ Consequently, CSR efforts often fail to address the nuanced social and cultural intricacies that define the communities they aim to serve, thereby undermining the legitimacy, effectiveness, and sustainability of these initiatives.⁵ As a result, projects intended to benefit

1 Ciara Hackett, 'The challenge of MNCs and development: oil extraction, CSR, Nigeria and corruption' (2016) 2 *Journal of Human Rights in the Commonwealth* 1,5.

2 Uchechukwu Nwoke '(In)effective business responsibility engagements in areas of limited statehood: Nigeria's oil sector as a case study' (2021) 60 (7) *Business and Society* 1635; KK Aaron and JM Patrick 'Corporate social responsibility patterns and conflicts in Nigeria's oil-rich region' (2013)16/4 *International Area Studies Review* 341; NE Dinkpa 'Corporate governance, corporate social responsibility and community development: The case of Niger Delta' (2016) *The European Business & Management Conference* available at <https://papers.iafor.org/wp-content/uploads/papers/ebmc2016/EBMC2016_32414.pdf> (accessed 15 April 2025).

3 Uchechukwu Nwoke, 'Regulating Corporate Social Responsibility in Nigeria: An Evaluation Through the Lens of the Old Institutional Economic Theory' (2025) 41 *Journal of Developing Societies* 144,146.

4 Ibid.

5 Kenneth M. Amaeshi, et al 'Corporate social responsibility in Nigeria: western mimicry or indigenous influences?' (2006) 24 *The Journal of Corporate Citizenship* 83 95.

local populations often do not align with the communities' actual priorities and contextual realities.⁶

The traditional approach to CSR in Nigeria often reflects a perspective shaped by Western capitalist ideals and shareholder-centric models introduced through transnational investment and corporate operations.⁷ Many companies active in Nigeria's oil, gas, and mining industries are subsidiaries of larger multinational entities headquartered in countries such as the United Kingdom, the United States, or the Netherlands.⁸ As a result, they typically adopt governance frameworks dictated by parent company policies that emphasise risk mitigation, reputational management, and maximising shareholder returns. This shareholder-centric focus often leads to a neglect of the socio-cultural intricacies of their host communities, particularly the unspoken yet normative influence of local informal institutions in shaping community dynamics. This disconnect significantly undermines the legitimacy, effectiveness, and sustainability of CSR initiatives, as these projects fail to align with the expectations and realities of the communities they are designed to benefit. Scholarly critiques suggest that effective CSR must be anchored in governance frameworks tailored to the specific contexts in which companies operate. For instance, Idemudia argues that CSR efforts in African contexts require a "recalibration" to reflect the socio-political structures inherent in African communities and to account for the roles played by non-state actors in regulating these communities.⁹ Similarly, researchers such as Amaeshi and colleagues advocate an "Africanised" CSR approach that acknowledges and integrates indigenous knowledge and operational accountability mechanisms into corporate practices.¹⁰

6 Osamuyimen Egbon, Uchechukwu Nwoke and Godswill Agbaitoro, 'Corporate social responsibility practices in the Nigerian oil industry: New legal direction and the implications for reporting' In U. Nwagbara et al. (eds.), *Corporate Social Responsibility Disclosure in Developing and Emerging Economies*, CSR, Sustainability, Ethics & Governance (Springer, 2024) 3-20

7 Kenneth M Amaeshi, et al, 'Corporate social responsibility in Nigeria' (n 5).

8 Ibid.

9 Uwafiokun Idemudia, 'Corporate social responsibility and developing countries: Moving the critical CSR research agenda in Africa forward' (2011) 7 *International Journal of Management Reviews* 459.

10 Kenneth M. Amaeshi, et al (n 5)

Nwoke emphasises the significance of acknowledging the impact of informal institutions – such as community norms, values, family structures, religion, and social networks – in developing a corporate responsibility framework that fosters sustainable development within host communities.¹¹

Despite growing awareness of the importance of local, informal, and indigenous institutions, a persistent gap remains in effectively integrating these entities into formal governance frameworks, leading to missed opportunities to enhance the impact and sustainability of CSR projects. Consequently, the central research question underpinning this study is: *How can the principles of local informal institutions of corporate host communities be effectively translated into concrete CSR frameworks within the Nigerian extractive sector?* To address this question, the paper explores strategies for incorporating host communities' local informal institutions into the CSR policies of companies operating in Nigeria. It advocates for fostering collaborative relationships that enhance the relevance of CSR practices to community needs and ensure accountability to local stakeholders. By leveraging the existing social fabric and resources of these informal institutions, companies can establish meaningful partnerships that support sustainable development objectives. Additionally, the paper emphasises the necessity of legislative reform to facilitate this integration. It calls for revising existing regulations and creating new provisions within them to recognise informal institutions in the CSR landscape. Furthermore, the paper highlights the need to reconceptualise corporate fiduciary duties. Traditionally focused on maximising shareholder profits, these responsibilities should be expanded to include unequivocal commitments to local communities and the environment. Such a broader perspective would not only enhance the effectiveness and sustainability of CSR initiatives but also foster a more equitable approach to corporate governance. By redefining their roles within the communities they affect, companies can become catalysts for positive change, ultimately benefiting both their business interests and the local populations they serve.

11 Uchechukwu Nwoke, 'Regulating Corporate Social Responsibility in Nigeria' (n 3).

To effectively address these multifaceted issues, this paper adopts a multi-pronged strategy. It draws on personal interviews, foundational principles of corporate governance, comparative CSR legislation, and recent legal reforms, with a focus on Nigeria, particularly as encapsulated in the Companies and Allied Matters Act (CAMA) of 2020. The paper outlines clear, operational approaches for integrating informal institutions into company policy frameworks. This includes exploring the potential of employing instruments such as Impact and Benefit Agreements (IBAs), tailored corporate Codes of Conduct, and specialised CSR legislation to facilitate this integration. Drawing from recent judicial developments in transnational tort litigation, including *Vedanta Resources PLC v. Lungowe*¹² and *Okpabi v. Royal Dutch Shell*,¹³ the paper emphasises the increasing willingness of courts to scrutinise internal corporate documents – such as control frameworks, codes of conduct, and audit reports – to assess whether parent companies have assumed a duty of care through their operational control over subsidiaries. These cases demonstrate that the substance and implementation of company policy documents can have significant legal implications. Consequently, integrating the recognition of informal institutions into existing legal frameworks can fulfil both compliance and community legitimacy functions. Additionally, it examines how the fiduciary duties of company directors, as defined under section 305(3) of CAMA 2020, can be reconceptualised to extend accountability beyond shareholders to include the needs and concerns of affected communities, thereby fostering a more inclusive and responsive corporate governance framework.

In terms of structure, the introduction sets the stage by identifying the research gap and delineating the rationale, objectives, and overall structure of the work. The first section provides a brief overview of the essential role informal institutions play in shaping corporate-community relations, particularly in the development and implementation of CSR initiatives. The second section makes a compelling case for the enactment of CSR provisions within the framework of Nigerian company law. It argues that the absence of legal compulsion has led to a collection of often piecemeal

12 *Vedanta Resources PLC and another v Lungowe and others* [2019] UKSC 20.

13 *Okpabi and others v Royal Dutch Shell Plc and another* [2021] UKSC 3.

and ineffective CSR practices, detracting from the potential social benefits that well-structured CSR initiatives could generate. Drawing on successful legislative frameworks in countries such as India, China, and France, this section proposes reforms to make CSR a legally binding obligation for companies operating in Nigeria. In continuation of this argument, the third section analyses the fiduciary duties of company directors and advocates a legal amendment to Section 305(3) of the CAMA 2020. The paper posits that compliance with CSR principles should be integrated into directors' statutory obligations, emphasising the importance of recognising and engaging with local informal institutions in host communities as a fundamental aspect of responsible corporate governance. Lastly, the fourth section introduces the concept of Impact and Benefit Agreements (IBAs). It evaluates their potential to foster meaningful partnerships between companies and host communities, enhancing mutual understanding and cooperative development efforts. The study argues that integrating local informal institutions into formal CSR governance in Nigeria is not only feasible but also essential for establishing a more inclusive and effective CSR framework. By aligning corporate policies with local realities through legislative change and a revised understanding of fiduciary duties, corporations can contribute positively to Nigeria's socio-political landscape, fostering sustainable development and enhancing their long-term success.

2. INFORMAL INSTITUTIONS AND EFFECTIVE CSR

Informal institutions exert substantial influence on social behaviour through the establishment of shared, often unwritten norms that coexist with formal legal structures.¹⁴ These institutions are cultivated, communicated, and perpetuated by social consensus, thereby creating a foundation of social trust that fosters community development and cooperation.¹⁵ In Nigeria, the importance of informal institutions is particularly pronounced, especially within the energy and extractive industries, where CSR initiatives are currently being implemented. However, the efficacy of these CSR efforts is frequently undermined by a

14 G Helmke and S Levitsky, 'Informal Institutions and Comparative Politics: A Research Agenda' (2004) 2 (4) *Perspectives on Politics* 725–740.

15 *Ibid.*

range of challenges, including a deficient legal and regulatory framework governing CSR practices, pervasive corruption, and limited institutional capacity.¹⁶

A significant and persistent issue that hampers the success of CSR initiatives in Nigeria is the conspicuous neglect of informal institutions by CSR advocates.¹⁷ In the planning, design, and execution of CSR strategies, there is often a glaring absence of engagement with the perspectives and inputs of these informal institutions. This oversight is problematic, considering the role of informal institutions as essential stakeholders; their insights could substantially enhance the relevance and effectiveness of CSR measures. Involving informal institutions can facilitate a more nuanced understanding of local community needs and priorities, thereby ensuring that CSR initiatives are not merely top-down but are grounded in the realities of the communities they aim to serve.¹⁸

Institutions are essential frameworks that shape the shared expectations and accepted norms, influencing the motivations and behaviours of social actors.¹⁹ They consist of systems of rules that create institutional facts, sustain societal structures, and form the core of social life. Recognising the role of institutions highlights the explicit and implicit rules that govern individual interactions and behaviours. Examples of institutions include language, money, law, measurement systems, etiquette, and organisations.²⁰ As noted by economist Douglas North, institutions provide order and reduce uncertainty in daily life by defining and limiting

16 Uchechukwu Nwoke, 'Neoliberal corporate governance mechanisms: The embedding of practical barriers to effective corporate social responsibility in Nigeria' (2019) 61/5&6 *International Journal of Law and Management* 542-543; K Pistor, Y Keinan, J Kleinheisterkamp and MD West, 'The Evolution of Corporate Law: A Cross-Country Comparison' (2002) *University of Pennsylvania Journal of International Economic Law* 810-811

17 Nwoke (n 16).

18 Ibid.

19 Ha-Joon Chang & P Evans, *The Role of Institutions in Economic Change*, Paper prepared for the meeting of the "other Canon" group, Venice, Italy, January 13-14, 2000 (First Draft, 1999), available at <https://jacksondetoni.wordpress.com/wp-content/uploads/2012/05/chang-e-evans.pdf> (accessed 14 June 2024)

20 Geoffrey M Hodgson, 'What are Institutions?' (2006) 15/1 *Journal of Economic Issues* 2.

individual choices and permissible activities.²¹ Institutional theory examines the dynamics of institutional change, addressing key questions about the emergence, development, and effectiveness of institutions.²² This theory underscores not only how existing institutions influence economic actions but also the ongoing evolution of these institutions, highlighting the need for continual learning and adaptation.

Institutions are broadly classified into two categories: formal and informal. Formal institutions play a crucial role in defining responsibilities through established laws and regulations, while informal institutions shape societal perceptions and the acceptance of responsibility initiatives.²³ Formal institutions consist of official legal frameworks, including government regulations, environmental protection laws, tax systems, and comprehensive business regulations. These laws are strictly enforced by governmental bodies, ensuring that companies remain accountable for their CSR commitments.²⁴ For instance, adherence to environmental laws is crucial for controlling pollution, managing waste, and conserving resources, and failure to comply can result in legal penalties. On the other hand, informal institutions are shaped by unwritten social norms, customs, and cultural traditions that embody community values and ethical expectations.²⁵ They also include the values, principles, religion and languages of host communities.²⁶ These norms, shaped by historical contexts and community narratives, lack formal enforcement mechanisms. Instead, they derive their authority from social acceptance, with communities applying pressure through advocacy, public opinion, and

21 Douglass C North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press 1990) 3-4

22 Luiz Cesar Silva and others, 'Revisiting the debate on institutions, the state and institutional change: The relevance of institutional theory to public administration teaching' (2024) 42 (1) *Teaching Public Administration* 73-94 at 76

23 Stephen Brammer, Gregory Jackson and Dirk Matten, 'Corporate Social Responsibility and Institutional Theory: New Perspectives on Private Governance' (2012) 10 *Socio-Economic Review* 3.

24 *Ibid.*

25 Luis Alonso Dau and others, 'Informal institutions and international business: Toward an integrative research agenda' (2022) 53 *Journal of International Business Studies*, 985-1010.

26 Nwoke (n 3) 143-177.

social movements.²⁷ Meeting these informal expectations can be as important as complying with formal regulations, as they significantly impact a company's reputation and legitimacy within the community

Historically, prior to the establishment of formal institutions, traditional communities relied heavily on informal mechanisms for mutual support and survival. These informal institutions embodied cultural practices, norms, and social expectations vital to community sustenance. Despite an extensive body of research examining the influence of formal institutions – such as laws and regulatory policies – on corporate behaviour and social responsibility,²⁸ very little has been done to understand the influential role of informal institutions. These informal structures, which encompass cultural values, traditional customs, and social relationships, are often overlooked despite possessing the potential to significantly shape CSR practices, particularly in contexts characterised by weak formal institutions or underdeveloped economies.

In Nigeria, informal institutions play a crucial role in shaping the effectiveness of CSR practices, particularly in the extractive sector, where business activities significantly affect local communities' well-being.²⁹ Unlike formal institutions, which are established and legally enforceable, informal institutions operate through social norms and customary behaviours that dictate acceptable conduct within society. For CSR initiatives to be effective, companies must recognise and navigate these informal structures, as they significantly influence community expectations and companies' decision-making processes.³⁰ In this context, informal institutions, such as cultural norms, religious institutions, social networks (including age grades and women's groups), and traditional governance frameworks, are pivotal. They shape how businesses interact with host communities and influence conflict management and the implementation of development activities. Overall, the success of CSR

27 Douglass C North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990) 3-4

28 Le, TT and VK Nguyen, 'The Impact of Corporate Governance on firms' Value in an Emerging Country: The Mediating Role of Corporate Social Responsibility and Organisational Identification' (2022) 9 (1) *Cogent Business & Management* 2018907.

29 Nwoke (n 16).

30 Ibid.

initiatives in this sector depends primarily on understanding and integrating informal institutions into corporate strategies, underscoring the importance of local context for achieving meaningful community engagement.

3. STUDY AREA AND METHODOLOGY

The primary aim of this research is to investigate how local informal institutions within host communities can be incorporated into CSR policies, frameworks, and projects. The study focuses on Nigeria's oil extractive industry, particularly in the Niger Delta region. The Niger Delta is arguably one of the largest wetlands in the world and is undoubtedly one of the top ten recognised wetland and maritime ecosystems globally.³¹ This region is home to approximately 35 million people and is rich in natural resources, including a diverse range of minerals.³² As Nigeria's primary oil-producing region, the Niger Delta generates over 80% of the country's national revenue, accounting for an estimated US\$600 billion since the 1960s.³³

The region comprises several states along the Atlantic Ocean coast, including Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers.³⁴ This flat, low-lying area lies approximately 5 miles north of the equator and extends into the Gulf of Guinea, bordered by the

31 Hycienth Ogunka Nwankwoala and Diepriye C Okujagu, 'A Review of Wetlands and Coastal Resources of the Niger Delta: Potentials, Challenges and Prospects' (2021) 5/1 Environment and Ecosystem Science, 37; O Ibeanu, 'Ogoni-oil, resource flow and conflict' in T. Granfelt (Ed.), *Managing the globalised environment*. (1999, Intermediate Technologies Publications), 21-26.

32 Robert Henry Anwan and Others, *Assessing Niger-Delta Wetland Resources: A Case-Study of Mangrove Ecosystem* (2015) Ocean Science meeting, available at <https://ui.adsabs.harvard.edu/abs/2016AGUOSME14A0574A/abstract#:~:text=The%20Niger%20Delta%20mangrove%20together,of%20its%20goods%20and%20services.> (Last accessed 5 September 2025).

33 G Wurthmann, "Ways of using the African oil boom for sustainable development" (2006), African Development Bank – Economic research working paper series no. 84 available at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/00806226-EN-ERWP-84.PDF> (last accessed 21 August 2025).

34 Nwoke (n 3) 1607.

Bight of Biafra to the east and the Bight of Benin to the west.³⁵ Covering about 36,000 square kilometres (14,000 square miles), the region features marshlands, creeks, tributaries, and lagoons that channel the Niger River into the Atlantic Ocean at the Bight of Biafra. Roughly one-third of this area, approximately 12,000 square kilometres, comprises delicate mangrove forests, reportedly the largest in the world. This unique ecosystem supports a diverse array of plant and animal species, including many vibrant and distinctive flowers and birds.³⁶ The region under consideration comprises several "nations," further subdivided into distinct "clans," each with its own language.³⁷ The prominent clans include the Urhobo, Itsekiri, Isoko, Efik, Etche, Ibibio, Andoni, Ikwere, Ogoni, Edo, and the Igbo.³⁸ The predominant economic activities of the local populace are centred on fishing, farming, and hunting, with fishing and farming being the most prevalent occupations.³⁹

35 Ike Okonta, and Orono Douglass, *Where Vultures Feast; Shell, Human Rights and Oil* (Verso Books, 2003) 5.

36 Okechukwu. Ibeanu, 'Oiling the friction: Environmental conflict management in the Niger Delta, Nigeria' (2000) Environmental Change & Security Project Report, 6, 1-20.

37 Kenneth Onwuka Dike. *Dike Trade and politics in the Niger Delta 1830-1885: An introduction to the economic and political history of Nigeria*. Oxford, UK: Oxford University Press 1956.

38The paper acknowledges that the Niger Delta region of Nigeria comprises numerous distinct 'nations' or communities, each with its own informal institutions. This diversity poses challenges for implementing uniform policies across the region. However, the paper argues that despite these differences, the communities share fundamental characteristics that create an underlying homogeneity. As a result, policies can still be designed to address common issues while remaining sensitive to local variations.

39 Nwoke (n 3).



Map of the Niger Delta Region

The oil extraction industry in this region comprises a complex interplay between the Nigerian government, subsidiaries of multinational corporations (MNCs), and a select number of Nigerian enterprises.⁴⁰ Oil extraction occurs via joint-venture agreements—contractual arrangements between the state-owned Nigerian National Petroleum Corporation (NNPC) and one or more oil corporations—or production-sharing contracts. Notable companies operating in this area include Addax Petroleum, Chevron Nigeria Limited, ConocoPhillips, Total Petroleum Nigeria Limited, Texaco Overseas Petroleum Company of Nigeria, Nigerian Agip Oil Company, Mobil Producing Nigeria Unlimited (MPN, a subsidiary of ExxonMobil), Petrobras, Shell Petroleum Development Company of Nigeria, State Oil, Afren Energy Resources, Conoil, Equator Exploration Limited, Express Petroleum and Gas Limited, and Amni International Petroleum Development Company, among others.⁴¹

This research adopted a mixed-methods approach, utilising both primary and secondary data sources to ensure a comprehensive analysis. Primary data were collected through interviews with a diverse range of stakeholders, including policymakers, host community members, and representatives of non-governmental organisations (NGOs). These interviews were conducted across four key oil-producing states in the Niger Delta – Sapele (Delta State), Oloibiri (Bayelsa State), Ukwu (Abia

⁴⁰ Ibid.

⁴¹ Nwoke (n 3) 1635.

State), and Bodo (Rivers State) – as well as in Abuja and Lagos. This multi-site engagement provided a broader perspective on the issues affecting host communities and stakeholders in the region. Two focus group discussions with stakeholders from Ukwa in Abia State and Bodo in Rivers State were conducted. Selection criteria for these host communities included even distribution, recognition as visited communities, and accessibility for researchers.⁴² Secondary data were obtained from textbooks, journal articles, and CSR reports available on the respective companies' websites. In this study, a village community is defined as the unit of analysis, comprising homogeneous individuals residing within a defined territorial boundary. Participants were selected through random sampling.

During visits to each village, researchers were accompanied by an escort to facilitate contact with interviewees. The escorts were residents of the communities where interviews were conducted, ensuring cultural and social relevance. Rigorous measures were employed to ensure that these research assistants did not influence the interview responses. The researchers intended to interview corporate employees but received no response from the four oil companies contacted for participation. The analysis of the collected responses emphasised the role of local informal institutions in framing effective CSR practices within the Niger Delta region of Nigeria.

4. FINDINGS AND DISCUSSIONS

Using policy documents to require subsidiaries to engage with local informal institutions in host communities.

Companies play a crucial role in key sectors of the Nigerian economy, such as manufacturing, construction, petrochemicals, and telecommunications.⁴³ Many of these businesses originated in Europe and the United States, which influences their decision-making and corporate policies. As subsidiaries operating in Nigeria, they often adopt the

⁴² It was not possible for these researchers to directly interview company officials during the visits to Nigeria. While invitation letters were sent to the companies, no response was received from them.

⁴³ Kenneth Amaeshi and Olufemi O. Amao, 'Corporate social responsibility in transnational spaces: exploring influences of varieties of capitalism on expressions of corporate codes of conduct in Nigeria' (2009) 86 (2) *Journal of Business Ethics* 225-239 at 227

capitalist frameworks of their home countries, frequently overlooking local informal institutions and cultural norms. To enhance their CSR efforts in Nigeria, companies must recognise and incorporate these local informal institutions into their strategies.⁴⁴ This involves incorporating their values into official policies and frameworks, which is essential for developing effective CSR initiatives. Such integration should be reflected across corporate structures, including governance and codes of conduct, to ensure that local cultural nuances are considered in daily operations. By collaborating closely with local institutions, companies can navigate Nigeria's complex social landscape more effectively. Such partnerships foster sustainable development and strengthen trust within communities. This need for collaboration becomes even more apparent when one considers that, in their current form, social responsibility practices in the sector are largely ineffective. In this context, one interviewee expressed that the communities are not feeling the impact of the projects.

We are not even seeing any results. I have heard about the funding amounts – billions of naira – but what does that mean if these one- and two-year projects haven't even been implemented? This situation highlights the complexity of the issues we are still facing.

Even though some policy documents may lack legal enforceability, they can establish standards for acceptable behaviour, positively shaping organisational culture and practices, and potentially leading to new legislation. Explicitly recognising the importance of informal institutions enables them to evolve into consistent practices, ultimately transforming accepted behaviours into normative standards. As a result, corporations are encouraged to enhance their CSR efforts and adopt elements of these norms, even if complete alignment is not achievable. Key corporate documents, including Memorandum and Articles of Association, Corporate Guidelines and Policies, Control Frameworks, Codes of Conduct, Asset Integrity Audit reports, and annual reports, are important for evaluating the effectiveness of CSR initiatives. These documents should not only assess physical assets but should also gauge alignment with local informal institutions, guiding employee and managerial

44 Nwoke (n 3) 163.

behaviour in stakeholder interactions. Other important records include annual reports that provide insights into regional performance and compliance with local health, safety, and environmental guidelines. To demonstrate their commitment, companies can issue annual assurance letters that outline their efforts to harmonise local practices with global standards.

Supporting this idea, another interviewee states:

Before these companies begin operations, they must be informed of the rules, policies, and principles guiding these communities. At the time of signing their memorandum, they should specify adherence to these policies in their documents of incorporation.

There is an increasing push for accountability regarding the operational guidelines set out in corporate policy documents, reflecting a broader commitment to responsible business conduct. In *Okpabi and others v Royal Dutch Shell Plc and another*,⁴⁵ the appellants claimed that Royal Dutch Shell (RDS) exerts considerable control over Shell Petroleum Development Company's (SPDC) pollution management, environmental compliance, and oil infrastructure operations. They argued that RDS implements a global Health, Safety, Security, and Environment (HSSE) policy that includes mandatory standards for all its subsidiaries. RDS monitors compliance with these standards and holds overall responsibility for HSSE through its CEO and Executive Committee. Additionally, RDS has a Corporate and Social Responsibility Committee that reports to its Board regarding health, safety, and environmental standards. RDS requires annual compliance reports from business leaders and promotes best practices for asset management and the prevention of hydrocarbon releases. To facilitate oversight, SPDC submits monthly performance reports to RDS, which also manages the oil spill response procedures and controls SPDC's security and pipeline operations. Evidence supporting these claims includes references to Shell's Control Framework document and Sustainability Reports. The UK Supreme Court held that the potential liability of the parent company, in this case RDS, for the actions of its Nigerian subsidiary, SPDC, may turn on whether internal policy

45 UKSC/2018/0068

documents, such as the Control Framework, imply that the parent company exercises control over the subsidiary in Nigeria. In this situation, companies could be held accountable for the contents of their policy documents.

Again, in *Vedanta Resources PLC and another v Lungowe and others*,⁴⁶ the UK Supreme Court held that the liability of parent companies for the actions of their subsidiaries is not a separate category under standard negligence law. While owning all or most of the shares in a subsidiary allows a parent company to control the subsidiary's management and operations, this ownership does not legally require the parent to intervene in or manage these activities, nor does it impose any duty to third parties. The extent of any duty is determined by how actively the parent company chooses to engage in the management, supervision, or guidance of the subsidiary's operations. The court identified two main scenarios in which a parent company might have a duty of care to third parties affected by a subsidiary's actions. These are cases where the parent company has effectively assumed management of the subsidiary's activities, either by replacing its management or by collaborating with it, and cases where the parent company has provided the subsidiary with relevant advice on how to manage specific risks. According to Lord Briggs, a parent company may incur liability to third parties if it represents in published materials that it exercises a degree of supervision and control over its subsidiaries, even if it does not.⁴⁷ In such cases, the omission of genuine accountability may constitute a failure of responsibility that the parent company has publicly undertaken. At one end of the spectrum, a parent company may act simply as a passive investor in the separate businesses operated by its various direct and indirect subsidiaries. At the other end, the parent company may implement a comprehensive vertical reorganisation of the group's businesses. In this case, the operations are managed as if they were a single commercial entity, making the legal distinctions between personality and ownership within the group seem irrelevant – until insolvency occurs, as was the case with Lehman Brothers. Accordingly, determining whether the parent company had adequately intervened in the management of the

⁴⁶ UKSC/2017/0185, [2019] UKSC 20

⁴⁷ *Ibid.*

mine owned by its subsidiary was a “pure question of fact.”⁴⁸ Lord Briggs noted that, “it is blindingly obvious that proving this aspect would heavily rely on the contents of internal documents from each of the defendant companies, as well as correspondence and other documents exchanged between them.”⁴⁹

In this context, companies must recognise and integrate the informal institutions and cultural norms of the host communities into their official documentation and operational frameworks. According to a community member interviewed,

The companies prioritise profit and tend to be rigid in their approach. They often cut corners to maximise their earnings, showing little concern for the well-being of individuals. Their primary focus is on profit rather than on people's lives. What they truly need is to care about our values and our institutions.

By recognising and integrating local informal institutions, these companies not only acknowledge their significance but also elevate their status within the corporate structure. The informal institutions of the host communities, including values, languages, beliefs, philosophies, and habits, can be integrated into a company's memos and articles.⁵⁰ This can be achieved by requiring companies to include clauses that reflect local community values—such as compassion, reciprocity, dignity, harmony, and humanity—in their articles of association. Therefore, it is essential that the policies and operational documents of businesses in Nigeria embody these values and are consistently upheld to achieve sustainable and positive outcomes. These sections of the policy documents should emphasise the strong interdependence of human beings and prioritise communication and reconciliation among individuals to promote harmony and understanding.⁵¹ Incorporating these community norms and practices would not only acknowledge their importance but also make them

48 Ibid.

49 Paragraph 44

50 Nwoke (n 3) 172.

51 Ibid.

binding, thereby fostering deeper respect for local traditions and strengthening the relationship between companies and communities. Ultimately, this approach can lead to more sustainable business practices and ensure that the values and expectations of host communities are reflected and upheld in corporate policies.

Legislating CSR/mandatory CSR – under company law

As CSR has evolved into a comprehensive framework for managing daily business operations, mandatory CSR has come to be understood as a legal obligation for businesses to operate in a socially responsible manner. Mandatory CSR is a framework established by governments that imposes societal levy on businesses to acknowledge their use of communal resources.⁵² It requires companies to allocate a specific percentage of their profits to social initiatives, such as environmental conservation and community development. This framework also addresses negative externalities, encouraging companies to adopt strategies to reduce pollution, uphold labour rights, and engage in ethical sourcing. Non-compliance with these regulations can result in penalties.⁵³ Transitioning from voluntary to legally mandated CSR aims to promote responsible business practices that align with justice and environmental stewardship.⁵⁴ Legal precedents within various jurisdictions indicate that this obligation is frequently grounded in corporate law.⁵⁵

As one NGO stakeholder participant observed:

... legal framework is absent, yes, ... I don't think there is any legal framework in the system, and we should start thinking about some level of legal framework, and this can be at the State level, why not? It doesn't have to be federal; we have federalism here, every State

52 Dinesh Ramdhony 'The implications of mandatory corporate social responsibility – A literature review perspective' (2018) 8 Theoretical Economics Letters 432 at 434.

53 Li-Wen Lin, Mandatory Corporate Social Responsibility Legislation around the World: Emergent Varieties and National Experiences (2020) University of Oxford Blog, available at <https://blogs.law.ox.ac.uk/business-law-blog/blog/2020/11/mandatory-corporate-social-responsibility-legislation-around-world> (accessed 30 June 2025)

54 Ibid.

55 Ibid.

has a house, every State has a parliament, and they can make laws that can operate. We have to start thinking of what could take care of the peculiarities of a particular locality and companies operating within it. So that can go, translate into some kind of formal arrangement.

For another participant:

The purpose of law is to guide people towards behaviours that foster positive outcomes and maintain order within society. Laws serve to stabilise communities and promote harmonious relationships among individuals. When it comes to CSR, establishing legal frameworks is essential to ensure that its impact on people's lives is significant and mandatory, rather than optional. This legal obligation would compel entities to recognise their responsibilities towards the community and ensure that essential provisions are not overlooked. Laws provide clarity on expectations and create accountability, as individuals and organisations understand that failing to comply may lead to sanctions. Therefore, the existence of law is beneficial in ensuring that people actively engage in practices that benefit society.

In examining the existing literature on corporate law, a notable trend emerges: CSR duty is often regarded as a part of a director's fiduciary responsibilities. This perspective is particularly prevalent in common law jurisdictions, where legal frameworks establish clear expectations for corporate governance. For instance, the UK Companies Act 2006 stipulates that directors must consider a range of stakeholder interests—including those of employees, consumers, suppliers, the environment, and the wider community—while pursuing the interests of shareholders. However, it is crucial to recognise that the CSR duty can be conceptualised not merely as an extension of the fiduciary responsibilities of directors but as a distinct corporate obligation that companies must uphold. This viewpoint is supported by the corporate statutes found in countries such as China and Indonesia, which demonstrate a legislative commitment to integrating social responsibility into the core of corporate operations.⁵⁶

56 Ibid.

For example, Article 5 of the Chinese Company Act, revised in 2006, explicitly mandates enterprises to “undertake social responsibility,” emphasising the need for businesses to contribute positively to society. Similarly, Article 74 of the Indonesian Limited Liability Company Act, which was amended in 2007, imposes specific requirements on companies engaged in the natural resources sector or those connected to it, mandating them to implement practices that promote corporate social and environmental responsibility.⁵⁷ Again, the paper refers to the examples of India⁵⁸ and Mauritius.⁵⁹ In these countries, a fixed percentage of certain companies’ profits is allocated for the welfare and development of the communities affected by the companies’ operations. This model reflects a growing recognition of the corporate responsibility to contribute to societal well-being, thereby fostering sustainable development within affected communities. The approach would provide the affected communities with the necessary resources to enhance their infrastructure, healthcare, education, and overall quality of life.

Another notable example of recent legislation in this area is the French Duty of Vigilance law, enacted in 2017. This law signifies a significant shift in corporate responsibility and accountability concerning human rights and environmental standards. It mandates that large companies assess and address their impact on both human rights and the environment, establishing a clear framework for accountability. The aim is to ensure that businesses take proactive measures rather than simply reacting to crises as they occur.⁶⁰ One key aspect of the law is the requirement for companies to develop and maintain a vigilance plan. This plan must outline the procedures the company will implement to identify and mitigate risks

⁵⁷ Ibid.

⁵⁸ Varun Garg and Sakshi Agarwal, ‘An empirical study on the corporate social responsibility regime in India: Pre-COVID and COVID times’ (2021) 13/2-3 Review of Market Integration 124 at 127; M Acharya, ‘Corporate social responsibility under section 135 of Companies Act 2013’ (2023) Clear Tax, available at <<https://cleartax.in/s/corporate-social-responsibility>> (last accessed 15 April 2025).

⁵⁹ Ramdhony (n 52) at 434.

⁶⁰ Li-Wen Lin, Mandatory Corporate Social Responsibility Legislation around the World: Emergent Varieties and National Experiences (2020) University of Oxford Blog, available at <https://blogs.law.ox.ac.uk/business-law-blog/blog/2020/11/mandatory-corporate-social-responsibility-legislation-around-world> (accessed 30 June 2025)

associated with human rights violations and environmental harm. The assessment process must cover not only the company's direct actions but also those of its subsidiaries and supply chain partners. This broader approach recognises that a company's influence extends beyond its immediate operations and highlights the need for complete transparency within the supply chain. Additionally, the law promotes stakeholder engagement, requiring companies to consult various stakeholders—including employees, local communities, and civil society organisations—while formulating their vigilance plans.⁶¹ This collaborative approach helps ensure that the plans are comprehensive and reflect the real risks faced by communities affected by corporate activities. The civil action provision of the law is particularly significant. It enables individuals and groups affected by corporate negligence to seek compensation, empowering those who might otherwise have limited recourse in the face of corporate misconduct. This legal avenue serves as a substantial deterrent for companies, compelling them to prioritise human rights and environmental considerations in their operations and decision-making processes.

These legislative actions underscore the growing recognition among lawmakers that social responsibility is integral to sustainable business practices, shaping how companies operate in an increasingly complex and interconnected global environment. With growing awareness and concern regarding company practices, many countries are reevaluating their laws related to corporate accountability. These laws exemplify how legal frameworks can spark a shift toward more ethical business practices and better protection for individuals and communities affected by corporate actions. The paper suggests that Nigeria should consider enacting similar mandatory CSR legislation. The successful implementation of this legislation could serve as a blueprint for promoting more responsible corporate behaviour, thereby contributing to a more sustainable and equitable national economy.

The Nigerian National Assembly proposed a CSR Bill in 2007 to address the adverse effects of industrial and commercial activities on communities

61 Ibid.

where corporations operate. The Bill aimed to be the primary legislation governing the country's CSR activities, establishing a CSR Commission to collect a mandatory CSR contribution from companies for community development projects. Despite its noble intentions, the Bill faced intense criticism from property-owning elites (shareholders) who felt threatened by its radical nature. Consequently, it was never passed into law and is an archived document in the National Assembly bills. The paper suggests that reintroducing this Bill or incorporating its provisions into the proposed amendment to CAMA is reasonable. By setting aside specific amounts from company profits, affected communities could benefit from the resources required to improve their social and economic conditions. The paper does not claim that the proposed Act will solve every issue in the sector. It recognises that previous legislation, such as the Niger Delta Development Commission Act and the Petroleum Industry Act of 2021, brought little meaningful change to the Niger Delta. However, their ineffectiveness should not be a reason to abandon new efforts. A key flaw of earlier laws was their failure to incorporate community input, making them disconnected from local realities and thus ineffective. In contrast, this proposed CSR legislation will be designed to actively involve communities' local informal institutions and address their specific needs and environments. By integrating community voices into its framework, the Bill stands a better chance of achieving lasting, relevant impact.

Mandating company directors by law to recognise informal institutions

Building on the previous section, the role of law in CSR is a topic of ongoing debate. This discussion raises important questions about the legitimacy of CSR activities and whether CSR should be viewed as a voluntary commitment or a mandatory obligation. On one side, companies and industry organisations argue against regulating CSR, claiming that such regulations would hinder innovation and harm national competitiveness.⁶² The European Commission initially suggested a voluntary approach to CSR in its 2001 Green Paper, stating that companies would be motivated to develop strategic management policies and

62 JA Zerk, *Multinational and Corporate Social Responsibility: Limitations and Opportunities in International Law*, Cambridge: Cambridge University Press (2006) p.33.

collectively enhance industry standards without the need for regulation.⁶³ Voluntary CSR initiatives are viewed as business strategies that can benefit companies in the long term while fostering positive relationships with stakeholders. Additionally, companies are increasingly aware of the financial advantages of being socially responsible, which may reduce the necessity for legal regulation of CSR.⁶⁴ This is the business approach to CSR, which posits that companies, in addition to complying with environmental and social laws, should consider the environmental and social context in which they operate. Doing so is likely in the company's commercial interest, contributing to long-term value creation and risk reduction. This perspective counters the notion that there is an inherent conflict between pursuing shareholder interests and addressing environmental and social concerns. The business case for CSR is clear: it benefits shareholders and is essential for generating profit and ensuring sustainability.⁶⁵

Despite the arguments suggesting that CSR should be voluntary, many campaigners and critics remain unconvinced.⁶⁶ They argue that it is essential to acknowledge stakeholder interests explicitly. In its “A renewed EU strategy,” the European Commission’s insights on CSR emphasised the importance of acknowledging stakeholder interests.⁶⁷ Companies are encouraged to engage in practices that go beyond mere legal compliance, aiming to improve the well-being of society and the environment. They also pointed out that specific regulatory measures can foster an

63 European Commission ‘Prompting a European Framework for Corporate Social Responsibility’, Green Paper and COM 366, Brussels (2001)

64 J Zhao, ‘Promoting More Socially Responsible Corporations through a Corporate Law Regulatory Framework. *Legal Studies*’ (2017) 37 (1) 103-136.

65 CAMAC 2006, available at https://takeovers.gov.au/sites/takeovers.gov.au/files/2021-04/corporations_report_dec_2006.pdf (accessed 11 June 2025).

66 D McBarnet, A Voiculescu & T Campbell (Eds.), *The New Corporate Accountability: Corporate Social Responsibility and the Law*, Cambridge: Cambridge University Press (2007); B Horrigan, *Corporate Social Responsibility in the 21st Century: Debates, Models and Practices Across Government, Law and Business*, Cheltenham: Edward Elgar (2010)

67 European Commission: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Renewed EU Strategy 2011–14 for Corporate Social Responsibility, Brussels 2011 COM (2011), 681 final.

environment that encourages businesses to fulfil their social responsibilities voluntarily. To support this commitment to social responsibility, appropriate regulatory measures should be implemented, mandating company directors to promote compliance with CSR efforts.⁶⁸

Under common law, company directors have a fiduciary duty to act in the best interests of the company, which fundamentally involves prioritising the overall financial well-being of the shareholders. In the case of *Greenhalgh v Arderne Cinemas*,⁶⁹ the court stated that the interests of shareholders should be considered collectively rather than focusing on the interests of individual shareholders. This interpretation emphasises a commitment to maximising shareholder value as a primary responsibility of the board. Furthermore, directors must also remain mindful of the financial interests of the company's creditors, especially in situations where the company is facing insolvency or is on the brink of it. While directors are expected to consider creditor interests under such circumstances, they do not owe a direct fiduciary duty to creditors in the same manner as they do to shareholders. Instead, their primary obligation remains toward the shareholders unless the company's financial situation indicates that the interests of creditors should be given more weight due to the risk of insolvency. Thus, directors must carefully navigate these competing obligations to fulfil their legal responsibilities effectively.

Directors are also subject to a range of statutory fiduciary duties in conducting the corporation's affairs, one of which is to act in the best interests of the company. According to Section 305(3) of the Nigerian Companies and Allied Matters Act (CAMA) 2020, directors must always act in what they believe to be the company's best interests to protect its assets, enhance its business, and promote its formation purposes. This is the overarching fiduciary duty owed by directors under the Act. It replaces the principal common law fiduciary duty to act in good faith in the interests of the company. Additionally, the subsection requires the director to assess the environmental and community impacts of the company's operations. This means that they are obligated to ensure the financial well-being of the shareholders as a collective, as well as the long-

68 Ibid.

69 [1950] 2 All ER 1120

term well-being of the company. However, it has been argued that these additional considerations are secondary; directors are obligated to factor them in only to the extent that they influence shareholder value.⁷⁰ While attending to these interests is important, it is not the primary aim of their decisions. Instead, their focus is to drive the company's success for the benefit of shareholders.⁷¹

The paper suggests that the Nigerian government should amend Section 305(3) of the CAMA to provide more explicit guidance and a broader understanding of companies' obligations, which should extend beyond merely maximising profits for shareholders. It is important to clarify that corporations should not only prioritise their shareholders' financial interests but also actively contribute to the welfare of society and the environment. To achieve this, companies must recognise and integrate the local informal institutions of the communities in which they operate and reassess their policies concerning these institutions. The proposed CAMA framework should adopt a long-term vision that aligns profitability with the values, beliefs, philosophies, and expectations of host communities, considering the impact of corporate operations on stakeholders, local communities, and the environment. The aim is to establish a business model where profit generation and corporate responsibility are viewed as complementary goals, contributing to a more sustainable and equitable future for all stakeholders. By mandating directors to consider these broader interests, the amendment would help ensure that the needs of communities affected by corporate actions are adequately addressed, leading to more balanced and sustainable corporate decision-making. The paper acknowledges that discussions may arise regarding potential conflicts in fiduciary duties and accountability among company directors.⁷² However, it argues that this issue can be alleviated through

70 For criticisms of the provisions of section 172 of the UK Companies Act 2006 (which is like section 305 of the Nigerian CAMA), see A Keay, *The Enlightened Shareholder Value Principle and Corporate Governance* (Routledge, 2012) at 85; N Grier 'Directors deliver - just not very much: further reflections on section 172 of the Companies Act 2006' (2022) 4 *Juridical Review* at 212-221

71 *Ibid.*

72 This proposal was one of the suggestions made by the Australian Corporations and Markets Advisory Committee (CAMAC) in its 2006 Report on reforming Company Law in

Careful legislative wording. A fair framework can be established by explicitly directing directors to thoroughly assess their options, ensuring that the benefits of any corporate decision outweigh the negative impacts on both shareholders and local communities. This aligns with the perspective shared by a community member interviewed:

The government should mandate these companies to act responsibly... at the very least, we need to strengthen our laws and regulations to ensure compliance.

Another community member further emphasised this point when he said:

The existence of clear laws and regulations would obligate companies to act in accordance with community interests. Legal requirements establish a sense of accountability: if companies fail to adhere, they will face sanctions. This system of consequences encourages positive actions, as people and organisations are more likely to fulfil their obligations when there are enforceable penalties for non-compliance. A clear and stronger legal framework would ultimately benefit the community by promoting responsible corporate behaviour.

The proposed Law should mandate company directors to review their company's operations and current corporate CSR initiatives. They need to identify key stakeholders who are not shareholders and assess the existing methods of communication with these groups. Additionally, directors should recognise and adopt relevant informal institutions of the host communities and explore other opportunities that the increasing emphasis on CSR may present.

the country. However, the country's policymakers rejected it - see Corporations and Markets Advisory Committee 'The Social Responsibility of Corporations: Report' (2006) *The Australian Government*, available at https://takeovers.gov.au/sites/takeovers.gov.au/files/2021-04/corporations_report_dec_2006.pdf (last accessed 15 April 2025).

Social Inclusion and Impact Benefit Agreements in CSR

Given that informal institutions can complement formal frameworks and promote effective CSR initiatives,⁷³ it is imperative to explore strategic methodologies for their integration into company practices. The interpretation and enactment of CSR by informal institutions may vary significantly across cultural contexts, underscoring the importance of considering cultural nuances in the development of CSR frameworks.⁷⁴ Several promising strategic approaches can enhance the engagement of informal institutions in CSR practices, particularly within sectors where corporate decisions markedly affect local communities and their livelihoods. These strategies centre on: (1) the social inclusion of informal institutions; and (2) the establishment of Impact and Benefit Agreements (IBAs) that specifically target the integration of informal institutions to foster effective CSR practices within Nigeria's energy and extractive sectors.

Social Inclusion of Informal Institutions

The imperative of incorporating informal institutions into CSR decision-making processes cannot be overemphasised. The primary objective of this approach is to ensure that corporations remain responsive to societal needs and make meaningful contributions to addressing socio-economic challenges. Informal institutions often encapsulate the essential norms, conventions, and social guidelines that influence both individual and collective behaviours, thereby supporting the overarching goal of maximising communal well-being.⁷⁵ Within the framework of CSR practices, informal institutions constitute a substantial segment of stakeholders, particularly in the energy and extractive sectors.⁷⁶ Informed by stakeholder theory, which emphasises that companies must navigate

73 Hemei Li, Juncheng Li, Jibin Wang & Lu Yang, 'Informal Institutions and Corporate Social Responsibility: A Confucian Culture Perspective' (2024) 56 (54) *Applied Economics* 7083-7096.

74 Ibid.

75 Dana Minaeva et al, 'Explaining the Persistence of Informal Institutions: The Role of Informal Networks' https://discovery.ucl.ac.uk/id/eprint/10145878/3/Ledeneva_AMR_Informal_Institutions_Accepted.pdf accessed 25 July 2025

76 Hemei Li, Juncheng Li, Wang and Lu Yang (n 73)

and balance the diverse interests of a wide array of stakeholders rather than focus solely on shareholder returns, it becomes increasingly evident that engaging informal institutions can enhance the efficacy of CSR efforts.⁷⁷ These institutions can provide a multi-dimensional understanding of community issues, thereby enabling corporations to implement CSR strategies that resonate more profoundly with stakeholders.

The operational environment of a company is significantly influenced by the informal institutions that permeate it. These institutions typically possess a deep understanding of the socio-economic landscape and can adeptly leverage established social networks, cultural norms, moral frameworks, and religious beliefs to address community needs. While the values and systems upheld by informal institutions may not be codified within formal regulations, they are deeply embedded in the social fabric and can incentivise corporate social engagement.⁷⁸ By strategically integrating informal institutions into CSR initiatives, companies can enhance their operational efficacy and foster meaningful contributions to the communities they serve.⁷⁹

As was noted by one NGO participant interviewed:

One of the primary reasons for the limited effectiveness of CSR initiatives within Nigeria's extractive industry is the frequent lack of genuine engagement between these companies and the local communities in which they operate. Many companies in the energy and extractive sectors tend to overlook the importance of initiating

77 Stephen Brammer, Gregory Jackson, and Dirk Matten, 'Corporate Social Responsibility and Institutional Theory: New Perspectives on Private Governance' (2012) 10 Socio-Economic Review 3-28; See also Majid Khan, James Lockhart and Ralph Bathurst, 'Institutional Impacts on Corporate Social Responsibility: A Comparative Analysis of New Zealand and Pakistan' (2018) 3 (1) International Journal of Corporate Social Responsibility 78 Marta G. Bekele and Mengstu B. Ayele, 'Formal and Informal Institutional Drivers of Corporate Social Responsibility' (2023) 3 (1) Indian Journal of Sustainable Development 12-21.

79 Q.G.Wang and X.Y. Xu 'Research on the Value-Creation Mechanism of Corporate Social Responsibility and Its Empirical Test Based on the Stakeholder Theory and Life Cycle Stage Theory' (2016) 302 (2) China Soft Science 179-192. 'Empirical Test Based on the Stakeholder Theory and Life Cycle Stage Theory' (2016) 302 (2) China Soft Science 179-192.

meaningful discussions with community members, thereby missing valuable opportunities to understand their perspectives and concerns. These companies often rely solely on formal communication channels, which may not adequately capture the nuanced socio-economic and developmental needs of the host communities. By failing to tap into informal networks and local institutions, they miss crucial insights that could inform their CSR strategies. This gap in communication results in initiatives that may not align with the actual priorities and challenges faced by the community, ultimately undermining the potential positive impact of their corporate responsibility efforts. To foster more effective CSR practices, these companies need to prioritise authentic dialogue and collaboration with local stakeholders.

Establishment of Impact and Benefit Agreements (IBAs)

One other effective strategy that can significantly integrate informal institutions into concrete CSR arrangements in Nigeria's extractive industries is the implementation of Impact and Benefit Agreements (IBAs). Over the years, the concept of IBAs has emerged as a crucial legal instrument in various countries rich in natural resources, addressing a myriad of challenges these sectors often encounter. A prominent example can be seen in Canada, where IBAs have been established through bilateral negotiations between project developers – such as mining companies – and Aboriginal groups whose lands and communities are directly impacted by resource exploitation.⁸⁰ These agreements have proven instrumental in enabling Canada's Aboriginal communities to thrive within the country's extractive industry, fostering economic growth while ensuring recognition and respect for their rights.⁸¹

80 H Klein, J Donihee and G Stewart, (2004) Environmental Impact Assessment and Impact and Benefit Agreements: Creative Tension of Conflict? Paper presented at the International Association for Impact Assessment Conference, Vancouver, British Columbia, Canada

81 Adam Wright, 'Impact and Benefit Agreements: The Role of Negotiated Agreements in the Creation of Collaborative Planning in Resource Development' (master's Thesis, University of Guelph, 2013).

The growing use of IBAs, particularly in the mining sector, suggests that they have transitioned into a common practice integral to resource development, affecting not only company operations but also the lives of indigenous peoples and communities. In the context of Nigeria, IBAs offer a powerful opportunity to promote local economic development within host communities through targeted CSR initiatives. Given that resource development tends to catalyse local economic advancement, the establishment of an IBA that clearly outlines CSR-driven actions can effectively address the socio-economic needs and developmental aspirations of these communities. Consequently, IBAs have evolved into essential legal and economic tools that facilitate the creation of collaborative partnerships between mining companies and Indigenous communities.⁸² These agreements outline the terms of engagement, ensuring the integration of informal institutions and thereby guaranteeing the meaningful participation of affected communities in the CSR process. With the adoption of such a strategy, companies can foster relationship-building with local stakeholders, ultimately mitigating the uncertainty associated with corporate operations that can stem from social opposition to extraction activities. Moreover, IBAs encompass provisions aimed at utilising CSR to address adverse environmental impacts arising from resource extraction. They also aim to ensure that host communities can share in the financial and social benefits of resource development. A thoughtfully designed IBA that accurately identifies the genuine needs and priorities of host communities can significantly enhance the effectiveness and impact of CSR initiatives.

During the negotiation of IBAs, community leaders from host areas, representing the interests of informal institutions, can play a vital role in ensuring that companies are mandated to consult with and actively engage these communities in CSR-focused actions and decision-making processes. This collaborative approach not only introduces

82 Ken Coates, 'Applying Corporate Social Responsibilities: IBAs and mining within the traditional territories of Indigenous Peoples' in Nicolas D. Brunet and Sheri Longboat (eds), *Local Communities and the Mining Industry Economic Potential and Social and Environmental Responsibilities* (Routledge 2023) 42.

potential benefits, such as specific provisions for ongoing consultation and participation in CSR initiatives but also highlights the importance of accountability and transparency in corporate dealings.

Consultation and Participation

The successful execution of CSR initiatives relies heavily on the collaborative spirit between corporations and the host communities in which they operate. Central to this collaboration are the principles of consultation and participation, which are vital for cultivating strong, trust-based relationships with local populations. As emphasised by a Professor of Law and a leading stakeholder interviewed:

For companies operating in the Niger Delta and similar regions, meaningful engagement with host communities is not just a social obligation – it's a strategic necessity. By actively consulting residents and stakeholders, companies can accurately identify community priorities – such as clean water, reliable infrastructure, quality education, and electricity – and tailor their projects to meet these genuine needs. In contrast, bypassing community input often leads to ineffective, profit-driven initiatives or corrupt practices that ignore local realities and breed mistrust. When companies collaborate transparently with host communities, they foster goodwill and trust, visibly improve living standards, and reduce resistance to their operations. Tangible, community-driven contributions – like accessible healthcare, safe drinking water, and better schools – demonstrate genuine commitment and result in healthier, more resilient communities. In the long term, regular consultation and partnership with host communities not only enhance a company's reputation but also secure its social license to operate and underpin sustainable business growth.

Sampson highlights that genuine participation means affected individuals are actively and meaningfully involved at every stage.⁸³ This enables them

83 G Sampson, 'Environmental and Human Rights Problems in Natural Resources Development: Implications for Investment in Petroleum and Mineral Resources Sector' Vol. 6–5 (a), Centre for Energy, Petroleum and Mineral Law and Policy (CEPMLP)

to influence (a) the decision-making processes that establish societal goals and the allocation of resources required for achieving these goals, and (b) the voluntary implementation of associated programs and projects.⁸⁴ Such provisions are crucial as they maximise the engagement of indigenous host communities in critical areas, including training, capacity building, and apprenticeship programs. Furthermore, these measures foster a sense of belonging and ownership among host communities regarding the development of resources located in their localities. When an IBA encompasses specific provisions mandating consultation and participation from host communities, companies are far more likely to cultivate trust and, consequently, achieve social acceptance for their operations. Engaging in regular and meaningful dialogue with representatives of informal institutions enables these communities to influence CSR-led development projects that impact their lands, thereby promoting their recognition as "special subjects of concern" with valid rights and interests.

The United Nations Declaration on the Rights of Indigenous Peoples advocates for both government bodies and companies to engage in consultations with Indigenous Peoples regarding resource development initiatives and to share the benefits equitably arising from such projects.⁸⁵ By mirroring this approach, host communities in Nigeria's Niger Delta region, for example, can significantly benefit from being actively involved in CSR-led activities. Implementing effective consultation and participation mechanisms in Nigeria's extractive sector not only enhances community engagement but also ensures that CSR initiatives yield a more profound and sustainable impact on the local landscape. This proactive approach could pave the way for lasting improvements, reinforcing the alignment of corporate activities with the developmental needs and aspirations of host communities.

84 Ibid.

85 UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UN Doc A/RES/61/295 (13 September 2007) <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf> accessed 3 September 2025.

As IBAs evolve, they face a variety of challenges that require both companies and host communities to adjust to new arrangements and the shifting practices within this sector.⁸⁶ The enforcement of IBAs presents obstacles like those encountered in CSR initiatives; even the largest corporations struggle to uphold their commitments consistently.⁸⁷ This difficulty stems from the nature of operations in the energy and extractive industries, where companies navigate volatile markets and complex regulatory environments.⁸⁸ These challenges can lead to unexpected financial constraints or operational hurdles, ultimately impacting a company's ability to fulfil its obligations under an IBA.⁸⁹ Furthermore, the integration of social inclusion initiatives for informal institutions into CSR practices often proves problematic. A key impediment to this integration is the lack of legal mandates that require companies to consider informal institutions in their CSR-related decisions and actions.

For IBAs and social inclusion initiatives to be effectively enforced and implemented, state governments must play an active role.⁹⁰ Their engagement should primarily focus on addressing the needs and interests of the host community. When governments, which are typically significant stakeholders in CSR practices, oversee the industry but lack the political will to enforce these frameworks, it seriously undermines the legitimacy of IBAs, and the policies aimed at fostering social inclusion of informal institutions.⁹¹ This absence of commitment from the government can critically obstruct the path to achieving meaningful enforcement and implementation of IBAs.

86 Ken Coates, 'Applying Corporate Social Responsibilities: IBAs and mining within the traditional territories of Indigenous Peoples' in Nicolas D. Brunet and Sheri Longboat (eds), *Local Communities and the Mining Industry Economic Potential and Social and Environmental Responsibilities* (Routledge 2023) 46.

87 Godswill Agbaitoro, 'Legal strategy for resolving the socio-economic and environmental symptoms of the resource curse in Nigeria: the role of impact and benefit agreements' (2018) 44 (3) *Commonwealth Bulletin* 381-399.

88 *Ibid* 396

89 Ciaran. O'Faircheallaigh, 'Impact and Benefit Agreements as Monitoring Instruments in the Minerals and Energy Industries' (2020) 7 (4) *Extractive Industries and Society* 1338-1346.

90 Agbaitoro (n 87) 381-399.

91 *Ibid*.

Without solid support and governance structures in place, the potential of these agreements to foster lasting positive impacts for host communities could be significantly diminished, resulting in missed opportunities for collaborative development and shared benefits. Consequently, both companies and communities must recognise and address these systemic challenges to cultivate sustainable relationships that enhance social and economic outcomes for all stakeholders involved.

5. CONCLUSION

The integration of local informal institutions into CSR frameworks within Nigeria's extractive sector is not only a pressing necessity but also an opportunity for transformative progress. As this study has explored, effective CSR practices must be rooted in an understanding and appreciation of the social, cultural, and economic dynamics of the communities in which corporations operate. By recognising the significance of local informal institutions, businesses can strengthen their connection with host communities, thereby enhancing the impact and sustainability of their CSR initiatives. The key to this integration lies in fostering collaborative relationships between corporations and these informal institutions. These relationships must be built on mutual respect, trust, and a shared vision for development. By leveraging existing social networks and local resources, corporations can tap into the unique insights and capabilities of informal institutions, leading to more relevant and impactful CSR practices. Such collaborations can help corporations better understand community needs and expectations, thereby aligning their CSR strategies with the local context rather than imposing a set of initiatives.

Moreover, legislative reform plays a critical role in facilitating this integration. The current regulatory environment must evolve to recognise the significance of local informal institutions as essential stakeholders in the CSR landscape. Revising existing laws and enacting new regulations will not only legitimise the voices of these institutions but also mandate corporations to engage with them meaningfully. This legal framework should encourage the establishment of mechanisms for stakeholder engagement that ensure local communities are actively

involved in corporate decision-making processes. By instituting policies that require subsidiaries to engage with local informal institutions, Nigerian law can promote a more inclusive and participatory approach to corporate governance. One proposed legislative reform includes the introduction of mandatory CSR provisions under company law. By making CSR participation a legal requirement, companies will assume a greater responsibility towards local communities, prompting them to view CSR as an integral part of their operational mandate. The board of directors would then be legally required to recognise and engage with local informal institutions as part of its fiduciary duties. This shift would call for a fundamental reconceptualisation of corporate responsibilities, in which the focus expands beyond maximising shareholder profits to encompass commitments to local community welfare and environmental sustainability. The potential of redefining corporate fiduciary duties emphasises the need for corporations to evolve their understanding of success. A narrow focus on profit maximisation is no longer sustainable in a world increasingly concerned with environmental and social accountability. Corporations that embrace broader fiduciary responsibilities will likely experience enhanced brand loyalty, improved stakeholder relationships, and better overall performance. Furthermore, adopting this broader perspective enables businesses to align their objectives with the global Sustainable Development Goals, reinforcing their commitment not only to local communities but also to a larger ethical imperative.

Beyond legislative reforms, the social inclusion of informal institutions is vital to enhancing CSR practices, ensuring that the voices of marginalised groups within host communities are acknowledged and amplified. This inclusion helps address historical imbalances and acknowledges the impact of corporate activities on these communities. Additionally, establishing IBAs can help formalise this involvement by creating arrangements that outline the mutual benefits and responsibilities of corporations and local institutions. As discussed, IBAs promote transparency and accountability, facilitate the negotiation of terms that respect local insights and priorities, and ultimately foster trust between corporations and communities. This approach should be accompanied by consultation and participation

throughout the project's lifecycle. By committing to ongoing dialogue with local informal institutions, corporations can stay attuned to community dynamics and concerns. This engagement will not only enhance the relevance of CSR initiatives but also empower local institutions, making them active participants in their development.

Ultimately, integrating local informal institutions into CSR frameworks within Nigeria's extractive sector offers a pathway for companies to innovate their approaches to corporate governance. By advocating for collaborative relationships, legislative reforms, and genuine community participation, corporations can become drivers of positive change. This strategic integration not only contributes to the sustainability of CSR projects but also supports the broader goal of equitable economic development. Ultimately, fostering a culture of shared responsibility and collaboration between corporations and local communities will pave the way for a future where business success is measured not only by financial returns but also by the social and environmental impacts of their operations. Through such efforts, corporations can truly become catalysts for positive change, benefiting both their business interests and the communities they serve.