LEGAL FRAMEWORK FOR IMPLEMENTATION OF ENVIRONMENTAL, SOCIAL AND GOVERNANCE STANDARDS IN NIGERIA

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ABSTRACT

Environmental, Social and Governance (ESG) has emerged as a buzzword in the 21st century and has been used to refer to issues of environmental, social and governance concerns that should be integrated into national decision-making by countries, especially in their dealings with foreign businesses. ESG standards are now globally required to be upheld by States and they are often stipulated in laws. Relying on the doctrinal research method, the paper examines the legal framework for the implementation of ESG standards in Nigeria. The paper finds that although Nigeria has not enacted any specific ESG-focused legislation, there are quite a few laws that have been enacted to address the critical aspects of ESG in Nigeria. The paper finds further that the extant laws in Nigeria contain provisions on ESG standards which, if implemented, will go a long way to addressing ESG concerns, resulting in improved environmental and human rights consciousness among companies operating in Nigeria. The paper finds that despite what would seem to be an avalanche of laws at the federal level of governance in Nigeria, the provisions of some of the key pieces of legislation leave too much gap that are exploited by both the Nigerian authorities and the investors attracted into the Nigerian investment ecosystem, to defeat the implementation of ESG standards in the country. The paper recommends a total overhaul of the laws in order to bring them in line with global ESG standards

KEYWORDS: Legal Framework, Environmental, Social, Governance, Governance Standards, Global ESG Standards, Virile Implementation

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1. Introduction

Over the course of the past few decades, Environmental, Social and Governance (ESG) considerations have dominated global discourse as obligations businesses and investments should pursue towards promoting sustainable development.[1] Beginning from 1992 during the Earth Summit held in Rio de Janeiro, Brazil, global discussions have emphasised the need to integrate environmental sustainability practices into development activities and exploitation of nature's endowments across States.[2] ESG has been in use for more than a decade as a label for a range of factors that are relevant in assessing whether an economic activity is sustainable for the purposes of investment decision making.[3] These factors have been used especially by large investors and asset managers to decide on allocation of capital with a view to ensuring sustainability and financial performance over the long term.[4] Studies have amplified the global focus on ESG – importing the need for businesses to balance financial performance with sustainability objectives and ethical practices.[5]

Recently, ESG has been applied more broadly to an ever-expanding scope of regulations, standards and expectations regarding the responsible management of a wide range of issues.[6] Environmental issues ordinarily revolve around measures taken to protect the environment, and these include combating climate change and cutting down on greenhouse gas (GHG) emissions, promoting energy efficiency, guarding against resource depletion, including water, hazardous

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[1] O Savchuk, 'The Role of ESG in Advancing Sustainable Development Through Environmental Innovations: Legal Perspectives from the European Experience' in O Lytvynov, V Pavlikov and D Kritskiy (eds), *Integrated Computer Technologies in Mechanical Engineering – 2025* (Switzerland: Springer Nature 2026) 372

[2] C G Borges and Others, 'CSG and Investment Treaties in Africa: A New Substantive Standard?' (26 March 2024) <https://www.iflr.com/article/2d0uopvmt62ksjkl4e39c/sponsored/esg-and-investment-treaties-in-africa-a-new-substantive-standard> accessed 25 March 2026

[3] O Shasore and O Uka, 'The Importance of ESG and Its Effect on International Arbitration', The Alpine Review,2 <https://www.alp.company/sites/default/files/ALP%20Review%20-%20The%20Importance%20of%20ESG%20and%20its%20effect%20on%20International%20Arbitration.pdf> accessed 23 March 2026

[4] O Shasore and O Uka (n 3)

[5] A Marangwanda, 'Advancing ESG in African Insurance Markets: Barriers, Policy Alignment and Future Trajectories' (2025) (4) (3) *International Journal of Advanced Business Studies*, 12-32, 12; S Kapusuwan and B Sakunasingha, 'An Overview of ESG and Non-Tariff Measures Affecting International Trade of Seafood and Aquaculture Products' (2024) *Journal of Suvarnabhumi*, 363-375, 363; O Savchuk (n 1)

[6] Shasore and Uka (n 3)

waste, air and water pollution, deforestation, desertification, flooding and displacement of people.[7] Issues under the social component of ESG are human rights, working conditions, including slavery and child labour, local and indigenous communities, conflict, health and safety, employee relations, diversity and inclusion.[8] Under the governance component of ESG, the emerging issues include workers' wages and salaries, bribery and corruption, data protection, board independence, diversity and structure, tax strategy, transparency, shareholder rights, and so on.[9]

Over the years, the opening of door to foreign investments by developing countries has seen a sharp decline in the protection of the environment of the host communities, the destruction of the social lives of the communities, the degradation of their working and living conditions and increasing incidents of bribery, divide-and-rule politics, gross human rights abuses, subversion of the rule of law and erosion of the integrity of institutions.[10] These stem from developing countries, such as Nigeria, unreasonably lowering human rights standards in order to attract foreign investments, which more or less benefit those in power, to the detriment of the citizens.[11] The inescapable outcome of what would appear to be a near *laissez faire* investment climate afforded by Nigerian to foreign businesses has been documented cases of extensive environmental degradation, human rights violations and lack of accountability in the operations of foreign businesses. This appears to be the case due to the non-integration of ESG considerations into investment agreements signed between foreign investors and their host governments. In the case of Centra Asia, Bektasheva[12] posits that invest agreements implemented by Central Asian countries and their foreign investors do not typically enshrine the commitments of such investors to align investment policies with sustainability objectives.

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7 *Ibid*

8 Borges and Others (n 2)

9 *Ibid*

10 P C Onuoha and M O Okore, 'Oil Multinational Corporations and Environmental Rights Violations in the Niger Delta Region of Nigeria (2025) (11) (3) *Journal of Political Science and Leadership Research*, 29-52

11 S Onowugbeda, 'Environmental Harm and Human Rights Violations by Multinational Corporations: Legal and Institutional Perspectives under the Revised Binding Treaty' (2025) (1) (1) *Journal of Journalism and Media Management*, 1-7, 2

12 A Bektasheva, 'The Impact of the International Regime on Sustainable Development in Developing Countries: A
Case Study of Central Asia' (PhD Dissertation, University of Miskolc 2025) 1
<document_49270_section_48437.pdf> accessed 4 June 2026

Countries are gradually embracing the idea that business investments and sustainable development depend on a functional symbiotic relationship between development and a wholesome environment, a corruption-free business climate, a corporate governance model that integrates the interests of stakeholders into investment decisions, as well as a social security and economic system that respects and prioritises the economic and social needs of the people of the communities in which businesses are operated. In the case of Nigeria, it is not yet clear how much the laws have responded to the requirements of ESG by providing for effective environmental protection, protection of the socio-economic rights of Nigerian communities, as well as ensuring that businesses are conducted in a transparent and accountable manner in the country. The pertinent questions to ask at this juncture are: Is Nigeria embracing the new wave of ESG compliance sweeping across the globe? Is there a legal framework for integrating ESG standards into investment decisions and priorities in Nigeria, especially in relation to foreign direct investments? The present paper will carry out an appraisal of the Nigerian legal framework for ESG compliance with a view to determining how far Nigeria has responded through laws to the demands of ESG in the country.

2. Conceptual Analysis of Environment, Social and Governance Considerations

Environmental, Social and Governance (ESG) standards more broadly refers to an ever-expanding scope of regulations, standards and expectations regarding the responsible management of a wide range of issues in the conduct of business relations between a host State and its foreign investors.[13] ESG refers to a set of international standards or regulations that prescribe what foreign investors and host States should do, or should not do, in order to protect the environment, ensure harmonious relationship between a business and its stakeholders, as well as complying with corporate governance standards. It imposes strict obligations on businesses to comply with legal requirements relating to environmental, social and governance standards laid down by the host State, while conducting their business activities. ESG considerations impose

[13] ESG Angola, 'ESG and investment treaties in Africa: a new substantive standard?' <https://www.vda.pt/xms/files/05_Publicacoes/2024/Livros_Artigos/IFLR_ESG_ESG_and_investment_treaties_in_Africa_-_a_new_substantive_standard.pdf> accessed 17 February 2026

responsibility on a host State not to unreasonably lower regulatory standards to attract business investments into their States.[14]

Recently, ESG has been applied more broadly to an ever-expanding scope of regulations, standards and expectations regarding the responsible management of a wide range of issues.[15] Environmental issues ordinarily revolve around measures taken to protect the environment, and these include combating climate change and cutting down on greenhouse gas (GHG) emissions, promoting energy efficiency, guarding against resource depletion, including water, hazardous waste, air and water pollution, deforestation, desertification, flooding and displacement of people.[16] Issues under the social component of ESG are human rights, working conditions, including slavery and child labour, local and indigenous communities, conflict, health and safety, employee relations, diversity and inclusion.[17] Under the governance component of ESG, the emerging issues include workers' wages and salaries, bribery and corruption, data protection, board independence, diversity and structure, tax strategy, transparency, shareholder rights, and so on.[18]

3. Legal Framework for Environment, Social and Governance Considerations in Nigeria

This section examines some of the key pieces of legislation put in place to implement ESG in Nigeria.

3.1 Constitution of the Federal Republic of Nigeria 1999 (as Amended)

The Constitution of the Federal Republic of Nigeria[19] is the fundamental law of the country, and its provisions are supreme over all authorities and persons throughout the federation of Nigeria.[20]

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14 S Sultana and others, 'Environmental, Social and Governance (ESG) and Investment Decision in Bangladesh' (2018) (10) (6) *Sustainability*, 1831.

15 U Udoma and Belo-Osagie, 'A Review of ESG Responsibilities of Corporate Entities in Nigeria', <https://uubo.org/wp-content/uploads/2024/06/A-Review-of-ESG-Responsibilities-of-Corporate-Entities-in-Nigeria.pdf> accessed 16 February 2025.

16 J Przychodzen and others, 'ESG Issues Among Fund Managers—Factors and Motives' [2016] (8) *Sustainability*, 1078; E Ortas and others, 'The Environmental, Social, Governance, and Financial Performance Effects on Companies that Adopt the United Nations Global Compact' (2015) (7) *Sustainability*, 1932–1956

17 D Nevado-Peña and others, 'The Effects of Environmental and Social Dimensions of Sustainability in Response to the Economic Crisis of European Cities' (2015) (7) *Sustainability*, 8255–8269.

18 I Ferrero-Ferrero, 'The Effect of Environmental, Social and Governance Consistency on Economic Results' (2016) (8) *Sustainability*, 1005.

19 Constitution of the Federal Republic of Nigeria 1999 (as Amended) [CFRN]

In Nigeria, the interplay between Bilateral Investment Treaties (BITs) and domestic constitutional obligations, particularly under Environmental, Social, and Governance (ESG) frameworks, has become increasingly significant. The CFRN provides a foundational framework for promoting sustainable development, human rights, and environmental protection, all of which are crucial to ESG considerations. Investor obligations under BITs must align with these constitutional provisions to ensure balanced and responsible investment practices.

There is no specific chapter or provision of the CFRN dedicated to the promotion of ESG standards in Nigeria. What obtains is that the CFRN contains provisions that regulate the various components of ESG – namely, environmental issues, social issues and governance issues. With respect to the 'Environmental' component of ESG, the CFRN provides that it shall be the duty of the Nigerian State to protect the environment. Environmental protection is enshrined as a fundamental objective under Section 20 of the CFRN, and it mandates the Nigerian State to "protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria".[21]

The 'Social' component of ESG includes respect for labour rights, community engagement, and adherence to human rights standards. Thus, Section 17 of the CFRN emphasises social justice, equality, and human dignity as core national objectives.[22] The CFRN requires investment activities must, therefore, ensure respect for workers' rights, indigenous communities, and vulnerable populations. Section 16 of the CFRN highlights the State's role in promoting balanced economic development,[23] which can include fostering foreign investment while ensuring sustainable practices. Specifically, the CFRN imposes on the State the obligation to control and manage national resources in such a manner as to secure the maximum welfare, freedom and happiness of every citizen, on the basis of social justice, equality of status and opportunities.[24] Similarly, the State is required to direct its policy towards ensuring that, "suitable and adequate shelter, right to food and security, reasonable national minimum living wage, old age care and

[20] *Ibid*, s 1(1)
[21] *Ibid*, s 20
[22] *Ibid*, s 17
[23] *Ibid*, s 16(2)(a)
[24] CFRN, s 16(1)(b)

pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens."[25]

In addition, the CFRN provides for the social objectives of the Nigerian State. Pertinent social obligations of the State towards the citizens are that every citizen shall have equality of rights, obligations and opportunities before the law;[26] recognition of the sanctity and dignity of the human person;[27] the requirement that all governmental actions shall be humane;[28] and that exploitation of the nation's natural resources shall be carried out exclusively for the public good.[29] Furthermore, in pursuit of its social obligations to its citizens, the Nigerian State is constitutionally obligated to ensure that: all citizens are provided with the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;[30] employment conditions are to be just and humane;[31] the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused;[32] adequate medical and health facilities are provided for all persons;[33] and there should be equal pay for equal work for all employees,[34] among other provisions.

In terms of the 'Governance' component of ESG, the CFRN promotes probity, transparency, and accountability in the conduct of both public and private businesses. The CFRN charges the State to, "abolish all corrupt practices and abuse of power".[35] This implies that businesses investing in the Nigerian economy – whether local or foreign, are expected to maintain transparent dealings, comply with Nigeria's anti-corruption laws.

Notwithstanding these constitutional provisions on ESG, the CFRN expressly provides that none of the provisions can form the basis of a legal action in court, should the State be unable to

[25] *Ibid*, s 16(2)(d)
[26] *Ibid*, s 17(2)(a)
[27] *Ibid*, s 17(2)(b)
[28] *Ibid*, s 17(2)(c)
[29] *Ibid*, s 17(2)(d)
[30] *Ibid*, s 17(3)(a)
[31] *Ibid*, s 17(3)(b)
[32] *Ibid*, s 17(3)(c)
[33] *Ibid*, s 17(3)(d)
[34] *Ibid*, s 17(3)(e)
[35] *Ibid*, s 15(5)

discharge its obligations.[36] It has been argued that the provisions in Chapter II of the CFRN are merely directory and not imperative, in the sense that they act as signposts to what the government at all levels should aspire to achieve within the limits of available resources.[37] Given its aspirational character, it has been suggested that a breach of any of the duties imposed by the CFRN on the State in Chapter II is not actionable at the instance of a person who suffers any loss or damage arising from the State's non-performance of the imposed duties.[38] However, it would seem that there are authors who assert that some of the provisions in Chapter II, especially the environmental protection obligations, are actionable at the instance of an aggrieved person, being a product of Nigeria's international obligations which cannot be superseded by municipal law.[39]

The present authors submit that although all of the constitutional provisions on the environmental, social and governance obligations of the Nigeria State towards its citizens are localised within Chapter II of the CFRN entitled, 'Fundamental Objectives and Directive Principles of State Policy', and which are rendered generally non-justiciable by virtue of Section 6(6)(c) of the CFRN, they nonetheless guide the direction of State policies and, by extension, influence regulatory frameworks affecting the conduct of businesses and investments in Nigeria. What seems undeniable is that the provisions of Chapter II of the CFRN are enforceable where the CFRN provides that they should be enforced,[40] as well as where appropriate legislation has been enacted to give such provisions the toga of justiciability.[41]

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36 *Jakande* v *Governor of Lagos State* (1981) 1 NCLR 152; *Uzokwu* v *Ezeonu II* (1991) 6 NWLR (Pt 200) 781; *Attorney General of Ondo State* v *Attorney General of the Federation* (2002) 9 NWLR (Pt 772) 222

37 O V C Ikpeze, 'Non-Justiciability of Chapter II of the Nigerian Constitution as an Impediment to Economic Rights and Development' (2015) (5) (18) *Developing Country Studies* 48; T Okonkwo, 'Environmental Constitutionalism in Nigeria: Are We There Yet?' (2015) (13) *The Nigerian Judicial Review,* 175-216; E M Akpambang, 'Promoting the Right to a Healthy Environment through Constitutionalism in Nigeria' (2016) (4) (3) *International Journal of Environment and Pollution Research,* 40-61; T Okonkwo, 'Environmental Constitutionalism in Nigeria: Are We There Yet? (2015) (13) *The Nigerian Judicial Review* 175-216; K U Udungeri and Others, 'Evaluation of the Statutory Regime of Corporate Environmental Liability in the Oil and Gas Sector in Nigeria' (2018) (2) (9) *American Journal of Humanities and Social Sciences Research* 29-45

38 E M Akpambang (n 37)

39 E P Amechi, 'Litigating Right to Healthy Environment in Nigeria: An Examination of the Impacts of the Fundamental Rights (Enforcement Procedure) Rules 2009, in Ensuring Access to Justice for Victims of Environmental Degradation (2010) (6) (3) *Law, Environment and Development Journal,* 320-334; F O Ekpa, 'Enforcing Environmental Rights in Nigeria through the Fundamental Rights (Enforcement Procedure) Rules 2009' (2015) (7) *Kogi State University Law Journal* 102-121.

40 S Okangla, 'Why Chapter II of the Nigerian Constitution Is a Greek Gift' (2021) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3976196> accessed 21 March 2026

41 *Olafisoye v Federal Republic of Nigeria* (2004) 4 NWLR (Pt 864) 580

3.2 African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, 1983

The African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act[42] is a Nigerian legislation enacted to domesticate the African Charter on Human and Peoples' Rights[43] by making its provisions enforceable in Nigeria. The ACHPR is a regional human rights instrument that enshrines a broad range of civil, political, economic, social, and environmental rights. The ACHPR Act serves as a foundational ESG document, especially regarding social and environmental rights, and plays an indirect, yet significant role in shaping ESG expectations within Nigeria. For instance, its Article 24 stipulates that all peoples shall have the right to a general satisfactory environment favourable to their development.[44] This provision establishes a legally recognisable right to a healthy environment, thus forming the 'E' or 'Environmental' pillar of ESG.

Under social rights and development, Article 15 of the ACHPR Act provides for the right to work under equitable and satisfactory conditions[45] as well as the right to the highest attainable standard of physical and mental health.[46] Additionally, everyone has the right to education and cultural life.[47] These provisions reflect the 'S' (Social) component of ESG by protecting economic and community welfare. In terms of the 'G' (Governance) pillar of ESG, Article 21 of the ACHPR Act provides that, "All peoples shall freely dispose of their wealth and natural resources… In case of spoliation, the dispossessed people shall have the right to the lawful recovery of their property and to an adequate compensation."[48] These provisions guarantee community rights over natural resources, emphasising transparent governance and responsible investment conduct as paramount to the attainment of the pillar 'G' in ESG.

The provisions of the ACHPR have been upheld at the African regional and ECOWAS sub-regional levels, in relation to activities of Member States. Most importantly, the right to a general satisfactory environment favourable to the development of citizens of Nigeria has been

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[42] 1983, Cap A10, Laws of the Federation of Nigeria 2004 [ACHPR Ratification and Enforcement Act]
[43] Adopted at Nairobi, Kenya, by the Eighteenth Assembly of Heads of States and Government under the auspices of the Organisation of African Unity in June 1981 [ACHPR]
[44] ACHPR Act, art. 24
[45] *Ibid*, art. 15
[46] *Ibid*, art. 16
[47] *Ibid*, art. 17
[48] *Ibid*, art 21

upheld. In *Social and Economic Rights Action Centre* v *Nigeria,*[49] the applicant – an NGO sued on behalf of the Ogoni people of the Niger Delta region of Nigeria against the Federal Government of Nigeria, the African Commission on Human and Peoples' Rights, held that Nigeria violated Articles 16 and 24 of the ACHPR for failing to prevent environmental degradation in the Niger Delta by oil companies.

Similarly, in *The Registered Trustees of the Socio-Economic Rights and Accountability Project* v *Nigeria,*[50] the ECOWAS Community Court of Justice (ECCJ) by a unanimous decision found the government of Nigeria responsible for human rights abuses by oil companies and made it clear that the government must hold the companies and other violators of human rights accountable. The ECCJ found that Nigeria violated the right of the Niger Delta people to their natural wealth and resources[51] as well as their right to a general satisfactory environment favourable to their development[52] by failing to protect the Niger Delta and its people from the operations of oil companies that have devastated the region for many years. The Court further reasoned that the rights to good and social life of the Niger Delta people were violated by destroying their environment and thus destroying their opportunity to earn a living and enjoy a healthy and adequate standard of living. The ECCJ also held that the government's failure to enact effective laws and establish effective institutions to regulate the activities of the oil companies, coupled with the failure of the government to hold polluters accountable for environmental degradation, constitutes a violation of Nigeria's international human rights obligations and commitments.

Even the Supreme Court of Nigeria has held that the provisions of the ACHPR are enforceable in Nigeria. In *Centre for Oil Pollution Watch* v *Nigerian National Petroleum Corporation,*[53] Eko, JSC, stated that in order to broadly determine *locus standi* when enforcing environmental rights as human rights, Article 24 of the ACHPR should be read together with Sections 33(1) and 20 of the CFRN on the duty of the Nigerian State to preserve the environment for the health

[49] Communication No:155/96 (Judgment of the African Commission on Human and Peoples' Rights delivered on 27 May 2002); [2001] ACHPR 35

[50] General List No: ECW/CCJ/APP/08/09 and Judgment No: ECW/CCJ/JUD/18/12 (Judgment delivered on 14 December 2012).

[51] ACHPR 1981, art 22.

[52] *Ibid*, art 24.

[53] (2019) 5 NWLR (Pt 1666) 518 [*Centre for Oil Pollution Watch* v *NNPC*]

and by extension lives of Nigerians[54] Eko, JSC also stated that as long as Nigeria remains a signatory to the ACHPR and to other global human rights treaties as well, Nigerian courts would protect and vindicate the human rights entrenched in them.[55] These decisions reinforce that Nigeria will be held to the human rights standards articulated in the ACHPR, and therefore, in her transactions with foreign investors, Nigeria must be alive to its ESG obligations, Thus, the decisions demonstrate that host States of foreign investments have ESG duties, and that such host States and investors share responsibility for complicity in the violations of human rights.

3.3 National Environmental Standards and Regulations Enforcement Agency Act 2007

The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act[56] is the principal regulatory framework for environmental protection in Nigeria, and it establishes NESREA is the primary regulatory body responsible for enforcing environmental laws and standards in Nigeria.[57] This Act has implications for the implementation of the environmental pillar of ESG. The Act empowers the agency to enforce environmental standards across sectors, conduct inspections, and sanction environmental infractions.[58] The Act thus establishes a legal basis for integrating environmental obligations into Nigeria's investment decision-making.

Additionally, the Act directs the Agency to enforce compliance with the provisions of international agreements, protocols, conventions and treaties on the environment, including climate change, biodiversity, conservation, desertification, forestry, oil and gas, chemicals, hazardous wastes, ozone depletion, marine and wild life, pollution, sanitation and such other environmental agreements as may from time to time come into force.[59] The Act also mandates the Agency to create public awareness and provide environmental education on sustainable environmental management, promote private sector compliance with environmental regulations other than in the oil and gas sector and publish general scientific or other data resulting from the performance of its functions.[60]

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54 (n 53) 597-598
55 *Ibid*, 598
56 No. 25 of 2007 [NESREA Act]
57 NESREA Act, s 1
58 *Ibid*, s 2
59 *Ibid*, s 7(c)
60 NESREA Act, s 7(l)

The Act promotes corporate accountability by enforcing regulations that protect communities from environmental hazards, ensuring that foreign investments adhere to ethical labor and social standards. Thus, the Act directs the Agency to co-operate with other Government agencies for the removal of pollutants from the Nigerian environment. However, NESREA's functions do not extend to environmental pollution arising from oil and gas related operations.[61] In conclusion, the NESREA Act, plays a prominent role in Nigeria's efforts to incorporate ESG principles particularly environmental governance into its bilateral investment treaties (BITs) with foreign businesses. By aligning domestic regulatory frameworks with international investment agreements, Nigeria can better safeguard sustainable development goals in foreign investment.

3.4 National Oil Spill Detection and Response Agency (Establishment) Act, 2006

The National Oil Spill Detection and Response Agency Act[62] is the principal regulatory framework for environmental protection in the Nigerian oil and gas industry. The Act establishes the National Oil Spill Detection and Response Agency (NOSDRA) which is tasked with the responsibility for coordinating and implementing the national oil spill contingency plan and ensuring a timely and effective response to oil pollution incidents arising from the operations of oil and gas companies in Nigeria.[63] The Act imposes a legal obligation on operators in the petroleum industry to adopt measures for preventing, detecting, and cleaning up oil spills, thus integrating environmental safeguards into commercial oil operations.

The NOSDRA Act institutionalises key ESG principles, notably the 'polluter pays' doctrine. Section 6(2) of the Act stipulates that oil spill incidents are to be reported to NOSDRA within 24 hours, with non-compliance attracting a daily fine of ₦500,000.[64] Furthermore, Section 6(3) stipulates a penalty of ₦1,000,000 for failure to clean up and remediate the impacted site to a practical extent.[65] These provisions underscore Nigeria's commitment to environmental stewardship and corporate accountability. Moreover, the Act's enforcement mechanisms provide a legal basis for addressing environmental disputes arising from foreign investments. For

61 *Ibid*, s 29
62 No. 15 of 2006 [NOSDRA Act]
63 NOSDRA Act, 2006, s 1
64 *Ibid*, s 6(2)
65 *Ibid*, s 6(3)

instance, in the case of *NOSDRA v. Sterling Oil Exploration and Energy Production Company Ltd (SEEPCO)*,[66] the Federal High Court upheld the NOSDRA's authority to impose fines for unreported oil spills, demonstrating the efficacy of the NOSDRA Act in holding corporations accountable.[67]

3.5 Petroleum Industry Act, 2021

The Petroleum Industry Act[68] provides for the legal, governance, regulatory and fiscal framework for the petroleum industry in Nigeria. The PIA integrates the 'E' (Environmental) pillar of ESG into the regulatory framework. This integration has implications for BITs, as it aligns Nigeria's domestic laws with international ESG standards, thereby influencing foreign investment dynamics. The PIA seeks to promote transparency, good governance and accountability in the administration of the petroleum resources of Nigeria; foster a business environment conducive for petroleum operations; and deepen local content practice in Nigeria oil and gas industry.[69] The enabling environment framework offered by the PIA takes into account both corporate responsibility and stakeholder engagement to optimise the impact of ESG for environmental sustainability in oil and gas producing areas. The PIA establishes the Nigerian Upstream Petroleum Regulatory Commission[70] which is responsible for promoting healthy, safe, efficient and effective conduct of upstream petroleum operations in an environmentally acceptable and sustainable manner.[71]

The PIA is the first piece of legislation in Nigeria to introduce direct host communities' benefits into the country's petroleum industry landscape. Under the PIA, host communities of oil and gas companies are entitled to 3 percent of the actual annual operating expenditure (OPEX) of the settlor in the preceding year, accruable from the operation of oil and gas activities in the upstream sector affecting such host communities.[72] For instance, Chapter 3 of the PIA establishes the Host Community Development Trusts (HCDTs) to promote socio-economic benefits for oil-

[66] [Unreported] Suit No: FHC/L/CS/576/2016 (Judgment delivered by the Honourable Justice C.M.A Olatoregun of the Federal High Court, Lagos, on Thursday, 24th May, 2018)
[67] Vanguard, 'Oil Spill: Court Orders Firm to Pay N68m Fine' <www.vanguardngr.com/2015/11/oil-spill-court-orders-firm-to-pay-n68m-fine/> accessed 14 March 2026
[68] No. 6 of 2021 [PIA]
[69] PIA 2021 s 2(c-e)
[70] *Ibid*, s 4
[71] *Ibid*, s 6(d)
[72] *Ibid*, s 240(2)

producing communities.[73] The PIA also imposes environmental remediation responsibilities on licensees and lessees, which aligns with the environmental component of ESG.[74]

3.6 Climate Change Act, 2021

Reputed for being the first national legislation on climate change in West Africa, the Climate Change Act[75] essentially integrates climate change mitigation and adaptation into the national plans of Nigeria. The CCA provides for an all-inclusive and comprehensive regulatory and legal framework for achieving the long-term climate change goals in Nigeria, which encompasses a net-zero carbon emission target, adequate climate financing, environmental and economic sustainability and other actions into the national development plans of Nigeria. It is arranged and organized into eight parts of thirty-six sections and a schedule. It applies to institutions and agencies of government as well private and public entities[76] and compulsorily mandates them to adhere to all governmental regulations on climate change[77]. It sets the years 2050-2070 as the target period to achieve net zero carbon emissions. To achieve this aim, the prioritization of climate change adaptation, finance, national climate resilience and focus on other climate change combating policies[78] The CCA also establishes the National Climate Change Council as a body corporate saddled with the responsibility of implementing Nigeria's climate change action plan[79].

It can be concluded that the CCA aims at providing a basis for the attainment of low carbon emissions, promotion of inclusive green growth and sustainable economic development by ensuring that Nigeria develops climate change mitigation and adaptation strategies; ensure the close out of climate change action and incorporates it into national development priorities.[80] Thus, the CCA seeks to enforce the 'E' (Environmental) pillar of ESG by providing the framework for implementation of climate change mitigation and adaptation measures aimed at protecting the Nigerian atmospheric environment, and by extension protecting the people from the adverse impacts of climate change, including flooding, displacement, desertification.

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73 PIA 2021, ss 234-235
74 *Ibid*, s 102
75 2021 [CCA]
76 *Ibid*, s 1(1)
77 *Ibid* s. 2
78 *Ibid* s.1 (a-i)
79 *Ibid*, s. 3(1)
80 *Ibid*.

3.7 Environmental Impact Assessment Act, 2004

The Environmental Impact Assessment Act[81] places restrictions on the public and private project implementation, without prior consideration of the environmental impact of such project. The EIA Act provides that the public or private sector of the economy shall not undertake or embark on or authorise projects or activities without prior consideration, at an early stage, of their environmental effects.[82] Where the extent, nature or location of a proposed project or activity is such that is likely to significantly affect the environment, its environmental impact assessment shall be undertaken in accordance with the provisions of the EIA Act.[83] This provision aligns closely with the environmental pillar of ESG standards, which emphasise proactive management of environmental risks in investment planning. All agencies, institutions (whether public or private) except if exempted pursuant to the EIA Act, before embarking on a proposed project, are required to apply in writing to NESREA, so that the subject activities can be quickly and surely identified.[84] Through these assessments, companies must evaluate the implications of gas flaring on air quality, soil, water resources, and the health of local populations. Non-compliance with the EIA Act can lead to legal sanctions, including project suspension or fines.

Section 7 of the EIA Act emphasises public participation in the EIA process. Communities affected by gas flaring are entitled to provide input during consultations, ensuring that their concerns about environmental and health impacts are considered before project approvals.[85] This participatory approach reinforces the social and governance pillars of the ESG framework by ensuring transparency, inclusivity, and accountability in environmental decision-making. Furthermore, the requirement of Section 7 for community consultation plays a crucial role in pre-investment due diligence – an increasingly common ESG requirement in international investment contracts. Investors who by-pass such consultations may face challenges in arbitration or find themselves excluded from BIT protections.[86]

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[81] 1992, Cap E12, LFN 2004 [EIA Act 2004]
[82] EIA Act, s 2(1).
[83] *Ibid*, s 2(2).
[84] *Ibid*, s 2(4).
[85] *Ibid*, s 7
[86] P Muchlinski, *Multinational Enterprises and the Law* (3rd edn, Oxford University Press, 2021)

3.8 Labour Act 2004

The Labour Act[87] provides the principal legislation governing employment relationships in Nigeria. While it does not explicitly refer to ESG standards, the Act contains provisions that align with the 'Social' and 'Governance' components of ESG. These provisions are especially relevant when considering how Nigeria may integrate ESG standards under BITs. The Labour Act is fundamentally a social justice statute, designed to protect workers' rights and promote fair labour standards, which are core elements of the 'S' (Social) pillar of ESG. Section 7(1) requires that "Not later than three months after the beginning of a worker's period of employment with an employer, the employer shall give to the worker a written statement specifying the terms and conditions of employment".[88] This supports transparency, fair labour practices, and employee protection, all of which are essential to social sustainability.

The Act also states that in the event of redundancy, the employer shall inform the trade union or workers' representative concerned of the reasons and extent of the anticipated redundancy. The principle of 'last in, first out' shall be adopted in the discharge of the particular category of workers affected, subject to all factors of relative merit, including skill, ability and reliability.[89] The Act also requires that an employer should pay fair compensation to employees deemed redundant, thus promoting social equity in workforce reduction scenarios.

In addition, Section 73 of the Act prohibits forced labour.[90] This aligns with international labour standards (e.g., ILO conventions) and human rights obligations under international law. 'Governance' standards under ESG include adherence to labour standards, corporate compliance, and accountability, which are echoed in the Labour Act's provisions on employer obligations and dispute resolution. Section 78 empowers labour officers to enter, inspect and examine by day or night any labour encampment, farm, factory or other land or workplace whatsoever (and every part thereof) if he has reasonable cause to believe that any worker is employed therein or thereon; enter, inspect and examine by day any premises provided by an employer in which he has reasonable cause to believe that workers are living in such premises.[91] The purpose of this

87 1976, Cap L1, Laws of the Federation of Nigeria 2004 [Labour Act 2004]
88 Labour Act, 2004 s 7(1)
89 *Ibid*, s 20(1)(a-b)
90 *Ibid*, s 73(1)
91 Labour Act 2004, s 78(1)

inspection is to ascertain the conditions under which employees are engaged and to determine whether the employers have violated the approved labour standards. It can be observed that these provisions reflect regulatory oversight and the commitment to ensure that Nigerians are engaged in work under sound and fair labour standards.

Furthermore, the Labour Act significantly supports the ‘Social’ and ‘Governance’ pillars of ESG through provisions that ensure fair treatment of workers, wage protection, non-discrimination, labour inspections, and the prohibition of forced labour. These statutory obligations are crucial for justifying labour and social protection measures under Nigeria’s BITs and reinforce the legal legitimacy of ESG-compliant regulatory actions.

3.9 Economic and Financial Crimes Commission (Establishment) Act 2004

The Economic and Financial Crimes Commission (Establishment) Act,[92] is Nigeria’s principal legislation for combating economic and financial crimes, including corruption, money laundering, and fraud. While not traditionally viewed through an ESG lens, the EFCC Act directly supports the ‘G’ (Governance) pillar of ESG by promoting transparency, accountability, and regulatory compliance, which are core elements of good governance. The Act establishes the Economic and Financial Crimes Commission.[93] which is charged with the responsibility of coordinating the various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria.[94] The enactment of the EFCC Act affirms Nigeria’s commitment to anti-corruption, financial transparency, and law enforcement, which are key elements of corporate governance and risk management under ESG.

The Commission is empowered to “investigate all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal fund transfers, and capital market fraud;[95] the adoption of measures which includes coordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes;[96] amongst others. This aligns with the rule of law, enhances corporate integrity,

[92] Economic and Financial Crimes Commission (Establishment) Act 2004 [EFCC Act]
[93] *Ibid*, s 1
[94] *Ibid*, s 2(c)
[95] *Ibid*, s 6(b)
[96] EFCC Act 2004, s 6(f)

and ensures that businesses operate ethically, which are essential components of ESG governance expectations in international investment.

3.10 Independent Corrupt Practices and Other Related Offences Act 2000

The Independent Corrupt Practices and Other Related Offences Act[97] seeks to prohibit and prescribe punishment for corrupt practices and other related offences which are considered as constituting abuse of office. The Act plays an indirect but significant role in shaping the governance ecosystem in Nigeria, which is critical for ESG incorporation under BITs. While the ICPC Act does not explicitly address ESG principles, its emphasis on anti-corruption and ethical conduct aligns with the governance component of the ESG framework. Sections 8–17 of the Act provide for specific corrupt practices and related offences, including bribery, fraudulent acquisition of property, and gratification by public officials.[98]

These provisions reinforce the governance standards necessary for ESG compliance in the investment landscape. BITs increasingly include anti-corruption clauses or reference compliance with host state laws, including anti-corruption legislation. Thus, the ICPC Act becomes a benchmark for assessing compliance with governance standards by foreign investors under BITs. Nigeria's newer BITs and investment agreements, such as the Nigeria–Morocco BIT (2016), contain provisions that directly or indirectly incorporate ESG considerations. For example, Article 24 of the Nigeria–Morocco BIT explicitly allows the host state to adopt measures necessary for environmental and social protection as well as the Sustainable Development Goals of the United Nations, provided they are non-discriminatory and consistent with the treaty.[99]

Although the ICPC Act does not deal directly with environmental or social aspects, it strengthens the overall governance framework within which such ESG obligations are enforced. Effective anti-corruption laws like the ICPC Act provide a secure environment where ESG principles can be meaningfully integrated and enforced within the scope of BITs.

97 Independent Corrupt Practices and Other Related Offences Act 2000 [ICPC Act]
98 *Ibid*, ss 8-17
99 Nigeria–Morocco BIT (2016), art. 24

4. Analysis of the Effectiveness of the Legal Regime for Application of ESG Standards in Nigeria

A critical examination of the legal regime for implementation of ESG standards in Nigeria reveals some key findings. The first of such findings is that there is no special legislation on ESG standards and their implementation in Nigeria. What is obtainable in Nigeria is the existence of pieces of ESG standards scattered across disparate pieces of legislation regulating different sectors. Thus, there are quite a few laws that have been enacted to address the critical aspects of ESG in Nigeria. For instance, the CFRN has made some key provisions touching on the duty of the Nigerian State to protect the environment,[100] abolish corruption,[101] enhance community participation in the management and exploitation of the country's resources.[102] The CFRN also requires that the management and exploitation of the country's common patrimony should be undertaken for the public good.[103] Furthermore, the CFRN imposes on the government the obligation to provide the basic necessities of life to all citizens of Nigeria, including the vulnerable population, and also makes provisions relating to the implementation of fair labour practices in the workplace,[104] among others. The ACHPR Ratification and Enforcement Act, on its part, provides for the right of every person in Nigeria to a generally satisfactory environment conducive to their development.[105] The ACHPR also protects the right to the best attainable state of health[106] and other socio-economic rights, which if implemented, will go a long way to addressing ESG concerns and resulting in improved environmental consciousness among companies operating in Nigeria.

Similarly, the NESREA, NOSDRA and EIA Acts are key pieces of legislation that support the framework for environmental governance and responsibility in Nigeria. They provide for measures that ought to be taken to protect the environment from unwholesome activities that threaten the health of the people and their environment. In addition, the Labour Act provides the authoritative framework for labour rights, activities and regulates the conditions under which workers are engaged in work in Nigeria. Its emphasis is on the promotion of fair labour practices.

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[100] NESREA Act; NOSDRA Act; EIA Act; CCA; PIA
[101] EFCC Act; ICPC Act
[102] PIA, Chapter 3, ss 234-257
[103] CFRN, s 16(2)(a)
[104] *Ibid*, ss 16(2) and 17(3)
[105] ACHPR Ratification and Enforcement Act, art 24
[106] *Ibid*, art 16

The EFCC and ICPC Acts regulate the anti-corruption, transparency and accountability components of the governance framework. Their emphasis is basically to ensure that persons or entities doing business in Nigeria follow the due process of law in carrying out their business operations, as well as comply with the country's anti-graft laws.

However, despite what would seem to be an avalanche of laws at the federal level of governance in Nigeria, the provisions of some of the key pieces of legislation examined in this paper leave too much gap that are exploited by both the Nigerian authorities and the investors attracted into the Nigerian investment ecosystem, to defeat the aims of ESG advocacy. For instance, the CFRN provisions on the various components of ESG, such as Sections 15(5), 16, 17 and 20, are all domiciled in Chapter II of the CFRN, which are rendered generally non-justiciable by virtue of Section 6(6)(c) of the CFRN.[107] The ACHPR Ratification and Enforcement Act appears to suffer a similar fate. Articles 16 and 24 of the ACHPR Ratification and Enforcement Act which provide for the right of every Nigerian to the best attainable state of health and a generally clean, safe and healthy environment, are still subject to the supremacy of the CFRN. The CFRN is the *grundnorm* and its provisions are supreme, authoritative and supersede the provisions of all other laws in Nigeria.[108] The Supreme Court of Nigeria in *Abacha v Fawehinmi*[109] held that while the ACHPR Ratification and Enforcement Act is a statute with international flavour and therefore superior to Nigerian statutes, it is nevertheless inferior to the CFRN. It would therefore appear that Articles 16 and 24 of the ACHPR Ratification and Enforcement which enshrine the right to the best attainable state of health and a clean, safe and healthy environment, will be caught by the non-justiciability clause in Section 6(6)(c) of the CFRN, which does not generally recognise such rights as enforceable rights.

Apart from these deficiencies in the law, there seems to be no direct textual recognition of the right to a clean, safe and healthy environment in the CFRN.[110] The inclusion of the right to a healthy environment in the ACHPR Ratification and Enforcement Act has proved problematic as the Supreme Court has held that the ACHRPR being a statute with international flavour is only

[107] O V C Ikpeze (n 37)
[108] CFRN, s 1(1) and (3)
[109] (2000) 6 NWLR (Pt 660) 228
[110] O K Anaebo and E Ekhator, 'Realising Substantive Rights to Healthy Environment in Nigeria' (2015) (17) (2) *Environmental Law Review*, 82-99

superior to Nigerian ordinary laws but is subservient to the CFRN.[111] Consequently, it would appear that the provisions of the ACHPR Ratification and Enforcement Act do not provide any significant rescue out of the jigsaw of Section 6(6)(c) of the CFRN, as it cannot provide for rights not directly recognised by the CFRN. Although the Supreme Court seemed to suggest in *Centre for Oil Pollution Watch* v *Nigerian National Petroleum Corporation,*[112] the prospect of the enforcement of Article 24 of the ACHPR Ratification and Enforcement Act as an inextricable component of the right to life under Section 33 of the CFRN, that does not appear to have been done so far, given that the issue before the Supreme Court revolved around the issue of the *locus standi* of the applicant/appellant to maintain the suit. The conclusion is that there appears to be yet a judicial recognition of the enforceability of Article 24 of the ACHPR Act in Nigeria. The only provisions of the ACHPR Act that are enforceable in Nigeria are the provisions that align with the Chapter IV (fundamental rights) provisions of the CFRN, which are constitutionally justiciable.

The Labour Act does not seem to make adequate provisions to protect Nigerian workers for dehumanising labour practices that fall far short of the International Labour Organisation (ILO) standards. Thus, when it comes to job security, casualisation and outsourcing of operations of businesses, it has been suggested that the Labour Act is completely empty.[13] The only relevant provision in the entire Labour Act which deals tangentially with the terms and conditions of employment is section 7. Even at that, the section does not regulate the practice of casualisation in Nigeria, and the inhuman and degrading treatment which multinationals and foreign businesses mete out to Nigerian workers who must settle for just any condition to keep body and soul together. Section 7 requires an employer of labour to give to his employee a written statement containing certain specified terms and conditions of employment within three months of the effective date of employment of the worker. Looking at the above provisions holistically, it is easily seen that there is no hope for the great majority of Nigerian workers who have been trapped in the abyss of casualisation and arbitrary dismissal by multinational corporations operating in the various sectors of the Nigerian economy. For example, the reference to 'worker'

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111 *Abacha v Fawehinmi* (n 109)

112 (2019) 5 NWLR (Pt 1666) 518 [*Centre for Oil Pollution Watch* v *NNPC*]

13 See generally B Atilola, 'Protecting the Rights of Casual Workers in Nigeria: Lessons from Ghana' (2014) (8) (2) *NJLIR* 1, 3; C S Ibekwe, 'Legal Implications of Employment Casualization in Nigeria: A Cross-National Comparison' (2016) *NAUJIL* 34, 36

and 'employee' in the section does not include a worker employed as casual worker or on contract. It appears the two words – worker and employee – used interchangeably throughout the Labour Act, refer to a permanent worker as opposed to casual workers, hence casual workers in Nigeria do not enjoy any form of protection in employment relationships. There is no job security, they are not entitled to severance benefits, sick pay, health insurance, adequate wages on similar terms as those engaged on permanent basis, the right to unionise to demand improved working conditions, and so on.

Apart from the gaps identified in the Nigerian legal framework for the implementation of ESG standards in Nigeria, the other challenge to implementation of ESG is the problem of enforcement of the laws. In addition, the institutional capacity of the Nigerian agencies established to administer and enforce the laws, such as the NESREA, NOSDRA, EFCC, ICPC, and so on, are too weak to withstand the influence of foreign investors and the Nigerian authorities. For instance, there have been documented evidence of extensive environmental pollution in Ogoniland and other parts of the Niger Delta region of Nigeria where oil and gas exploration and exploitation are carried out.[113] The environmental pollution of Ogoniland led to an uprising by the locals in the 1990s declaring SPDC *persona non grata* in their land and shutting in of operations which took place since 1994.[114] However, the response of the Federal Military Government with the backing of SPDC and its parent company, Royal Dutch Shell, against the Ogoni non-violent agitation for environmental responsibility and resistance to continued oil operations in the midst of asphyxiating oilfield practices was brutal.[115]

The SPDC and its parent company, Royal Dutch Shell, were accused of enabling the Federal Military Government of Nigeria to kill, maim, brutalise and sack entire Ogoni communities, displacing the locals into exile. This gale of terror eventually led to the gruesome execution of nine Ogoni leaders and activists, including the renown environmental rights activist, Ken Saro Wiwa.[116] The Ogoni communities have since sued the SPDC in various courts seeking legal

[113] UNEP, *Environmental Assessment of Ogoniland* <https://www.postconflict.unep.ch/publications/OEA/UNEP_CEApdf> accessed 25 March 2026

[114] Amnesty International, 'Shell Complicit in the Arbitrary Executions of Ogoni Nine as Writ Served in Dutch Court' (29 June 2017) <https://www.amnesty.org/en/latest/press-release/2017/06/shell-complicit-arbitrary-executions-ogoni-nine-writ-dutch-court/> accessed 30 March 2026

[115] *Ibid*

[116] *Ibid*

redress for the environmental and human rights violations experienced in the hand of SPDC. Some of these acts of environmental degradation have been litigated in foreign jurisdictions to hold the foreign investors accountable for the breach of global environmental and human rights standards within Nigeria.[117]

Some of such litigations have been determined against the foreign investors, while others are ongoing. The oil pollution claims brought against the SPDC and Royal Dutch Shell in the UK court by Ogale and Bille communities are at various hearing stages.[118] In 2015, the Bodo community in Ogoniland successfully brought an oil pollution claim against SPDC and Royal Dutch Shell in a UK court.[119] The UK court held SPDC culpable for egregious environmental rights abuses in Bodo community and ordered SPDC to pay compensational damages to the villagers as well as remediate their polluted lands and homestead.

In the area of governance and upholding accountability and transparency in corporate governance, MNCs operating in Nigeria have been found to have exploited Nigeria's weak criminal justice framework to commit acts of corruption. In 2021, ENI and SPDC were indicted but acquitted by a Milan court in Italy over allegations of bribery and corruption levelled against the oil giants in their acquisition of Oil Prospecting Licence (OPL) 245 – an oil block in Nigeria.[120] More recently, in the Process and Industrial Developments Limited (P&ID) arbitration proceedings against Nigeria, the Nigerian authorities successfully proved that officials of PI&D – a foreign investor in Nigeria, bribed Nigerian authorities in order to win the contract subject-matter of the arbitral proceedings.[121] This successful proof of corruption led to the UK

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117 *Oguru* v *SPDC*, Case No.: C/09/330891/HA ZA 09-0579 and C/09/365498/ HA ZA 10-1677 <https:// mideudefesien/publicaties/bezwarenuitsparken/final-judgment-oguru-vs-shell-oil-spill-goi> accessed 26 March 2026; *Dooh* v *SPDC*, Case No.:37058/HA ZA 09-1581 and 65482/HA ZA 10-1665 (judgment by the District Court of the Hague delivered on 14 September 2011) <https:…uitsparken/judgement-exibition-bariazaa-tete-dooh> accessed 29 March 2026; *Dooh* v *SPDC*, Case No.: C/09/337058/HA ZA 09-1581 and C/09/365482/HA ZA 10-1665 (Judgment of the District Court of the Hague delivered on 30 January 2013) <https://.../final judgment dooh-vs-shell-oil-goi> accessed 30 March 2026; *Akpan* v *SPDC*, Case No: C/09/337050/HA ZA 09-1580 <https://...final judgment-akpan-vs-shell-oil-spill-ikot-ada-udo/view> accessed 30 March 2026

118 *Okpabi* v *RDS* [2017] EWHC 89 [JCC]; [2018] EWCA CW 191

119 *Bodo v SPDC* (2014) EWHC 1973 (TCC)

120 E Parodi and S Jewkes, 'Italian Court Acquits ENI and Shell in Nigerian Corruption Case' Reuters (18 March 2021) <https://www.reuters.com/article/world/middle-east/italian-court-acquits-eni-and-shell-in-nigerian-corruption-case-idUSKBN2BA0XE/> accessed 30 March 2026

121 M Tandon, 'English Court Allows Challenge to Arbitral Award for Having Been Obtained by Fraud and in Violation of Public Policy' Investment Treaty News (2 April 2024)

High Court setting aside an arbitral award to the tune of $11.5 billion earlier made against Nigeria in favour of P&ID.[122]

5. Conclusion and Recommendations

This paper examined the legal framework for the implementation of ESG standards in Nigeria. The examination revealed that there is no special legislation on ESG standards and their implementation in Nigeria. What is obtainable in Nigeria is the existence of pieces of ESG standards scattered across disparate pieces of legislation regulating different sectors of the Nigerian economy, ranging from the environment, labour, human rights, to anti-corruption. Thus, there are quite a few laws that have been enacted to address the critical aspects of ESG in Nigeria. The discussion in this paper showed that the extant laws in Nigeria contain provisions on ESG standards which, if implemented, will go a long way to addressing ESG concerns, resulting in improved environmental consciousness among companies operating in Nigeria. However, despite what would seem to be an avalanche of laws at the federal level of governance in Nigeria, the provisions of some of the key pieces of legislation examined in this paper leave too much gap that are exploited by both the Nigerian authorities and the investors attracted into the Nigerian investment ecosystem, to defeat the aims of ESG advocacy. Apart from the gaps identified in the Nigerian legal framework for the implementation of ESG standards in Nigeria, the paper argued that other challenges to the implementation of ESG in Nigeria are, the challenge of enforcement of extant laws, as well as the institutional incapacity of the Nigerian agencies established to administer and enforce the laws, such as the NESREA, NOSDRA, EFCC, ICPC, and so on, in effectively carrying out their responsibilities in the face of poor funding, enticement to corruption, inadequate staffing and grossly inadequate operational capabilities.

Among other remedial measures, the paper recommended the enactment of a special ESG-focused legislation that will address the pitfalls in extant laws, and which provides a robust implementation procedure with institutions adequately funded, staffed and equipped to carry out the statutory mandates. To liberate the special-purpose ESG legislation from the non-justiciable

<https://www.iisd.org/itn/en/2024/04/02/english-high-court-allows-challenge-to-arbitral-award-for-having-been-obtained-by-fraud-and-in-violation-of-public-policy/> accessed 30 March 2026

[122] O Holmey, 'Nigeria Wins Landmark Fraud Case against P&ID' The Africa Report (24 October 2023) <https://www.theafricareport.com/325778/nigeria-wins-landmark-fraud-case-against-pid/> accessed 30 March 2026

trap of Section 6(6)(c) of the CFRN, the paper recommends the immediate amendment of the CFRN by the National Assembly, to make direct constitutionally enforceable provisions on the right to a clean and healthy environment, as well as rendering the provisions of Chapter II of the CFRN justiciable. In addition, governments at all levels should be made to implement the ESG rights stipulated in the special-purpose ESG legislation, and the Nigerian citizens should be granted liberalised *locus standi* to enforce ESG standards in Nigerian courts, in line with global best practices.