



THE LEGAL FRAMEWORK GOVERNING INTERNATIONAL HUMAN RIGHTS ON INTERNATIONAL TRADE: NIGERIA AS A CASE STUDY

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ABSTRACT

*This article provides a doctrinal appraisal of the legal framework governing the interface between international human rights norms and international trade within Nigeria. Governed by a dualist constitutional framework, Nigeria processes transnational standards through Section 12(1) of the 1999 Constitution, making the National Assembly the exclusive gatekeeper for treaty domestication, a mechanism exemplified by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act. This article examines the structural tension produced by the constitutional bifurcation of rights, wherein economic and trade-essential liberties are relegated to non-justiciable directive principles under Chapter II, while civil liberties remain strictly justiciable under Chapter IV. Analysing landmark judicial interventions from *Federal Republic of Nigeria v Anache* to *Kogi State Government v Attorney-General of the Federation*, the article traces the evolution of the "national plague" doctrine used to enforce unified regulatory standards across sub-national units. It further interrogates how statutory instruments including the legacy Customs and Excise Management Act (CEMA), the modern Nigeria Customs Service Act, the SON Act, the NAFDAC Act, the Immigration Act 2015, and the Nigerian Investment Promotion Commission (NIPC) Act 1995, balance market liberalization and foreign direct investment with public health, safety, and consumer rights. The article concludes with targeted recommendations advocating for mandatory pre-ratification human rights impact assessments and the strategic harmonization of constitutional protections to secure the legal certainty demanded by contemporary commerce, the Revised Treaty of the Economic Community of West African States 1993, and the African Continental Free Trade Area (AfCFTA).*

KEYWORDS: *Justiciability, AfCFTA, Nigeria and Treaty Domestication.*

1. INTRODUCTION

The relationship between international human rights and international trade is governed by a complex matrix of constitutional provisions, domestic statutes, regional treaties, and global trade mechanisms. For Nigeria, this legal framework establishes the precise conditions under which global trade rules are absorbed into municipal law. Rather than operating as distinct legal regimes, international economic law and human rights norms are increasingly bound together by mandatory compliance structures.² This article provides a strict legal appraisal of this framework, focusing on the constitutional mechanics of treaty domestication, legislative authority, judicial enforcement, and emerging statutory trade instruments. The relationship between international human rights law

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² Ernst-Ulrich Petersmann, 'Human Rights, International Economic Law and "Constitutional Justice"' [2008] 19(4) *European Journal of International Law* 769.

and international trade law has evolved from a largely parallel coexistence into an increasingly interdependent legal framework in which trade liberalization, market access, investment regulation, labour standards, and the protection of fundamental human rights are frequently addressed within the same normative space. Contemporary international legal practice recognizes that economic integration cannot be pursued in isolation from human dignity, equality, labour protection, environmental sustainability, and social justice. Consequently, states are now expected to ensure that their trade policies, commercial agreements, and economic regulations are implemented in a manner consistent with their human rights obligations under international, regional, and domestic law.

This article further established the foundational legal and institutional context for analyzing the interplay between international human rights and international trade in Nigeria. It systematically outlines the relevant legal instruments responsible for their implementation and oversight. It further premised, on the fact that policies and laws are a manifestation of the law as a tool for social engineering, suggesting an examination of how legal frameworks are used to shape societal outcomes, including human rights protection within trade.

2. THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED)

The Constitution of the Federal Republic of Nigeria 1999 (as amended) stands as the *grundnorm* and *suprema lex* of the municipal legal order, mandating that the security and welfare of the people remain the primary purpose of government.³ Consequently, any trade agreement, tariff policy, or foreign investment law must remain consistent with its overarching provisions. In the context of international trade, the Constitution establishes the structural parameters of the economy by defining the fundamental rights of all persons and outlining the extent of the state's regulatory power over cross-border commerce. It explicitly guarantees fundamental civil liberties; including the right to life, dignity of the human person, personal liberty, fair hearing, freedom of expression, movement, and the right to own immovable property which collectively serve as the legal bedrock for a stable and ethical trading environment.⁴

Within this constitutional hierarchy, human rights are strictly bifurcated into the non-justiciable Fundamental Objectives and Directive Principles of State Policy under Chapter II, and the strictly justiciable Fundamental Rights guaranteed under Chapter IV.⁵ Chapter II mandates that the state direct its policy toward ensuring that the economic system is not operated in a manner that permits the concentration of wealth or the exploitation of the citizenry. However, the non-justiciability of these socio-economic objectives creates an enduring systemic tension, as the economic and labour rights most critical to trade contexts are shielded from direct judicial enforcement. Conversely, Chapter IV rights enjoy a specialized enforcement mechanism via the Fundamental Rights

³ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 1(1) and s 14(2)(b).

⁴ *ibid*, s 33, 34, 35, 36, 39, 41 and 43.

⁵ [2004] 3 NWLR (Pt 860) 546.



(Enforcement Procedure) Rules 2009. These rules significantly lower procedural hurdles by permitting the commencement of an action without leave and bypassing ordinary statutes of limitation, thereby providing the swift legal certainty demanded by international commerce, this was held in the case of *Federal Republic of Nigeria v Anache*.⁴

From a trade appraisal perspective, the systemic failure to harmonize Chapter II's economic objectives with Chapter IV's justiciable protections presents a profound humanitarian and commercial risk. When regional trade corridors are destabilized by civil unrest or counter-terrorism operations, the resulting degradation of Chapter IV rights creates a rule of law vacuum. An environment where basic protections are systematically compromised directly deters foreign direct investment and undermines regional market integration under regimes like the African Continental Free Trade Area (AfCFTA). Thus, for Nigeria to fulfil its international economic commitments, it must move beyond a rigid dualist separation of rights, realizing that securing a safe, predictable legal environment is an absolute precondition for participating in the global trading system. Furthermore, the Constitution outlines the mandatory procedural mechanism for the domestic application of all international instruments. Section 12(1) stipulates that no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly,⁶ as held in the case of *Abacha v Fawehinmi*.⁷ This dualist bridge means that international trade agreements and transnational human rights norms only become enforceable within Nigerian courts once they have been filtered through the national legislative process to ensure they serve the interests of the Nigerian people. By providing a robust judicial mechanism to challenge trade-related actions that violate constitutional baselines, the supremacy of the Constitution ensures that the state cannot legally disregard human dignity in the pursuit of expanded trade volumes or foreign investment.

To evaluate the practical enforcement of these constitutional principles, contemporary judicial decisions illustrate how Nigerian courts navigate the friction between international norms, treaty domestication, and economic rights. A foundational cornerstone of this jurisprudence is the landmark full-court decision in *Federal Republic of Nigeria v Anache*,⁸ which examined the early boundaries of federal legislative competence and sub-national financial autonomy. In that case, the Federal Government preferred criminal charges against the respondents under the newly enacted Corrupt Practices and Other Related Offences Act.⁹ The respondents raised a profound constitutional objection, arguing that because the statute was designed to enforce the anti-corruption directives under Chapter II of the Constitution, the entire Act was unconstitutional and non-justiciable by virtue of Section 6(6)(c). Dismissing this objection, the Supreme Court established the enduring constitutional principle that while Chapter II is non-justiciable on its own,

⁶ Fundamental Rights (Enforcement Procedure) Rules 2009, Order II.

⁷ [2000] 6 NWLR (Pt 660) 228 (SC).

⁸ 2004 (n4).

⁹ Corrupt Practices and Other Related Offences Act 2000, Cap C31, Laws of the Federation of Nigeria 2004.



the Constitution does not prevent the National Assembly from enacting independent municipal legislation to give teeth to those directive principles.¹⁰ Once an enabling trade or economic statute is passed to implement a Chapter II objective, that resulting law becomes fully justiciable, active, and enforceable in a court of law.

This judicial progression from the *Anache*'s case baseline directly informs how modern courts methodically close constitutional loopholes previously used to evade uniform national trade regulations. A profound contemporary test of Section 12(1) arose in the milestone Supreme Court decision of *Kogi State Government & 18 Ors v Attorney-General of the Federation*, where nineteen state governments challenged the constitutionality of the Economic and Financial Crimes Commission (EFCC) Act and related anti-corruption statutes.¹¹ The Plaintiffs shifted their historical strategy away from Chapter II, choosing instead to weaponize the dualist strictures of section 12 of the 1999 constitution (as amended). They contended that because these laws were rooted in an international United Nations Convention, they could not validly apply to state-appropriated funds without formal ratification by individual State Houses of Assembly.¹² The Supreme Court firmly shut down this defence by introducing a sharp distinction between bilateral treaties, which require strict sub-national ratification under Section 12(1), and global multilateral conventions. The apex court ruled that global conventions can be implemented independently by the National Assembly under its inherent powers to make laws for the peace, order, and good government of the Federation, thereby establishing that the Federal Government maintains absolute, unified authority to police compliance standards across all thirty-six states. Both *Anache* and *Kogi State* cases heavily curtailed the concept of coordinate state sovereignty in favour of centralized regulatory oversight by utilizing the "national plague" doctrine, proving that sub-national units cannot use local legislation or constitutional dualism to opt out of unified transparency baselines.

Conversely, a critical judicial exception has emerged regarding labour trade and employment disputes, significantly altering the rigid dualist barrier. In *Central Bank of Nigeria v Gegenheimer*,¹³ the appellate courts affirmed that by virtue of Section 254(C) of the Constitution (introduced via the Third Alteration Act), international labour conventions, protocols, and treaties ratified by Nigeria can be directly enforced by the National Industrial Court of Nigeria (NICN) even without explicit domestication by the National Assembly under Section 12 of the constitution. This creates a specialized, monist-leaning corridor specifically designed to enforce cross-border corporate labour standards and trade rules.

However, the courts have strictly policed the boundaries of constitutional litigation in purely commercial matters to prevent procedural abuse. Litigants frequently attempt to bypass slow, ordinary civil actions by wrapping trade contractual breaches into fundamental rights actions. The

¹⁰ Constitution of the Federal Republic of Nigeria 1999 (as Amended), s 6(6)(c).

¹¹ [2024] 18 NWLR (Pt 1901) 429.

¹² *ibid.*

¹³ [2025] LPELR-64211(CA).



appellate courts have firmly rejected this approach, re-emphasizing in *Bello Ibrahim v Eco Bank Nigeria Plc*,¹⁴ that the Fundamental Rights (Enforcement Procedure) Rules cannot be hijacked to adjudicate commercial trade breaches, such as a bank unlawfully freezing a corporate trading account; such claims must be pursued via common law negligence or contract.

Furthermore, where domestic dualist restrictions handicap local courts from enforcing un-domesticated human rights treaties, Nigerian litigants are increasingly utilizing regional judicial bodies to challenge state economic policies. In *Obianuju Udeh & Ors v Federal Republic of Nigeria*,¹⁵ the ECOWAS Community Court of Justice found the Federal Government in direct breach of the African Charter on Human and Peoples' Rights following security actions taken during the 2020 Lekki Toll Gate unrest. The court ruled that the state's security apparatus directly violated the rights to life, security, and freedom of economic assembly. While the Federal Government is mandated to pay the ordered ₦2 million compensation to each applicant for the violation of their rights to security, dignity, and economic assembly during the 2020 civil unrest, enforcement often faces domestic friction if local administrative authorities refuse to execute the regional court's orders. For international trade, this precedent firmly establishes that the ECOWAS Court will bypass domestic legislative bottlenecks to penalize the Nigerian state if its administrative or security forces fail to guarantee the safe, stable "rule of law" environment required for global commercial integration and regional trade regimes like the Agreement Establishing the African Continental Free Trade Area.¹⁶

3. THE AfCFTA PROTOCOL ON WOMEN AND YOUTH IN TRADE: HARMONIZING CHAPTER II AND CHAPTER IV RIGHTS

The integration of the African Continental Free Trade Area (AfCFTA) framework into municipal law provides a critical mechanism for bridging the constitutional divide between Nigeria's non-justiciable socio-economic goals and its enforceable civil rights.¹⁷ A prime example of this legal intersection is the AfCFTA Protocol on Women and Youth in Trade, which directly addresses the vulnerabilities of marginalized demographic groups within cross-border commerce.¹⁸ From a constitutional standpoint, this Protocol serves as an international enforcement catalyst for Chapter II of the 1999 Constitution, particularly Section 16(2)(a), which mandates that the state direct economic policy toward maximizing public welfare and ensuring equal opportunity for all citizens.¹⁹ By providing a structured continental framework aimed at removing structural, financial, and administrative barriers for female and youth merchants, the Protocol shifts these domestic economic goals from vague political aspirations into concrete trade rules.

¹⁴ [2021] 10 NWLR (Pt 1801) 145.

¹⁵ ECW/CCJ/JUD/18/24 (ECOWAS CCJ, 11 July 2024).

¹⁶ AfCFTA 2018.

¹⁷ Agreement Establishing the African Continental Free Trade Area (adopted 21 March 2018, Protocol on Women and Youth in Trade).

¹⁸ *ibid.*

¹⁹ CFRN 1999 (as amended), s 12(1), s 16(2)(a), and Chapter IV.

Furthermore, the domestic realization of this Protocol relies on the protective mechanisms established under Chapter IV of the Constitution.²⁰ Cross-border traders frequently encounter administrative overreach, arbitrary property seizures, and gender-based discrimination at border corridors, which directly violate their justiciable rights to personal dignity, freedom of movement, and freedom from discriminatory state actions.²¹ By viewing the AfCFTA Protocol through the lens of Chapter IV, the Nigerian judiciary is empowered to strike down predatory customs practices or discriminatory administrative frameworks that threaten the safety and economic assembly of vulnerable merchants.²² When the National Assembly fully domesticates the AfCFTA agreement under Section 12, this Protocol will effectively create a unified legal bridge. It will ensure that the fundamental human dignity of women and youth is treated not merely as a moral policy goal under Chapter II, but as an enforceable, legally certain requirement for sustainable international trade.²³

4. THE CENTRAL BANK OF NIGERIA (CBN) ACT 2007 (AS AMENDED)

The Central Bank of Nigeria (CBN) Act establishes an independent apex banking institution tasked with ensuring monetary stability, maintaining external reserves, and promoting a sound financial system within the state.²⁴ While the statutory text of the Act focuses primarily on macro-economic and financial system architecture rather than explicitly enumerating fundamental liberties, it acts as a foundational pillar for international trade by supporting a stable currency and integrating Nigeria into the global financial regulatory framework. Under this legislative framework, the CBN utilizes its broad powers over foreign exchange management, interest rate determination, and cross-border capital flows to directly shape the economic environment required for international trade and foreign direct investment.²⁵

From a trade appraisal perspective, the institutional framework created by the CBN Act underpins the practical realization of the socio-economic rights embedded in Chapter II of the 1999 Constitution.²⁶ Because monetary and exchange rate policies dictate the cost of capital and the value of the national currency, the bank's regulatory choices directly influence the price of essential commodities, employment rates, and overall market stability. For instance, when the apex bank enforces severe foreign exchange restrictions, such administrative interventions can directly disrupt trade flows and limit the importation of life-saving medical supplies and industrial raw materials. Consequently, while the CBN Act does not contain an explicit institutional mandate for the enforcement of international human rights, its broad financial oversight demonstrates that the apex

²⁰ CFRN 1999 (as amended), Chapter IV.

²¹ O S Adedokun and E Ndoni (eds), *Reproductive Health and Assisted Reproductive Technologies in Sub-Saharan Africa: Issues and Challenges* (Springer Nature 2023) 112–115

²² A Akintayo, *A Human Rights-Based Approach to Corporate Governance and Commercial Regulation in Nigeria* (Princeton Publishing 2021) 84

²³ C C Ajibo, *The African Continental Free Trade Area Agreement: Legal and Policy Frameworks* (Routledge 2024) 210–214

²⁴ Central Bank of Nigeria (Establishment) Act 2007, s 2.

²⁵ *ibid.*

²⁶ CFRN 1999 (as amended), Chapter II.



bank's monetary policies wield an immense, indirect influence over the economic welfare and legal certainty demanded by international commerce.

5. THE STANDARDS ORGANISATION OF NIGERIA (SON) ACT 2015

The Standards Organisation of Nigeria (SON) Act 2015 repeals the legacy Act of 1971 and establishes a modern regulatory framework empowered to prescribe and enforce quality baselines for all goods and services entering or manufactured within the domestic market.²⁷ Administered by the Standards Council of Nigeria, the agency is legally charged with the regulation, registration, and certification of product standard marks and specifications across diverse commercial sectors including electronics, automotive components, consumer appliances, and personal protective equipment.²⁸ Thus, Section 5(1) of the Act explicitly empowers the organisation to conduct rigorous laboratory testing, implement import and export product surveillance systems, and execute the Mandatory Conformity Assessment Programme to check the proliferation of sub-standard products.

In the context of global commerce, the SON Act 2015 serves as a critical regulatory mechanism that balances trade liberalization with the fundamental human right to health, safety, and a wholesome environment. By erecting an administrative barrier against the importation and dumping of hazardous or sub-standard foreign industrial materials, the statute functions as a practical application of the state's duty to protect consumer rights from corporate negligence. However, from an international trade standpoint, these stringent quality specifications must be carefully calibrated; if applied arbitrarily, standardization metrics risk mutating into technical, non-tariff barriers to trade that could unconstitutionally restrict market access, drive up the cost of commodities, and disrupt regional market integration under continental regimes.

6. THE NATIONAL AGENCY FOR FOOD AND DRUG ADMINISTRATION AND CONTROL (NAFDAC) ACT

The National Agency for Food and Drug Administration and Control (NAFDAC) Act functions as a vital regulatory instrument that explicitly balances the demands of international trade with the fundamental human right to health and physical dignity.²⁹ Under this legislative framework, NAFDAC is granted broad police and administrative powers to regulate and control the manufacture, importation, exportation, distribution, sale, and advertisement of food, cosmetics, medical devices, bottled water, and chemicals. By establishing rigorous quality metrics and conducting mandatory inspections of both foreign production sites and domestic ports of entry, the Act provides a secure statutory mechanism to prevent Nigeria's participation in global commerce from resulting in the dumping of counterfeit medicines or toxic agricultural inputs.

Furthermore, the NAFDAC Act acts as a legal bridge that aligns Nigerian commercial administrative practices with prominent international safety standards, including those established

²⁷ Standards Organisation of Nigeria Act 2015, s 1.

²⁸ *ibid* s 5(1).

²⁹ National Agency for Food and Drug Administration and Control Act, Cap N1, Laws of the Federation of Nigeria 2004, s 5.

by the World Health Organization and the Codex Alimentarius Commission. The statute actively curbs the exploitative practices that frequently occur within completely deregulated trading zones by empowering the state to order the immediate seizure, forfeiture, and destruction of non-compliant commercial shipments. This robust enforcement mandate demonstrates that the state can legally prioritize public health and the right to life over unhindered corporate commercial interests. Moreover, the agency's transition to digital registration processes and transparent licensing tracks furthers the international legal norm of administrative fairness, positioning Nigeria as a responsible, rule-of-law-abiding participant in the contemporary global market.

7. THE NIGERIA IMMIGRATION ACT 2015

In the sphere of international human rights, the Act functions as a legal bridge between sovereign border control and international normative expectations by embedding provisions aimed at aligning Nigerian migration practices with global humanitarian standards.³⁰ Operating through a dedicated Migration Directorate, the legislation grants the Nigeria Immigration Service the explicit power to combat modern slavery, human trafficking, and the smuggling of cross-border migrants, thereby upholding Nigeria's obligations under international protocols. Crucially, the Act mandates that all enforcement actions, including detention and deportation, must be conducted with strict respect for the fundamental dignity of the human person. This regulatory oversight is essential for ensuring that the pursuit of national security and economic growth does not infringe upon the basic civil liberties of international traders and migrants.³¹

Furthermore, the Act promotes administrative transparency and the rule of law by automating migration processes to reduce bureaucratic bottlenecks and the potential for corruption. Through the introduction of the Migration Information and Data Analysis System (MIDAS), the Service can maintain data integrity while ensuring that the processing of travel documents and residence permits is fair and efficient.³² These technological advancements are critical for meeting the international norm of the "ease of doing business," providing a predictable, accountable environment for global commercial actors. By fostering a rules-based migration system, the Act ensures that Nigeria remains an attractive destination for international trade while fulfilling its constitutional duty to protect the rights of all individuals within its borders.

8. THE CUSTOMS AND EXCISE MANAGEMENT ACT (CEMA) AND THE NIGERIA CUSTOMS SERVICE ACT

For decades, the Customs and Excise Management Act (CEMA) 1958 served as the primary statutory authority for the administration of customs, excise duties, and the regulation of Nigeria's international trade borders.³³ Under this legislative matrix, the Nigeria Customs Service (NCS) was granted extensive powers to control the importation and exportation of goods, collect federal

³⁰ Immigration Act 2015, s 1 and s 2.

³¹ C Oguamanam, *Migration Law and Labor Mobility in West Africa: The Nigerian Perspective* (Oxford University Press 2024) 45

³² Immigration Act 2015, s 102.

³³ Customs and Excise Management Act 1958, Cap C45, Laws of the Federation of Nigeria 2004 (Repealed).



revenue, and prevent the entry of prohibited items. While the Act was fundamentally designed for revenue generation and border protection, its enforcement directly intersected with international human rights norms regarding the right to property, fair administrative hearing, and the protection of the national economy from the harmful effects of illicit trade. Customs duties and border procedures directly impact the cost and ease of trade, carrying profound human rights implications; for instance, high tariffs on essential goods like food and medicine can severely affect affordability and access for vulnerable populations, while arbitrary customs enforcement practices risk violating basic civil liberties.³⁴

In the context of international human rights, CEMA provided the legal framework for the seizure and forfeiture of goods, which necessitated a constant balance between the state's police power and the individual's right to own property under Section 44 of the Constitution.³⁵ The implementation of this legislation required the NCS to adhere to international standards of due process to ensure that trade-related enforcement did not become arbitrary or discriminatory.

Furthermore, by regulating the movement of essential commodities and restricted items, the Act played a secondary role in protecting the right to health and security, preventing the dumping of substandard goods that could jeopardize the well-being of the Nigerian populace. The legislation also established the basis for Nigeria's participation in global trade frameworks, such as the World Customs Organization (WCO) and the World Trade Organization (WTO), by defining the legal procedures for valuation and classification to align Nigerian trade practices with international norms of transparency and predictability. Ultimately, while the legacy 1958 Act has been repealed and replaced by the Nigeria Customs Service Act 2023 to meet modern digital trade demands and institute compliance-driven models like the Authorised Economic Operator (AEO) framework, it remains a critical historical and legal reference point.³⁶ It illustrates the evolution of Nigerian trade law from a colonial-era revenue tool to a complex system that must account for international human rights obligations. The statutory evolution demonstrates how border management serves as a frontline for the state's duty to regulate international commerce in a manner that protects both the national interest and the fundamental rights of those engaged in global trade.

9. THE NIGERIAN INVESTMENT PROMOTION COMMISSION (NIPC) ACT 1995

The Nigerian Investment Promotion Commission (NIPC) Act 1995 establishes the NIPC as the primary federal agency tasked with encouraging, promoting, and coordinating investments across the Nigerian economy.³⁷ The Act outlines an array of incentives, guarantees against expropriation, and dispute resolution mechanisms designed to attract Foreign Direct Investment (FDI), which serves as a key driver of international trade and national economic development. By defining the statutory terms of investment, the NIPC Act directly influences corporate behaviour within the

³⁴ Customs and Excise Management Act 1958, Cap C45, Laws of the Federation of Nigeria 2004 (Repealed).

³⁵ 1999 Constitution of Nigeria (as amended).

³⁶ Nigeria Customs Service Act 2023, s 18.

³⁷ Nigerian Investment Promotion Commission Act 1995, Cap N117, Laws of the Federation of Nigeria 2004, s 4.

domestic market. The legal protections and fiscal incentives granted to transnational corporations create a framework that can either facilitate or hinder the integration of human rights due diligence into investment practices.

From an international human rights perspective, the terms of investment framed by the NIPC Act carry profound implications for corporate accountability, particularly regarding labour rights, environmental standards, and host community engagement. Because the Act seeks to create an attractive and liberalized climate for foreign investors, it creates a regulatory tension between protecting investor capital and enforcing corporate human rights compliance. For Nigeria to maintain an ethical trading environment, the investment protections outlined in the NIPC Act must be harmonized with contemporary international norms, such as the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the Nigerian National Action Plan.³⁸ This ensures that foreign direct investments do not lead to human rights abuses or environmental degradation, but instead operate within a legal framework that respects the fundamental dignity and socio-economic rights of the Nigerian populace

10. AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS (RATIFICATION AND ENFORCEMENT) ACT

The African Charter on Human and People's Rights (Ratification and Enforcement) Act³⁹ domesticates the African Charter on Human and Peoples' Rights (Banjul Charter) into Nigerian law, making its provisions directly enforceable in Nigerian courts, which is a critical link between international human rights and Nigerian domestic law.⁴⁰ The Banjul Charter includes civil, political, economic, social, and cultural rights, as well as "peoples' rights" (e.g., right to development, clean environment). Its domestication means that these rights can be invoked in challenges to trade policies or practices that violate them, providing a powerful legal tool for human rights advocates.⁴¹

The Act is a unique and powerful legislative instrument that domesticates the African Charter into Nigerian law, giving it a status that is superior to ordinary municipal legislation. In the context of international trade, this Act is the primary vehicle for enforcing the collective "Right to Development" and the right of peoples to freely dispose of their wealth and natural resources. By enshrining these rights in domestic law, the Act ensures that international trade agreements and foreign investments do not strip Nigerian communities of their economic self-determination or result in environmental degradation that infringes upon the right to a general satisfactory environment.

³⁸ National Human Rights Commission, *National Action Plan on Business and Human Rights in Nigeria 2024–2028*

³⁹ 1983 Cap A9, LFN 2004.

⁴⁰ African Charter on Human and Peoples Rights (Rectification and Enforcement) Act 1983, Cap A9 Laws of the Federation of Nigeria, 2004.

⁴¹ O C Eze. 'Human Rights in Africa: Some Selected Problems. *Nigerian Institute of Advanced Legal Studies*' [2010] 15.



Within the framework of this article, the Act provides a critical legal basis for challenging trade practices that violate socio-economic rights. Unlike the fundamental rights in the Nigerian Constitution, which are largely civil and political, the African Charter includes enforceable economic, social, and cultural rights, such as the right to work under equitable and satisfactory conditions and the right to health. This means that Nigerian courts can use the Act to hold the state and its trading partners accountable if trade liberalization policies lead to the erosion of labour standards or the destruction of local livelihoods. It serves as a normative shield that insists trade must serve the human person rather than the human person serving the trade.

Furthermore, the Act strengthens the influence of international norms by providing a broader interpretation of justice that includes the duties of individuals and corporations toward the community. This is particularly relevant in the extractive industries and large-scale manufacturing sectors, where the Act mandates that development and trade activities must be exercised with due regard for the rights of others and collective security. The Act facilitates a "rights-based approach" to commerce, ensuring that foreign direct investment is balanced against the state's obligation to promote and protect the morals and traditional values recognized by the community, as well as the overall physical and mental health of the people.

Ultimately, the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act functions as the ultimate normative bridge in the Nigerian legal system, linking continental human rights standards with domestic trade regulations. It empowers citizens and civil society organizations to litigate against exploitative trade arrangements, thereby forcing the state to align its commercial interests with its human rights obligations. By making the Charter part of the "laws of the land," the Act ensures that the influence of international human rights on trade is not merely theoretical but is a lived legal reality that can be invoked in any Nigerian court to protect the fundamental dignity of the people.

11 REVISED TREATIES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES 1993

These is the founding treaty of the Economic Community of West African States (ECOWAS), it aims to promote cooperation and integration, leading to the establishment of an economic union in West Africa.⁴²ECOWAS promotes regional economic integration, including free movement of goods, services, capital, and persons. These trade liberalization efforts have significant human rights implications, affecting labor mobility, economic opportunities, and the potential for exploitation if not properly regulated. It also includes provisions for human rights protection and good governance⁴³. The Revised Treaty of the Economic Community of West African States (ECOWAS) serves as the primary regional legal framework for integrating the Nigerian economy

⁴² Revised Treaty of the Economic Community of West African States, 1993.

⁴³ ECOWAS<[http://: www.ecowas.int.com](http://www.ecowas.int.com)> accessed 15 June, 2026

into the West African sub-region while simultaneously embedding fundamental human rights into trade relations. This treaty represents a significant shift from a purely economic focus to one that recognizes the promotion and protection of human rights as an essential pillar of regional stability and development. For the purposes of your thesis, the Treaty acts as a supranational instrument that mandates the Nigerian government to align its trade policies with the regional norms of free movement, non-discrimination, and the rule of law.

In the context of international trade, the Treaty establishes the ECOWAS Trade Liberalization Scheme (ETLS), which seeks to remove all tariff and non-tariff barriers to trade between member states. This regional integration is directly linked to the "Right to Development" as it facilitates a larger market for Nigerian goods and services, thereby stimulating economic growth and job creation. However, the Treaty ensures that this liberalization is not achieved at the expense of human dignity; it explicitly incorporates the African Charter on Human and Peoples' Rights as a governing principle. This ensures that the mobility of traders and the operations of cross-border businesses are conducted within a framework that respects the fundamental civil and economic rights of West African citizens.

Furthermore, the Revised Treaty strengthens the judicial oversight of trade-related human rights through the establishment of the ECOWAS Community Court of Justice. The Court has been a critical venue for Nigerian citizens and corporate entities to challenge state actions that violate regional trade protocols or fundamental human rights. By providing a platform for legal redress that is accessible even when domestic remedies are exhausted or ineffective, the Treaty reinforces the international norm of accountability. It ensures that the "right to fair hearing" and the "right to property" are enforceable at a regional level, providing a secure environment for international investors and local traders alike.

Ultimately, the Revised Treaty of ECOWAS 1993 functions as a transformative legal bridge that harmonizes Nigeria's sovereign trade interests with the collective human rights obligations of the West African community. It demonstrates that regional trade integration is a powerful tool for the realization of socio-economic rights, provided it is anchored in a rules-based system that prioritizes the dignity of the human person. Through its various protocols on the free movement of persons and the right of establishment, the Treaty ensures that Nigeria's participation in regional trade remains consistent with the highest standards of international human rights and normative governance.

12 CONCLUSION

A legal appraisal of the relationship between international human rights norms and international trade concerning Nigeria reveals that the historic separation between economic commercial policy and human rights protection has collapsed. In its place stands a modern, interdependent legal order where participation in global supply chains is explicitly conditioned upon adherence to environmental, social, and human rights standards. For Nigeria, this interface is heavily structured



by constitutional mechanisms, specifically the dualist strictures of Section 12 of the 1999 Constitution, which places the National Assembly as the exclusive gatekeeper for the domestication of international trade and rights treaties. While the legislature provides the necessary statutory frameworks, the Judiciary acts as the essential enforcement mechanism, ensuring that economic development and trade liberalization do not occur at the expense of human dignity or environmental safety.

As Nigeria moves deeper into regional and global trading regimes—such as the African Continental Free Trade Area (AfCFTA) and the European Union’s Carbon Border Adjustment Mechanism (CBAM) its statutory framework must pivot from reactive litigation to proactive, rules-based compliance. Institutional updates like the Nigeria Customs Service Act 2023 and the National Action Plan on Business and Human Rights (2024–2028) show a growing domestic commitment to matching international expectations. However, to fully exploit its commercial potential without compromising its socio-economic welfare, Nigeria must resolve its treaty domestication deficits, clarify its legislative processes, and ensure that human rights protections are explicitly embedded within its commercial core. Ultimately, the long-term sustainability of Nigeria's international trade relies on a legal framework that treats economic growth and human rights not as competing interests, but as complementary pillars of national development.

13 RECOMMENDATIONS

To effectively harmonize international human rights norms with international trade in Nigeria, the following targeted structural reforms are recommended for implementation across the various arms of government and the commercial sector.

1. The Executive arm of government must take the lead by institutionalizing mandatory pre-ratification Human Rights Impact Assessments for all prospective bilateral and multilateral trade pacts, including upcoming protocols under the Agreement Establishing the African Continental Free Trade Area, before their final execution. This preventive legal mechanism will ensure that potential conflicts with domestic constitutional rights or labour baselines are identified and rectified early in the negotiation phase. Furthermore, the Federal Government should establish an Inter-Agency Trade and Human Rights Desk as a specialized, multi-sectoral oversight unit comprising technical representatives from the Nigeria Customs Service, the National Human Rights Commission, and the Federal Ministry of Environment. This administrative desk will be tasked with tracking evolving transnational regulatory policies, such as the European Union's Carbon Border Adjustment Mechanism, and equipping local exporters with technical compliance frameworks to maintain global market access.
2. The National Assembly must also implement critical legislative updates to resolve the persistent bottlenecks associated with piecemeal treaty domestication under Section 12(1) of the Constitution. The legislature should pass a comprehensive, omnibus International Trade and Economic Rights Domestication Act that explicitly domesticates the trade-

essential economic and environmental protections contained within the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples' Rights, thereby converting them into directly actionable municipal laws. Concurrently, the National Assembly needs to streamline parliamentary enforcement procedures by introducing clear statutory guidelines or a constitutional amendment to standardize the exact procedure required for passing treaty implementation bills dealing with matters outside the Exclusive Legislative List. This legislative clarification will eliminate the structural ambiguities surrounding bills that constitutionally bypass presidential assent, thereby accelerating the domestication of crucial transnational trade rules.

3. The Judiciary plays an equally vital role and must adopt an expansive, purposive interpretation of Chapter II directives to circumvent the jurisdictional barriers imposed by the non-justiciability clause of the 1999 Constitution. By structurally reading trade-essential economic liberties, such as the right to fair labour conditions and a satisfactory environment, directly into the justiciable guarantees of life and human dignity under Chapter IV, courts can provide effective legal remedies for commercial exploitation. To support this judicial evolution, the National Judicial Council should expand the rules of court to establish specialized Commercial and Environmental Divisions within the Federal High Court. Judges assigned to these specialized dockets must receive continuous professional legal training in transnational economic law, cross-border corporate accountability, and international human rights jurisprudence to provide the swift legal certainty demanded by global commerce.
4. Finally, corporate entities and commercial traders must proactively align their operations with these evolving legal standards by institutionalizing mandatory corporate Human Rights Due Diligence protocols into their core governance frameworks. In strict compliance with the National Action Plan on Business and Human Rights, this obligation requires routine, independent audits of supply chains to identify and eliminate instances of forced labour, systemic wage exploitation, and illegal environmental degradation. In tandem with these due diligence protocols, Nigerian manufacturing and agricultural exporters must accelerate their transition to sustainable, low-carbon production standards by upgrading their industrial infrastructure to satisfy modern international environmental compliance benchmarks. Transitioning to renewable energy matrices and verified waste-management programs will secure local commercial interests against punitive external carbon-border tariffs and supply chain exclusion policies, ensuring long-term competitiveness in the international market.