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## **Integrating Informal Institutions in the Regulation of Effective Corporate Social Responsibility in Nigeria's Extractive Industry**

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# Integrating Informal Institutions in the Regulation of Effective Corporate Social Responsibility in Nigeria's Extractive Industry

## Abstract

Nigeria's corporate social responsibility (CSR) framework has evolved to tackle various social and environmental issues, especially within the extractive sector. Despite the increasing focus on CSR, environmental degradation and community dissatisfaction persist, highlighting the necessity for genuine engagement with local populations. The paper examines Nigeria's extractive industry's CSR ideology, its regulatory landscape, and the significance of old institutional economic theory in formulating effective CSR practices. It argues that by acknowledging the influence of informal institutions – including community norms, values, families, religion and social networks – companies can refine their CSR strategies, promoting sustainable development and equitable benefit-sharing with communities impacted by resource extraction. Integrating local realities into CSR approaches can enhance corporate-community relations and foster prosperity in Nigeria's oil-rich regions, paving the way for more responsible and impactful business practices.

**Key Words:** Corporate social responsibility, informal institutions, regulation, old institutional economic theory, extractive industry, Nigeria

## Introduction

Corporate social responsibility (CSR) is said to have originated in the United States and can be mainly traced to boycotts in the 19th century of foodstuffs produced with slave labour.<sup>1</sup> The boycott was linked to companies' obligations to consider employees' interests by providing a good working environment and other benefits.<sup>2</sup> In this context, CSR began as a tool to hold corporations accountable for their social impacts, viewed primarily as philanthropy rather than a core component of business strategy. CSR in Nigeria has gained significant traction recently as businesses increasingly recognise their role in promoting social and environmental welfare. Many companies are implementing CSR initiatives addressing critical issues such as education, healthcare, and environmental sustainability.<sup>3</sup> For instance, organisations often engage in projects that support local schools, provide medical care, and promote clean energy solutions. However, the challenge remains for these initiatives to be sustainable and impactful, requiring genuine commitment and collaboration among businesses, government, and non-profit organisations to foster a more equitable and prosperous society.<sup>4</sup> The extractive industry in Nigeria, particularly the oil and gas sector, has faced significant challenges, including environmental damage, social unrest, and community dissatisfaction. Within this context, informal institutions—encompassing community norms, values, and social networks—play important roles in influencing local relations and reactions to these challenges. They shape the expectations and responses of host communities to corporations, encouraging the latter to adopt more socially responsible practices.

Although existing research highlights the importance of CSR in corporate governance in Nigeria and its growing popularity worldwide, limited effort has been made to explore how the informal institutions of host communities can help develop effective CSR initiatives that promote sustainable

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<sup>1</sup> Michael Blowfield and George Frynas 'Setting New Agendas: Critical Perspective on Corporate Social Responsibility in the Developing World' (2005) 81 (3) *International Affairs* 499 at 500.

<sup>2</sup> *Ibid.*

<sup>3</sup> See Uchechukwu Nwoke "(In)effective business responsibility engagements in areas of limited statehood: Nigeria's oil sector as a case study" (2021) 60/7 *Business and Society*, 1607; Gabriel Eweje, 'Multinational Oil Companies' CSR Initiatives in Nigeria' (2007) *Management Law*, Vol. 49(56) 23; See also Gabriel Eweje, 'The Role of MNEs in Community Development Initiative in Developing Countries: Corporate Social Responsibility at Work in Nigeria and South Africa' (2006) *Business and Society* Vol. 45 93–129; Uwafiokun Idemudia, 'Oil Extraction and Poverty Reduction in the Niger Delta: A Critical Examination of Partnership Initiatives' (2009) *Journal of Business Ethics* Vol. 90 91–116 at 91; Uwem E Ite, 'Changing Times and Strategies: Shell's contribution to Sustainable Community Development in the Niger Delta, Nigeria' (2007) *Sustainable Development* Vol. 15 12.

<sup>4</sup> Uchechukwu Nwoke "(In)effective business responsibility engagements in areas of limited statehood: Nigeria's oil sector as a case study" (2021) 60/7 *Business and Society*, 1607.

development. This intervention examines how informal institutions such as cultural traditions, family ties, religious institutions, local governance, and community relationships motivate companies to engage more constructively in CSR initiatives. Recognising the importance of these informal institutions is essential for promoting sustainable development in Nigeria and ensuring that the benefits of the extractive industry are shared with the communities directly affected by its operations. The significance of this paper lies in assessing the power and role of informal institutions towards effective CSR initiatives in the Nigerian extractive industry. By understanding and harnessing the power of informal institutions, companies can refine their CSR strategies, leading to improved relations with local communities and a more sustainable approach to resource extraction. This exploration highlights the importance of cultural context in business practices and the potential for informal institutions to facilitate meaningful change within Nigeria's extractive sector, which is a critical contributor to the nation's economy.

The paper is structured into four sections. First, it provides a brief overview of the ideology of CSR in Nigeria. Second, it examines the regulation of corporations, particularly as it relates to CSR initiatives within the Nigerian extractive industry. Third, it analyses the old institutional economic theory and its significance in discussing effective CSR. Lastly, the paper identifies relevant informal institutions in the Nigerian extractive industry. It explains their importance in establishing an effective CSR framework that contributes to the sustainable development of host communities. The paper argues that integrating local realities into CSR initiatives enhances the social responsibility of these companies and enriches the social and economic landscape of Nigeria's oil-rich regions, promoting prosperity for all stakeholders involved.

### **Connotations of Corporate Social Responsibility**

The scholarship on CSR has been primarily influenced by Carroll's pyramid, which conceptualises it to include philanthropic contributions by corporations to stakeholders.<sup>5</sup> This idea has affected the concept, causing it to remain largely voluntary activities carried out by businesses and corporations.<sup>6</sup> In some practical sense, the concept of CSR acknowledges that corporations are responsible for sustaining relationships, sometimes through specific activities with all stakeholders, particularly those claiming adverse social and other impacts from the company's operation.<sup>7</sup> There are arguments that CSR imposes obligations on company managers in the form of duties towards stakeholders as they are agents of the company, but they do not go beyond that point.<sup>8</sup>

Modern definitions of CSR now include obligations (social or legal) that concern the actual and possible social impact of corporations' activities on society.<sup>9</sup> Accordingly, the concept emphasises corporations' obligation to consider the interests of communities as part of larger stakeholders by providing social infrastructures such as schools, hospitals, roads, and water supplies in areas where they operate.<sup>10</sup> Blowfield and Frynas define CSR as an umbrella term for a variety of different theories and practices, all of which recognise that companies have a responsibility for their impact on society and the environment, that companies have a responsibility for the behaviour of others with whom they do business, and that CSR activities usually are conducted voluntarily beyond legal compliance.<sup>11</sup> Further, in defining CSR, Bowen sets out the social responsibilities of businessmen which refers to the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of

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<sup>5</sup> Archie B. Carroll, *The pyramid of corporate social responsibility: Toward the moral management of organisational stakeholders*. (1991 34 (4) *Business Horizons* 39–48.

<sup>6</sup> Archie B. Carroll and K.M Shabana, 'The Business Case for Corporate Social Responsibility: A Review of Concepts, Research and Practice' (2010) 12 (1) *International Journal of Management Reviews* 85-105

<sup>7</sup> Dyann Ross, 'A Research-informed Model for Corporate Social Responsibility: Towards Accountability to Impacted Stakeholders' (2017) 2 (1) *International Journal of Corporate Social Responsibility* 8.

<sup>8</sup> Nikolay A. Dentchev, Mitchell van Balen and Elvira Haezendonck, 'On Voluntarism and the Role of Governments in CSR: Towards a Contingency Approach' (2014) 24 (4) 378-397; Mitchell van Balaen, Elvira Haezendonck and Nikolay A. Dentchev, 'The Role of Governments in the Business and Society Debate' (2017) 56 (4) *Business and Society* 527-544

<sup>9</sup> Tom Campbell, 'The Normative Grounding of Corporate Social Responsibility: A Human Right Approach' in D McBarnet, A Voiculescu and T Campbell (eds) *The New Corporate Accountability: Corporate Social Responsibility and the Law* (Cambridge University Press) 529

<sup>10</sup> Hakeem Ijaiye, 'Challenges of Corporate Social Responsibility in the Niger Delta of Nigeria' (2014) 3 (1) *Journal of Sustainable Development Law and Policy* 60-71

<sup>11</sup> Micheal Blowfield and Jędrzej George Frynas, 'Setting New Agendas: Critical Perspectives on Corporate Social Responsibility in the Developing World' (2005) 81 (3) 499-513

action which are desirable in terms of objectives and values of the society.<sup>12</sup> Here, society is seen as part of the larger stakeholders of a company, especially in the locality where they carry out their operation. This makes CSR to be seen as a form of local community development, together with corporate philanthropy and gestures that take the form of charity.

In Nigeria, CSR has emerged as a crucial mechanism for companies in the extractive industry, particularly the oil and gas sector, to recognise and mitigate the impacts of their operations on the environment and local communities.<sup>13</sup> The practice of CSR in the Niger Delta can be traced back to the 1960s and 1970s, coinciding with the rise of oil production.<sup>14</sup> Initially perceived as philanthropic gestures, these actions included cash donations and infrastructure projects driven by the desire to meet perceived moral obligations.<sup>15</sup> Over time, however, it has become clear that CSR is essential for addressing societal technological and financial challenges, benefiting corporations and communities alike. CSR in Nigeria encompasses moral, social, and legal obligations that companies must address, with certain aspects being mandatory under established legal frameworks.<sup>16</sup> It includes various activities related to human rights, labour issues, transparency, and environmental concerns. While CSR practices have traditionally been associated with multinational corporations (MNCs) in this field,<sup>17</sup> the implementation of such initiatives has become increasingly important due to the adverse effects of these companies, especially in the Niger Delta region.<sup>18</sup> CSR initiatives typically include community development projects such as building schools, hospitals, and markets, as well as providing essential services like piped water.<sup>19</sup> These efforts aim to alleviate the harm caused by oil exploration and foster better relations between MNCs and local communities.<sup>20</sup> However, there is an ongoing debate regarding the actual effectiveness of these initiatives in improving community well-being.<sup>21</sup>

### **CSR in the Nigerian Extractive Industry: Regulatory Framework**

Before the rise of neoliberalism in Nigeria, the government actively participated in the oil industry, holding significant equity shares in major oil corporations.<sup>22</sup> This interventionist approach allowed for

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<sup>12</sup> Howard R. Bowen, *Social Responsibilities of the Businessman* (University of Iowa Press, 2013)

<sup>13</sup> Uwafiokun Idemudia and Uwem Ite, 'Corporate-community Relations in Nigeria's Oil Industry: Challenges and Imperatives' (2006) 13 *Corporate Social Responsibility Environment Management* 194 at 195; Eghosa O. Ekhaton and Ibukun Iyiola-Omisore, 'Corporate Social Responsibility in the Oil and Gas Industry in Nigeria: A Case for Legalised Framework' in Eduardo Pereira, Rochelle Spencer, and Raphael Heffron (eds) *Experiences of Managing Wealth, CSR and Local Content Policy: Sustainable Development of extractive resources industries* (Springer International, 2021) pages 439-458

<sup>14</sup> Kiikpoye K. Aaron, 'Two Theses on Corporate Social Responsibility Failure in the Niger Delta, Nigeria' In Kiikpoye Aaron and Dawari George (eds.), *Placebo as Medicine: The Poverty of Development Intervention and Conflict Resolution Strategies in the Niger Delta Region of Nigeria*. (Kemuela Publications 2010) 158-177

<sup>15</sup> Osamuyimen Egbon, Uchechukwu Nwoke and Godswill Agbaitoro, 'Corporate Social Responsibility Practices in the Nigeria Oil Industry: New Legal Direction and the Implications for Reporting' in Uzoechi Nwagbara, Samuel Idowu and Yahaya Alhassan (eds) *Corporate Social Responsibility Disclosure in Developing and Emerging Economies: Institutional, Governance and Regulatory Issues* (Springer 2024) 11

<sup>16</sup> Nojeem A. Amodu, 'Corporate Social Responsibility and Law in Africa: Theories, Issue and Practices' (Routledge 2020) 129; Renitha Rampersad and Chris Skinner, 'Examining the Practice of Corporate Social Responsibility (CSR) in sub-Saharan Africa' (2014) 12 (1) *Corporate Ownership and Control* 727

<sup>17</sup> Felix Tuodolo, 'Corporate Social Responsibility: Between Civil Society and Oil Industry in the Developing World' (2009) 8 *ACME: International E-Journal for Critical Geographies* 530-541

<sup>18</sup> Osamuyimen Egbon, Uwafiokun Idemudia and Kenneth Amashi, 'Shell Nigeria' Global Memorandum of Understanding and Corporate-Community Accountability Relations: A Critical Appraisal' (2018) 31 (1) *Accounting Auditing and Accountability Journal* 51-74

<sup>19</sup> Felix Tuodolo, 'Corporate Social Responsibility: Between Civil Society and Oil Industry in the Developing World' (2009) 8 *ACME: International E-Journal for Critical Geographies* 530-541; Olufemi Amao, 'Corporate Social Responsibility, Multinational Corporations and the Law in Nigeria: Controlling Multinationals in Host States' (2008) *Journal of African Law* 89-113; Uwafiokun Idemudia and Uwem E. Ite, 'Corporate Community Relations in Nigeria's Oil Industry: Challenges and Imperatives' (2006) 13 *Corporate Social Responsibility and Environmental Management*. 194, 195; Jędrzej George Frynas, 'The False Developmental Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies' (2005) 81 (3) *International Affairs* 581-598.

<sup>20</sup> Abdulkadir Bolaji Abdulkadir, 'Corporate Social Responsibility and Environmental Protection in Nigerian Energy Sector: Reflection on Issues and Legal Reform' (2021) 12 (2) *Journal of Sustainable Development Law and Policy* 332-367

<sup>21</sup> Uchechukwu Nwoke, 'Two Complimentary Duties Under Corporate Social Responsibility Multinationals and the Moral Minimum in Nigeria's Delta Region' (2016) 58 (2) *International Journal of Law and Management* 2-25

<sup>22</sup> Femi Aborisade, 'Petro-Capitalism, Neoliberalism, Labour and Community Mobilization in Nigeria' (2010) *Capital and Society* Vol. 43 (1) 32-62 at 39

increased state control over these corporations. However, starting in the 1980s, neoliberal policies led to the sale of state interests and a shift in the government's role, emphasising limited state intervention and prioritising free market principles.<sup>23</sup> The state became subservient to market forces, promoting concepts like personal responsibility and self-regulation among corporations rather than legal regulations.<sup>24</sup> In pressing the case for voluntary self-regulation by corporations, the Nigerian state merely relies on 'soft law' or non-legal instruments (like corporate codes of conduct) which either lack binding force or whose binding force is noticeably weaker than 'hard law'. This differs directly from the government's attitude towards the ambitions of corporations, where the state is ready to produce and implement 'harder' legal and quasi-legal instruments for the protection of corporate and institutional investors (evidenced for instance in the various bilateral/multilateral trade and investment treaties entered by the country<sup>25</sup> and the provisions of the Nigerian Companies and Allied Matters Act 2020).

This section of the paper will explore the legal framework governing CSR) in Nigeria's corporate sector, specifically focusing on the extractive sector. The aim is to evaluate whether this legal framework integrates local informal institutions into CSR practices.

### *The Companies and Allied Matters Act 2020*

The Nigerian government's strategy regarding corporate shareholders' interests has led to the development of stricter legal frameworks to safeguard corporate and institutional investors, notably through the Nigerian Companies and Allied Matters Act (CAMA 2020). This legislation incorporates provisions which significantly influence how CSR is perceived and enacted within the country.<sup>26</sup> For instance, section 46 (1) of CAMA provides that once the memorandum and articles are registered, they will operate as a binding agreement between the corporation and its members and officers, as well as between the members and officers amongst themselves. This agreement obliges them to adhere to and fulfil the provisions outlined in the memorandum and articles, including any modifications that pertain to the corporation, its members, or its officers. As a result, a corporation has no legal obligation – at least contractually – to other stakeholders. As Amaeshi and others have pointed out, this situation means that the interests of other stakeholders affected by the corporation's operations are not safeguarded. For instance, a corporation can terminate the employment of its employees at will and without cause, provided they give the required notice period, typically one month by law and usually three months by contract.<sup>27</sup>

Again, section 305 (3) of the Act states that Section 305(3) of the Act mandates that directors must always act in what they believe to be the company's best interests, with a focus on protecting its assets, enhancing its business, and promoting its foundational purposes. Additionally, this subsection requires directors to assess the impact of the company's operations on the environment and the surrounding community. However, it has been argued that these considerations are secondary; directors must consider them only insofar as they affect shareholder value. While addressing these interests is important, it is not the primary objective of their decisions. Instead, their focus is to drive the company's

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<sup>23</sup> M.O.A. Omeri and S. I. Nchi, *Petroleum in Nigeria: Legal, Economic and Political Issues* (Jos: Greenworld Publishing 2008) 23

<sup>24</sup> David Schneiderman "Investment rules and the new constitutionalism" (2000) 25 *Law and the Social Inquiry* 1 at 757; Femi Aborisade, 'Petro-Capitalism, Neoliberalism, Labour and Community Mobilization in Nigeria' (2010) *Capital and Society* Vol. 43 (1) 32-62 at 39; J. Brodie, 'Reforming Social Justice in Neoliberal Times' (2007) *Studies in Social Justice Vol. 1* 93-107 at 100

<sup>25</sup> Uchechukwu Nwoke "Neoliberal lock-in and the new constitutionalism in Nigeria's political economy" in Enemo PI, Ezeilo JN, Nwatu SI and Ukwueze FO (eds.) *Law, Democracy, and Development: Essays for the 60<sup>th</sup> Anniversary of the Faculty of Law, University of Nigeria, Nsukka* (Snaap Press Ltd, 2021) Chap. 9, pp. 230 at 239.

<sup>26</sup> Nojeem A. Amodu, *Corporate Social Responsibility and Law in Africa: Theories, Issue and Practices* (Routledge 2020) 136

<sup>27</sup> Kenneth Amaeshi, BC Adi, C Ogbegie and Olufemi O Amao, 'Corporate Social Responsibility in Nigeria: Western Mimicry or Indigenous Influences?' (2006) *International Centre for Corporate Social Responsibility (ICCSR) Research Paper Series* 39  
4 <[http://195.130.87.21:8080/dspace/bitstream/123456789/1091/1/39-Corporate%20Social%20Responsibility%20\(CSR\)%20in%20Nigeria%20western%20mimicry%20or%20indigenous%20practice.pdf](http://195.130.87.21:8080/dspace/bitstream/123456789/1091/1/39-Corporate%20Social%20Responsibility%20(CSR)%20in%20Nigeria%20western%20mimicry%20or%20indigenous%20practice.pdf)> accessed 13 May 2013

success for the benefit of the shareholders.<sup>28</sup> Section 105 of CAMA establishes that membership in a corporation is limited to its shareholders, highlighting their primary role as the company's owners. Therefore, the Nigerian legal framework prioritises the interests and rights of shareholders above those of other stakeholders. Shareholders are responsible for protecting and enhancing their investments, and to achieve this, they delegate authority to a board of directors. These directors manage the company's operations and must implement strategies that maximise shareholder profits. This relationship emphasises the fiduciary duty of directors to act in the best interests of shareholders, reinforcing the principle of shareholder primacy in corporate governance.

Through the contemporary decisions and attitude of the Nigerian courts, it appears reasonable to conclude that protecting shareholder value with hard laws in Nigeria is now absolute. With the entire business of the country seemingly revolving around the imperatives of market forces, rolling back of the welfare states, shrinking the public sector through the retrenchment of workers, intensified cost recovery on social services and heightened privatisation of many social enterprises, the country's judiciary has also become an important agent in favour of the protection of shareholder value and has continuously championed the hegemony of this neoliberal ideology.<sup>29</sup> In this context, some cases have affirmed the supremacy of shareholder value in the country. In *Yalaju-Amaye v AREC Ltd*,<sup>30</sup> The plaintiff/appellant (a shareholder, director, and managing director of the defendant corporation) was removed by other directors because he had resigned from his appointment as managing director. They also held that since he orally resigned as the MD, he simultaneously lost his position as a shareholder of the corporation. The plaintiff MD then brought the instant case, asking the Court to determine whether he was validly removed as the corporation's Managing Director and whether he had surrendered his share interests in the corporation because of his purported removal as the MD. He also asked the Court to determine whether he could institute this action concerning the wrongs done to him in his capacity as a shareholder.

The Nigerian Supreme Court used the opportunity of the case to recap the general position of contemporary Nigerian law in shareholding, and the relationship between the shareholders of the corporation and other interests. The Court held (amongst other things) that the Memorandum and Articles of Association of a corporation binds the corporation and its directors and constitutes a contract between them alone. In this context, there is the relationship of master and servant between the Managing Director and the shareholders in a general meeting (that is the corporation) and since the plaintiff becomes an employee by their becoming a Managing Director, there is a contract of service between them and the corporation. Accordingly, the shareholders have the power to alter the corporation's articles of association to remove them, even if this results in a breach of contract with the director. However, the contract of service does not extend to him in his capacity as a shareholder. As an owner of shares, he is a member of the corporation and his interests trump other interests, apart from that of other shareholders. His interests as a shareholder are different from his interests as a Managing Director, and it is irrelevant that he became a shareowner because of shares he acquired in his capacity as a Managing Director. In this sense, he can bring actions that are either personal to him or wrongs which affect the corporation itself. Moreover, since shareholders are the only ones permitted by law to bring actions in respect of acts done to the corporation, the plaintiff can, through a derivative action sue for wrongs done to the corporation.<sup>31</sup>

In *Kotoye v Saraki*,<sup>32</sup> the court was called upon to adjudicate in a commercial dispute relating to the legal and equitable ownership of shares of a corporation. The Supreme Court, in one of its determinations, held that shareholders are the owners of the corporation, and corporate managers and executives have the responsibility to realise their interests. The court further held that the right to sell, the right to pledge and to vote, the right to mortgage and the right to alienate in any other way, in as much as they are constituent parts of ownership, belong to corporate shareholders. Therefore, in

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<sup>28</sup> A Keay, *The Enlightened Shareholder Value Principle and Corporate Governance* (Routledge, 2012) at 85; N Grier "Directors deliver - just not very much: further reflections on section 172 of the Companies Act 2006" (2022) 4 *Juridical Review* at 212-221

<sup>29</sup> T. Olorode, 'The Political Economy of Corruption in Nigeria' (2011) *The National Scholars* Vol. 8 6-11

<sup>30</sup> SC 198/1986 (Judgement delivered 29 June 1990)

<sup>31</sup> *ibid*

<sup>32</sup> (1994) 7 *NWLR* (Pt 357) 414

carrying out their duties as agents of the shareholders, corporate managers and executives should prioritise the interests of the legal owners of corporate shares.

In *Ansambe v Bon*,<sup>33</sup> a corporate employee filed a claim against the respondent corporation, alleging unlawful dismissal. The Nigerian Court of Appeal, while dismissing the employee's case, among other things, re-stated the position that the shareholder is the owner of the corporation and that his interest is supreme and must be given priority in the performance of corporate activities.

From the foregoing, it is obvious that Nigeria's prevailing perception of CSR often limits it to acts of philanthropy and giving, which reflects the approach outlined in CAMA.<sup>34</sup> The Act falls short in supporting robust CSR initiatives, as it primarily adheres to a traditional shareholder primacy model. This model restricts corporate responsibility to select stakeholder groups, such as employees and local communities, highlighting the dominance of shareholder value ideology in Nigeria's legal framework.

#### *Petroleum Industry Act 2021*

The Petroleum Act (PIA) 2021 is a crucial part of Nigeria's oil and gas industry's CSR landscape. Before its implementation, there was optimism that it would address the sector's challenges.<sup>35</sup> The PIA aims to bring comprehensive regulatory and enforcement reforms across Nigeria's upstream, midstream, downstream, and natural gas industries.<sup>36</sup> It emphasises important areas such as sustainability, accountability, transparency, and establishing CSR regulatory frameworks. The PIA is critical in promoting CSR practices within Nigeria's oil and gas sector. Notably, with the enactment of the PIA, Chapter III, section 240 (2) establishes a framework that makes CSR contributions a mandatory obligation for corporations. This approach has transformed CSR's previously voluntary and self-regulatory aspects into enforceable legal requirements.<sup>37</sup> However, section 257 of the same Act allows for the deduction of funds accruing to the host communities in the event of any act of vandalism, sabotage, or civil unrest that causes disruptions in production or damages the petroleum facilities. Consequently, the community loses its right to funds equivalent to the costs of repairs for the damages caused, as per the provisions of the Act in that financial year. Some stakeholders have expressed concerns that corporations may exploit this provision to evade their corporate responsibilities in the Niger Delta. The contested nature of the causes of pollution in the region could make it easier for corporations to manipulate and attribute most oil spills to sabotage, thereby escaping liability. Furthermore, section 240(2) is criticised for introducing another form of corporate tax with a narrow view of CSR as a charity.<sup>38</sup>

#### *Nigeria Extractive Industries Transparency Initiative Act 2007*

The Nigeria Extractive Industries Transparency Initiative (NEITI) Act of 2007 serves as part of Nigeria's legal framework for promoting CSR. This law aims to enhance accountability and transparency in managing the country's oil, gas, and mineral resources. It is administered by the Nigerian Extractive Industries Transparency Initiative (NEITI). It introduces a framework for ensuring transparency and accountability in the reporting and disclosing of revenues received by, or paid to, the Federal Government by all extractive companies.<sup>39</sup> One of the successes of introducing this law and its regulatory agency is commissioning the first comprehensive audit of Nigeria's petroleum industry from 1999 to 2023.<sup>40</sup> Through the periodic audit process, NEITI has been able to ascertain the extent to which

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<sup>33</sup> (2005) 8 NWLR (pt 928) 650

<sup>34</sup> Nojeem Amodu, 'Regulation and Enforcement of Corporate Social Responsibility in Corporate Nigeria' (2017) 61 () Journal of African Law 105-130

<sup>35</sup> *Ibid* 122

<sup>36</sup> Nojeem Amodu, *Corporate Social Responsibility and Law in Africa: Theories, Issue and Practices* (Routledge 2020) 136

<sup>37</sup> Osamuyimen Egbon, Uchechukwu Nwoke and Godswill Agbaitoro, 'Corporate Social Responsibility Practices in the Nigeria Oil Industry: New Legal Direction and the Implications for Reporting' in Uzoechi Nwagbara, Samuel Idowu and Yahaya Alhassan (eds) *Corporate Social Responsibility Disclosure in Developing and Emerging Economies: Institutional, Governance and Regulatory Issues* (Springer 2024) 11

<sup>38</sup> O Egbon and OC Mgbame, Examining the accounts of oil spills crises in Nigeria through sense giving and defensive behaviours (2020) 33/8 *Accounting, Auditing & Accountability Journal*, 2053-2076; Olufemi Amao, 'Mandating Corporate Social Responsibility: Emerging Trends in Nigeria', (2008) 6/1 *Journal of Commonwealth Law and Legal Education*, 83.

<sup>39</sup> See S.2 of NEITI Act 2007 [https://eiti.org/sites/default/files/attachments/neiti\\_act\\_2007.pdf](https://eiti.org/sites/default/files/attachments/neiti_act_2007.pdf) accessed 31 January 2025

<sup>40</sup> See NEITI website for the latest published report in 2023 Oil and Gas Industry Report available at <https://neiti.gov.ng/cms/wp-content/uploads/2024/10/NEITI-OGA-2023-Report-Final-260924-1.pdf> accessed 27 February 2025

MNCs operating in the oil and gas industry are involved in promoting CSR through transparency measures. Although the NEITI Act and the agency responsible for its administration are positioned to enforce accountability and transparency in Nigeria's oil and gas industry, their efforts have not been successful due to a lack of political will from the government's executive and legislative branches.

#### *Corporate Social Responsibility Bill 2007*

In Nigeria, efforts to regulate Corporate Social Responsibility (CSR) led to the introduction of the Corporate Social Responsibility Bill in 2007. This bill aimed to provide comprehensive support to host communities affected by the negative impacts of the industrial and commercial activities of multinational corporations (MNCs) operating in the oil and gas industry, particularly in the Niger Delta region.<sup>41</sup> The bill sought to create the Nigerian Corporate Social Responsibility Commission (CSR Commission), which would be responsible for formulating, implementing, and monitoring CSR practices among companies in Nigeria. The CSR Commission was tasked with developing policies to encourage companies to engage in CSR efforts and to impose sanctions on those who fail to comply with their CSR obligations.<sup>42</sup> However, the bill faced intense criticism for being an additional corporate tax and for its outdated view of CSR as mere charity or gift-giving. As a result, the bill never became law and remains stored in the archives of the National Assembly bills.

### **Understanding Institutions and the Old Institutional Economic Theory**

Institutions are systematic patterns of shared expectations, accepted norms, and interaction routines that significantly influence the motivations and behaviours of interconnected social actors.<sup>43</sup> They encompass collectively accepted systems of rules that enable the establishment of institutional facts. Fundamentally, institutions sustain societal structures and represent the core of social life. The increasing recognition of the role of institutions in social life involves acknowledging that explicit or implicit rules govern many individual relations and actions. Institutions are systems of established social rules that structure social interactions. Examples of institutions include language, money, law, systems of weights and measures, table manners, and firms.<sup>44</sup> According to Douglas North, institutions are the foundation of human endeavours, providing order and reducing uncertainty by organising daily life.<sup>45</sup> From an economic standpoint, institutions define and limit the choices available to individuals, encompassing activities that individuals are prohibited from undertaking and the conditions under which certain individuals are permitted to engage in specific activities.<sup>46</sup>

There is a significant emphasis on studying institutions and their influence on economic behaviour in the law and economics movement. This analysis is crucial for gaining insights into the complexities surrounding the performance of firms, markets, and economies across different scenarios.<sup>47</sup> Institutional theory, focusing on the dynamic nature of institutional change, deals with fundamental inquiries, such as the reasons behind the emergence of institutions, the processes through which they develop, and their efficacy.<sup>48</sup> Regardless of the viewpoint adopted, institutional theory consistently focuses on the dynamic nature of institutional change.<sup>49</sup> Its primary concern lies not only in understanding how existing institutions impact economic actions but also in recognising the continuous evolution of institutions, thereby emphasising the necessity for ongoing learning and adaptation.<sup>50</sup> It illuminates the intricate connections, networks, and interactions of institutions as they

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<sup>41</sup> Nojeem Amodu, 'Regulation and Enforcement of Corporate Social Responsibility in Corporate Nigeria' (2017) 6 (1) *Journal of African Law* 105-130

<sup>42</sup> sec 5(1)(l).

<sup>43</sup> Ha-Joon Chang & P. Evans, *The Role of Institutions in Economic Change*, Paper prepared for the meeting of the "other Canon" group, Venice, Italy, January 13-14, 2000 (First Draft, 1999), available at <https://jacksondetoni.wordpress.com/wp-content/uploads/2012/05/chang-e-evans.pdf> (accessed 14 June 2024)

<sup>44</sup> G.M Hodgson, "What are Institutions?" (2006) 15/1 *Journal of Economic Issues*, 2

<sup>45</sup> DC North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press 1990) 3-4

<sup>46</sup> Ibid.

<sup>47</sup> J Groenewegen, F Kerstholt & A Nagelkerke, On Integrating New and Old Institutionalism: Douglas North Building bridges, June 1995, *Journal of Economic Issues*, Vol. 29 (2) 467

<sup>48</sup> Ibid.

<sup>49</sup> Luiz Cesar Silva and others, "Revisiting the debate on institutions, the state and institutional change: The relevance of institutional theory to public administration teaching" (2024) 42/1 *Teaching Public Administration*, 73-94 at 76

<sup>50</sup> Ibid.

grapple with fragmentation, disconnection, and asymmetries between public issues and jurisdictions while maintaining a high level of interdependence.<sup>51</sup>

The central tenets of institutionalism revolve around studying institutions, habits, rules, and their evolution.<sup>52</sup> Unlike seeking a singular comprehensive model based on these concepts, institutionalists advocate for specific and historically contextualised approaches to analysis. In this sense, institutionalism shares similarities with biology, where evolutionary biology offers general principles to elucidate the emergence and progression of organisms. Institutional economics, emphasising specificities, aligns more with biology than with physics. It commences with general notions about human agency, institutions, and the evolutionary nature of economic processes, then delves into specific ideas and theories related to economic institutions or paradigms. Consequently, multiple levels and types of analysis are required, and these must be interconnected. A crucial point here is that the concepts of habit and institution bridge the gap between the specific and the general.

In contrast, neoclassical economics begins with a universal theoretical framework concerning rational choice and behaviour, then progresses directly to theories of price, economic welfare, and other facets.<sup>53</sup> On the other hand, institutional economics does not assume that its habit-based conception of human agency alone provides a sufficient basis for operational theory or analysis. Additional elements are necessary. An institutionalist would underscore the importance of demonstrating how specific everyday habits are integrated into and reinforced by specific social institutions.<sup>54</sup> In this way, institutionalism progresses from the abstract to the concrete. Rather than relying on standard theoretical models of rational individuals, institutionalism draws from psychological, anthropological, sociological, and other research into human behaviour. Indeed, if institutionalism were to have a general theory, it would outline how to develop diverse and specific analyses of phenomena.<sup>55</sup> Dequech identifies three significant influences of institutions on economic behaviour.<sup>56</sup> The first is the restrictive function, which represents the institutional constraints on economic behaviour. The second influence is the cognitive function, which encompasses the information institutions supply to individuals and their impact on the perception of reality. Lastly, the motivational or teleological function concerns the influence of institutions on the ends pursued by individuals.<sup>57</sup> These multifaceted influences highlight institutions' critical role in shaping economic behaviour.

Institutional economics encompasses two principal approaches: the traditional institutional economic movement, now called the “old” institutional economics. The other is a relatively new school of thought, often called the “new” institutional economics, that has emerged in the US and Europe. Each offers unique perspectives and methodologies for examining the role of institutions in shaping economic behaviour and outcomes.

### *The Old Institutional Economic Theory*

The Old Institutional Economic (OIE) theory concept emphasises appreciating the evolutionary process's intrinsic role and institutions' influence in shaping economic behaviour. This school of thought can be traced back to a seminal 1919 commentary by Walton H. Hamilton in the *American Economic Review*, laying the foundation for the movement.<sup>58</sup> Prominent figures in Old Institutional Economics, including Thorstein Veblen, John Commons, and Wesley Mitchell, underscored the necessity of conducting a comprehensive examination of institutions, positing that markets are the culmination of intricate interactions among diverse entities such as individuals, firms, states, and social norms.<sup>59</sup>

Thorstein Veblen underscored the cumulative and path-dependent nature of institutional change, the influence of new technology on propelling economic change, and the predominantly 'pecuniary' nature of existing institutions in America during his era. He contended that new technologies

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<sup>51</sup> KB Frederickson, CW Smith and MJ Larimer, *Public institutional theory (The Public Administration Theory Primer)* (3rd Edition, Routledge, 2016) 84.

<sup>52</sup> Luiz Cesar Silva and others (n 49).

<sup>53</sup> GM Hodgson, “The Approach of Institutional Economics” (1998) 36/1 *Journal of Economic Literature*, 169

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> D. Dequech, The Demarcation between the “old” and the “New” Institutional Economics; Recent complications, June 2002, *Journal of Economic Issues*, Vol. 36 (2) 566

<sup>57</sup> Ibid.

<sup>58</sup> M Rutherford, “Institutional Economics: Then and Now” (2001) 15/3 *The Journal of Economic Perspectives*, 173.

<sup>59</sup> Ibid.

drive change when institutions, through utilising these technologies, alter established ways of life and thought. In Veblen's perspective, institutions not only impose constraints on individual actions but also encompass widely accepted ways of thinking and behaving, thereby shaping the preferences and values of individuals under their sway.<sup>60</sup> Veblen's framework empowered him to dissect phenomena such as 'conspicuous consumption', corporate finance's impact on corporations' ownership and control, and business and financial strategies for profit-making. He also criticised the notion of the 'invisible hand' of the market, contending that while it might be applicable for small-scale manufacturing, it was inadequate for large-scale production, corporate finance, and salesmanship. Veblen censured manipulative, restrictive, and unproductive tactics utilised by businesses to generate income, including consolidation, financial manipulations, insider dealings, unscrupulous salesmanship, and interlocking directorates.<sup>61</sup>

Expanding on these critical insights, OIE also advocated a reformist stance, proposing supplementing the market with alternative forms of 'social control' or enhancing conditions for producing valuable goods conducive to welfare.<sup>62</sup> This shift from broad concepts about human agency, institutions, and economic processes to specific theories associated with economic institutions distinguishes Old Institutional Economics from neoclassical economics. While neoclassical economists often commence with the universal premise of rational choice and subsequently develop theories of price and economic welfare, Old Institutional economists accentuate the role of habit and institutions in bridging specific and general dimensions of economic phenomena.<sup>63</sup>

The OIE emphasises the importance of institutions, habits, and rules in shaping economic behaviour, challenging neoclassical economics assumptions that overlook the significance of institutions.<sup>64</sup> The OIE argues that institutions are crucial in explaining and influencing economic behaviour. Drawing from research in psychology, anthropology, and sociology, the OIE seeks to demonstrate how individuals' behaviour is influenced by long-standing habits and rules ingrained in society and reinforced by institutions.<sup>65</sup> The OIE frames the relationship between individuals and institutions as a "top-down reconstitute causation model," illustrating the evolutionary process shaped by interactions between human behaviour and institutions. It stresses that institutions are interwoven relationships that cannot be chosen or discarded to suit individual goals, as they precede individuals and are interconnected with them, creating a double relational causality between institutions and individuals.<sup>66</sup>

According to Hodgson, old institutional economists emphasise the need to demonstrate how specific groups of everyday habits are embedded in and reinforced by specific social institutions. This shift from the abstract to the concrete means institutionalism draws on psychological, anthropological, sociological, and other research to understand human behaviour instead of relying on theoretical models of rational individuals. For these economists, the idea of individuals as 'utility maximising' is not just a different perspective but a paradigm shift. They argue that individuals are not simply given but influenced by their institutional and cultural circumstances. Therefore, individuals do not create institutions independently; instead, institutions influence individuals in many essential aspects through 're-constitutive downward causation', challenging traditional views of individual behaviour.<sup>67</sup> Anne Mayhew highlights that what sets the old institutional economics apart is its emphasis on viewing people as cultural animals.<sup>68</sup> As a result, the old institutional economist perceives individual entities as 'uneasy subjects'. Economic behaviour in all aspects of economic accumulation is connected and non-

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<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> GM Hodgson, "The Approach of Institutional Economics" (1998) 36/1 *Journal of Economic Literature*, 169

<sup>63</sup> Ibid.

<sup>64</sup> M Kherallah and J Kirsten, "The new institutional economics: applications for agricultural policy research in developing countries" (2002) 41/2 *Agrekon*, 111

<sup>65</sup> Luiz Cesar Silva and others (n 49).

<sup>66</sup> Ibid.

<sup>67</sup> D. Dequech, "The Demarcation between the 'old' and the 'New' Institutional Economics; Recent complications", (2002) 36/2 *Journal of Economic Issues*, 565

<sup>68</sup> A Mayhew, "Comments on Papers Presented at the Institutional Economics at the Millennium: Its Past and Future session" (2000) 34/2 *Journal of Economic Issues*, 331

univocal, meaning that all transactions suggest more than just efficiency. Instead, they integrate a stable social order, representing a form of 'higher order efficiency'.<sup>69</sup>

The concept of transactions embodies the fundamental principles of equity and trust, essential for upholding legal standards. Property and freedom are intertwined within this framework into rights protected by legal regulations. While most transactions are routine and uncontested within the legal system, strategic transactions impose constraints on the involved parties, leading to conflicts and necessitating the establishment of new operational norms.<sup>70</sup> Over time, these new operational norms develop into established practices, contributing to institutional change. The significance of strategic transactions lies in their ability to transcend the boundaries of individual entities and actions, influencing broader economic frameworks. In contrast to neoclassical economics, old institutional economists highlighted the necessity for pricing theories that reflect the modern economy's complex institutional and market structures. The variety of institutional mechanisms for determining prices in the real world implies that any effort to establish universally applicable price presumptions is inherently limited in its descriptive capacity. This marks a significant departure from the approach taken in neoclassical economics, centring on generalised concepts such as demand, supply, and marginal utility as the basis of pricing theory.<sup>71</sup> Moreover, old institutional economists emphasised the impact of cultural norms on consumer behaviour, asserting that a certain level of income triggers habitual patterns of consumer conduct. They emphasised human behaviour's imitative and adaptive nature, which operates within ingrained routines.<sup>72</sup>

The role and functions of institutions are crucial in the context of OIE. It poses the question: Which is more important, the institution or the individual? According to old institutionalists, institutions are seen as imposing structures that influence human actions by creating and reinforcing habits of thought and behaviour. This involves creating and spreading theoretical concepts and learned symbols and meanings. Consequently, they play a significant role in shaping and influencing economic policies. Therefore, institutions should be prioritised over individuals, as they profoundly impact human behaviour. As Hodgson explains, there is a consistent theme in the literature of old institutionalism from Veblen, Commons, Mitchell, Myrdal, and Galbraith, which suggests that the individual should only sometimes be considered a given in economic analysis. Instead, old institutionalists reject using predetermined preference functions to model individuals. They believe individuals interact to form institutions and socioeconomic conditions, shaping individual purposes and preferences. The individual is both a producer and a product of their circumstances.<sup>73</sup>

The old institutional economic theory has been criticised for its perceived lack of a systematic and viable approach.<sup>74</sup> This critique has led some to view it as anti-theoretical and overly descriptive.<sup>75</sup> It struggled to effectively engage with the challenges posed by mainstream economics and establish connections with other disciplines, such as modern psychology. While emphasising the significance of habit and institutions in shaping individual behaviour, it was deemed too narrow to form a robust economic framework.<sup>76</sup> Furthermore, the traditional institutional approach did not significantly evolve its theories in critical domains like social norms, technological change, legislative and judicial decision-making, and business enterprise. This stagnation, a pressing issue, has been attributed to the movement's absence of clear psychological underpinnings and its focus on immediate policy issues during the interwar period.<sup>77</sup>

Hodgson has made a concerted effort to counter these criticisms.<sup>78</sup> He argues that characterisations of the 'old' institutionalism as merely descriptive or anti-theoretical do not withstand scrutiny. In particular, he points to the writings of Veblen and Commons, in which there is a strong emphasis on the significance and priority of theoretical explanation and the development of theories.

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<sup>69</sup> J Groenewegen, F Kerstholt & A Nagelkerke (n 47).

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> G. M. Hodgson, "The Approach of Institutional Economics" (1998) 36/1 *Journal of Economic Literature*, 179

<sup>73</sup> Ibid, 177

<sup>74</sup> K. Arrow, "Reflections on the Essays", in George Feiwel (ed.) *Arrow and Foundations of the Theory of Economic Policy* (New York University Press, 1987) 734

<sup>75</sup> G. M. Hodgson (n 44).

<sup>76</sup> Ibid.

<sup>77</sup> M Rutherford (n 58).

<sup>78</sup> G. M. Hodgson (n 44) 166.

Despite their limitations, the early institutionalists courageously tackled important theoretical issues, underscoring the significance of their work.<sup>79</sup>

### *Relevance of the Old Institutional Economic Theory to CSR*

The old institutional economic theory provides valuable insights into understanding and developing a practical framework for corporate social responsibility (CSR). This is because the intersection of corporate power and societal responsibility is a public concern.<sup>80</sup> Moreover, limited liability within privately owned corporations has evolved into a collective societal liability.<sup>81</sup> As a result, corporations significantly impact various aspects of society, including employment, consumption, environmental quality, and social inequality. Instead of merely viewing CSR as voluntary, the old institutional theory situates CSR within a broader economic governance framework encompassing various modes, such as market mechanisms and state regulation. Although CSR initiatives often intersect with market activities, institutional economic theories consider markets embedded within broader social networks, business associations, and political regulations. Many of the most noteworthy developments in modern CSR occur in a private yet collective self-regulatory space.<sup>82</sup>

The old economic theory is essential to CSR because it provides a foundation for understanding the relationship between business and society. In the old economic theory, the focus is primarily on how institutions influence and shape economic behaviour. However, with the emergence of corporate social responsibility, there is a recognition that businesses have broader responsibilities to other stakeholders, including employees, customers, communities, and the environment. By understanding the principles of old economic theory, businesses can incorporate social responsibility into their operations while aiming to remain profitable and competitive. This balance is crucial for creating sustainable and ethical business practices.

It is essential to apply the lens of the old institutional economic theory when studying CSR because the original concept of CSR can only be fully comprehended within the context of the institutional conditions under which it was initially developed.<sup>83</sup> Furthermore, understanding businesses' social responsibility in various regions and countries is contingent upon the institutional framework in which they operate.<sup>84</sup> This framework encompasses formal institutions such as laws, business associations, civil society groups, trade unions, and informal institutions like religious norms, customary practices, and tribal traditions.<sup>85</sup> Thus, it is crucial to consider the interpretation of CSR as it proliferates globally, its influence by the national institutional frameworks in which it is embedded, and the impact of global developments on national patterns of economic development.<sup>86</sup>

### *Formal and Informal Institutions and Effective CSR in Nigeria*

CSR operates at the dynamic intersection of business needs, legal requirements, and societal expectations. Formal institutions outline corporate responsibilities in this complex landscape primarily through established laws and regulations, while informal institutions shape societal perceptions and acceptance of CSR initiatives.<sup>87</sup>

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<sup>79</sup> Ibid.

<sup>80</sup> J. Parkinson, *Corporate Power, and Responsibility. Issues in the Theory of Company Law* (OUP, 1993)

<sup>81</sup> Stephen Brammer, Gregory Jackson, and Dirk Matten, 'Corporate Social Responsibility and institutional theory: new perspectives on private governance' (2012) 10 *Socio-Economic Review*, 3–28 at 6

<sup>82</sup> Ibid.

<sup>83</sup> AB Carroll, 'A History of Corporate Social Responsibility: Concepts and Practices'. In Crane, A., McWilliams, A., Matten, D., Moon, J. and Siegel, D. (eds) *The Oxford Handbook of Corporate Social Responsibility* (Oxford University Press, 2008) 19–46.

<sup>84</sup> JP Doh and TR Guay, 'Corporate Social Responsibility, Public Policy, and NGO Activism in Europe and the United States: An Institutional-Stakeholder Perspective' (2006) 43 *Journal of Management Studies*, 47–73; S Deakin and HD Whittaker, 'Re-embedding the Corporation? Comparative Perspectives on Corporate Governance, employment relations and corporate social responsibility' (2007) 15 *Corporate Governance*, 1–4.

<sup>85</sup> Stephen Brammer, Gregory Jackson, and Dirk Matten, 'Corporate Social Responsibility and Institutional Theory: New Perspectives on Private Governance' (2012) 10 *Socio-Economic Review* 3.

<sup>86</sup> A Tempel and P Walgenbach, 'Global Standardization of Organisational Forms and Management Practices? What New Institutionalism and the Business-Systems Approach can Learn from Each Other' (2007) 44 *Journal of Management Studies*, 1–24 at 2.

<sup>87</sup> Stephen Brammer, Gregory Jackson and Dirk Matten, 'Corporate Social Responsibility and Institutional Theory: New Perspectives on Private Governance' (2012) 10 *Socio-Economic Review* 3.

Formal institutions consist of official documents and instruments encompassing various legal stipulations, including governments, money, environmental protection laws, tax frameworks, and comprehensive business regulations. These laws are enforced by government bodies and the judicial system, creating a structured environment in which companies are accountable for their CSR commitments. Compliance with these formal regulations is essential, as they provide the legal foundation that supports corporate behaviour. For example, environmental laws may require specific pollution control, waste management, and resource conservation actions. Failure to comply with these regulations can lead to legal consequences and financial penalties for organisations.<sup>88</sup>In contrast, informal institutions are based on unwritten social norms, customs, and cultural traditions that reflect community values and ethical expectations. These institutions are shaped by historical legacies, community narratives, and the moral obligations that arise within social contexts. Their authority derives not from legal enforcement but from social acceptance; communities exert pressure on corporations through advocacy, public opinion, and social movements. Adhering to these informal expectations can be as critical as following formal regulations since they influence a company's reputation and legitimacy within the community.

A key difference between formal and informal institutions is their flexibility and adaptability. Formal institutions can be altered through legislative processes, allowing policies and laws to adjust in response to changing societal or environmental conditions. Alternatively, informal institutions evolve more organically and change slowly as community values shift, making them more resistant to rapid alterations. This distinction is significant in the realm of CSR. While companies may fulfil their legal obligations, neglecting informal expectations from the local community can lead to severe consequences, such as public dissent, loss of market viability, and loss of social licence to operate. A notable example is Nigeria's extractive industry, where many formal CSR initiatives have faltered due to a lack of consideration for traditional land-use practices and established decision-making structures within local communities. MNCs may adhere to environmental laws and industry-specific CSR best practices; however, they often encounter substantial backlash from local populations who feel that their cultural traditions and social frameworks have been ignored. This disconnect can result in community unrest, protests, and negative media coverage, ultimately jeopardising the operational stability of these corporations.

Informal institutions play a crucial role in shaping CSR practices, particularly in sectors like the extractive industry, which directly impacts the well-being of host communities.<sup>89</sup> Unlike formal institutions that are legally codified, informal institutions are rooted in implicit social norms, cultural practices, religious values, and customary traditions, which dictate acceptable behaviour within a society. For CSR initiatives to be effective, corporations must navigate and understand these informal institutions as they guide expectations, influence decision-making, and affect the outcomes of corporate actions. In Nigeria's oil-bearing regions, the influence of informal institutions becomes even more apparent as they dictate how companies interact with local communities, manage conflicts, and undertake development projects.<sup>90</sup> CSR efforts that resonate with local social norms and traditions tend to succeed, as organisations that engage with these informal structures build trust and promote sustainable community development. Compliance with these unwritten rules is maintained through social expectations rather than legal enforcement, highlighting the importance of understanding local dynamics.<sup>91</sup>

Furthermore, informal institutions resist change, evolving gradually and becoming integral to local culture. They can complement formal institutions or introduce conflicts affecting policy implementation and corporate practices. Thus, the effectiveness of CSR initiatives in Nigeria's extractive industries is deeply linked to these informal frameworks, which not only shape community

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<sup>88</sup> Ibid.

<sup>89</sup> Dawn L Keig, Lance Eliot Brouters and Victor B Marshall, 'The Impact of Formal and Informal Institutional Distances on MNE Corporate Social Performance' (2019) 28 *International Business Review*.

<sup>90</sup> Ogechi Adeola, Oserere Eigbe and Omotayo Muritala, 'The Informal Economy: CSR and Sustainable Development', *Corporate Social Responsibility in Developing and Emerging Markets: Institutions, Actors and Sustainable Development* (2019).

<sup>91</sup> Carri Reisdorf Tolmie, Kevin Lehnert and Hongxin Zhao, 'Formal and Informal Institutional Pressures on Corporate Social Responsibility: A Cross-Country Analysis' (2020) 27 *Corporate Social Responsibility and Environmental Management* 786.

expectations but also mediate interactions between corporations and communities.<sup>92</sup> While formal regulations provide a structure for CSR policies, informal institutions anchor these initiatives at the community level, determining their success or failure.<sup>93</sup> Therefore, navigating the complexities of CSR requires a nuanced understanding of formal and informal institutions. Companies that aim for success must engage with the legal frameworks that govern them while also respecting and aligning with the unwritten social contracts upheld by the communities they serve. This dual approach is vital for fostering trust, ensuring sustainability, and achieving long-term success in their CSR endeavours.

### **Identifying Relevant Informal Institutions in Nigeria's Extractive Industry**

In Nigeria, informal institutions play a crucial role in shaping the effectiveness of CSR practices, especially within the extractive sector, where business activities deeply impact local communities' well-being. Unlike formal institutions, which are established, and legally enforceable, informal institutions operate through social norms, cultural practices, religious values, and customary behaviours that dictate acceptable conduct within society. For CSR initiatives to be effective, corporations must recognise and navigate these informal structures, as they significantly influence community expectations and corporations' decision-making processes. In this context, informal institutions such as cultural norms, religious entities, social networks (including age grades and women's groups), and traditional governance frameworks are pivotal. They shape how businesses interact with host communities and influence conflict management and the implementation of development activities. Overall, the success of CSR initiatives in this sector depends mainly on understanding and integrating these informal institutions into corporate strategies, thus highlighting the importance of local context in achieving meaningful engagement with communities.

Cultural norms are deeply rooted values, traditions, and expectations established by society that dictate how individuals behave and interact. These norms significantly influence the perception of businesses and shape the acceptance or resistance towards corporate activities. In Nigeria, particularly in oil-rich regions, cultural expectations often extend beyond legal obligations. Communities tend to view companies as responsible for engaging in philanthropic activities, sponsoring traditional festivals, and initiating community development projects.<sup>94</sup> Such initiatives are seen as a social obligation that corporations owe to the communities in which they operate.<sup>95</sup> Furthermore, a lack of awareness regarding these cultural norms related to corporate social responsibility (CSR) programmes can result in conflicts between corporations and host communities.<sup>96</sup> For example, multinational oil companies that design CSR programs solely based on global corporate standards may face opposition if their initiatives clash with local customs and practices. Conversely, companies that adopt a culturally sensitive approach—such as respecting local governance structures, incorporating traditional dispute resolution processes, and supporting local economic enterprises—are more likely to gain community acceptance and achieve sustainable success in their CSR efforts.

Essentially, customary practices play an integral role in shaping the CSR landscape within Nigerian communities. These traditional conventions often govern critical aspects such as land-use decisions, conflict resolution methods, and community governance structures, frequently eclipsing formal legal institutions and systems.<sup>97</sup> For instance, disputes regarding land ownership, compensation, and resource extraction rights in oil-producing regions are typically mediated through customary methods that foster locally accepted and understood solutions.<sup>98</sup> Corporations disregarding these traditional approaches face considerable backlash and resistance, particularly concerning land governance issues, as land is often considered communally owned rather than privately held. By genuinely engaging with and respecting customary land tenure systems and by involving local community members in decision-making processes, corporations can significantly enhance the

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<sup>92</sup> Louis Osemeke, Stephen Adegbite and Emmanuel Adegbite, 'Corporate Social Responsibility Initiatives in Nigeria', *CSR, Sustainability, Ethics and Governance* (2016).

<sup>93</sup> Ibid.

<sup>94</sup> Kenneth M Amaeshi and others, 'Corporate Social Responsibility in Nigeria: Western Mimicry Or Indigenous Influences?' [2011] SSRN Electronic Journal.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Allen L White, 'Culture Matters: The Soul of CSR in Emerging Economies' (2008).

<sup>98</sup> Ibid.

credibility and efficacy of their CSR initiatives. Such engagements contribute to resolving conflicts and help cultivate harmonious relationships between the corporations and the communities they aim to serve. Ultimately, acknowledging and integrating these social and customary frameworks into CSR strategies leads to more sustainable and impactful community development.

Central to successful CSR is the acknowledgement of the family's significance.<sup>99</sup> In this context, the term "family" refers to the extended family system, known as Umunna, which is prevalent in various Nigerian societies.<sup>100</sup> Families serve as primary socialisation agents, instilling values, fostering personal growth, and shaping attitudes essential for social cohesion. They contribute to community well-being by advocating for social justice and inspiring collective action. The prevailing social hierarchy in Nigeria often values family background and cultural identity over individual achievements, promoting a collectivist approach.<sup>101</sup> This perspective can clash with Western CSR views focused on organisational goals.<sup>102</sup> The paper argues for integrating core family values— including sharing, consensus, and harmony—into CSR policies to strengthen community-corporation relationships and promote sustainability.<sup>103</sup> Therefore, this paper argues that recognising the role of the family and integrating the core family values can enhance the relationship between communities and corporations and contribute to a more sustainable and responsible future for all stakeholders.<sup>104</sup> The eldest person in every kindred (who may be a male or female), as a representative of the kindred should be consulted and be a part of deliberations when a decision affecting that kindred is to be made.<sup>105</sup> This will further strengthen the CSR practices of corporations in the area.

Religious institutions and beliefs significantly shape societal attitudes toward corporate behaviour, especially in Nigeria, where religion is intertwined with daily life. Religious teachings impose moral constraints on business practices, establishing ethical boundaries and expectations for corporations. Faith-based organisations and religious leaders often serve as intermediaries for businesses operating within local communities, advocating for ethical practices, environmental stewardship, and fair compensation for resource extraction.<sup>106</sup> These religious canons emphasise honesty, integrity, and generosity in corporate conduct. Consequently, companies recognised for their corporate responsibility—through philanthropy, sponsorship of community health initiatives, or educational support—tend to receive positive recognition from strong Christian or Muslim communities.<sup>107</sup> Engagement with religious leaders and institutions can enhance the legitimacy of CSR initiatives, as these leaders ensure that corporate actions align with moral and ethical standards rooted in religious teachings. Conversely, neglecting the influence of religion in CSR can foster distrust and lead to the outright rejection of corporate initiatives. Communities often look to religious leaders for guidance, and businesses that fail to consult these institutions may find it challenging to gain local acceptance.<sup>108</sup> Therefore, integrating religious considerations into CSR programmes is vital for enhancing credibility and achieving a meaningful impact within the community.

In Nigeria, social networks play an important role in defining the dynamics of relationships between corporations and the communities in which they operate. These networks, grounded in strong

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<sup>99</sup> The House Project, Exploring the Importance of the Family to Sustainable Development (2023) The House Project, available at <https://thehouseproject.foundation/blogs/blog/the-importance-of-the-family#:~:text=The%20family%20serves%20as%20the,interpersonal%20relationships%20and%20community%20bonds>. Accessed 11 August 2023.

<sup>100</sup> Ibid.

<sup>101</sup> Asa Helg, "Corporate Social Responsibility from a Nigerian Perspective" (2007) Goteburg University Publication (master's Thesis) available at <https://core.ac.uk/download/pdf/16312757.pdf> accessed 15 August 2023.

<sup>102</sup> T Jackson, "Management and Change in Africa" (Routledge, 2004) 17-18

<sup>103</sup> Children's Bureau, "The Role of family in child development" (2017) Children's Bureau, available at <https://www.all4kids.org/news/blog/the-role-of-family-in-child-development/#:~:text=A%20child's%20learning%20and%20socialization,and%20intellectually%20during%20this%20time>. Accessed 11 August 2023

<sup>104</sup> Asa Helg (n 101) above.

<sup>105</sup> When corporations can seek input from all community members, they should take advantage of it. However, it may be challenging to bring all community members together for discussions. Therefore, it is generally acceptable for families to choose representatives to speak on their behalf during such deliberations.

<sup>106</sup> Franklin Nakpodia, Philip J Shrivs and M Karim Sorour, 'Examining the Link Between Religion and Corporate Governance: Insights From Nigeria' (2020) 59 Business and Society 956.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

kinship ties, extensive community councils, and various forms of informal leadership, significantly affect a range of factors, such as local decision-making processes, information dissemination, and communities' ability to engage in collective action. Therefore, it is imperative for companies that aim to implement effective CSR initiatives to carefully navigate these intricate social structures to foster trust, credibility, and legitimacy within the community. To successfully align their CSR initiatives with local populations' genuine needs and priorities, corporations must actively engage with influential figures such as traditional rulers, youth leaders, women's groups, and other community stakeholders.<sup>109</sup> Collaborations with these groups are not merely advisable but essential for creating initiatives that resonate culturally and socially within the community. When corporations neglect to honour or acknowledge these social networks, their CSR programmes may be viewed as top-down impositions rather than authentic efforts geared towards community enhancement. Such misalignments can lead to feelings of distrust and scepticism, ultimately undermining the intended goals of these initiatives. Conversely, by embedding social networks into the planning and execution phases of CSR, companies can develop culturally relevant projects that attract widespread community support and participation.<sup>110</sup>

Language is another informal institution considered relevant to the success of CSR initiatives in Nigeria. The significance of language extends far beyond mere communication; it is an integral aspect of cultural identity and plays a crucial role in fostering connections among individuals.<sup>111</sup> Through language, people can articulate their thoughts, share their histories, and build meaningful relationships that cultivate a sense of belonging within their communities. Language provides a window into an individual's background, revealing nuances of social status, gender dynamics, and ethnic affiliations. It shapes social interactions from early childhood, acting as a marker for social identification and preference. This early influence underscores the importance of language in personal and community identity formation, as it impacts how individuals perceive themselves and relate to one another. Moreover, by recognising and honouring the role of language in shaping individuals' lived experiences and social preferences, stakeholders in the oil and gas sector can make substantial contributions to building a more inclusive and resilient society.<sup>112</sup> When businesses take the initiative to produce their CSR policies in the local languages, they demonstrate respect for the culture and identity of the communities they operate in and enhance stakeholder engagement. This approach can lead to more profound cultural exchanges and foster mutual understanding, as local community members are likely to feel more valued and involved in discussions that pertain to their interests and welfare. By eliminating language barriers, companies can open avenues for dialogue that promote transparency and collaboration. Ultimately, developing CSR policies with a thoughtful consideration of local languages can significantly improve the relationship between companies and host communities, bolstering trust and loyalty while contributing to sustainable development.

#### *Significance of Informal Institutions in Driving Effective CSR Initiatives in Nigeria*

The key to successful CSR in Nigeria's extractive industries lies in aligning with informal institutions. Companies that understand and embrace cultural norms, religious beliefs, social networks, and traditional practices are better equipped to build strong relationships, reduce conflicts, and maintain community programs. Informal institutions improve the effectiveness of CSR by fostering trust, resolving disputes, and facilitating community engagement.<sup>113</sup> They serve as a valuable channel for companies to grasp community expectations, ensure participation, and distribute CSR benefits fairly. By leveraging these existing social structures, businesses can enhance the long-term impact of their CSR initiatives. Conversely, neglecting informal institutions often leads to failures in corporate social responsibility (CSR), community resistance, and damage to a company's reputation. Companies that attempt to implement CSR initiatives without consulting traditional authorities, religious organizations, or local governance structures will likely encounter backlash, project rejections, and prolonged disputes. Therefore, effective CSR must extend beyond compliance with formally established legal frameworks

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<sup>109</sup> Francisco Javier Cortado and Ricardo Chalmeta, 'Use of Social Networks as a CSR Communication Tool' (2016) 3 *Cogent Business and Management*.

<sup>110</sup> *Ibid.*

<sup>111</sup> R. Esseily, E. Somogyi and B. Guellai, "The relative importance of language in guiding social preferences through development", (2016) 7 *Front. Psychol.* 1645.

<sup>112</sup> *Ibid.*

<sup>113</sup> Tolmie, Lehnert and Zhao.

and meaningfully engage with the social and cultural dynamics that govern corporate-community relations.

Trust is essential to corporate-community relationships, and informal institutions play a critical role in creating corporate legitimacy.<sup>114</sup> In Nigeria, particularly in oil-producing areas, communities have faced years of environmental devastation and economic exclusion, which have fostered a deep-seated distrust towards multinational companies. In this environment, a formal CSR pledge alone is insufficient. Companies must demonstrate genuine social responsibility by engaging with local customs, traditions, and leadership structures. Those that acknowledge and incorporate informal institutions into their CSR practices gain credibility. Consulting traditional rulers, elders, religious leaders, and community representatives before implementing programmes fosters transparency and ensures that projects align with community needs.<sup>115</sup> Conversely, companies that neglect such consultations may be viewed as exploitative or insincere, leading to potential resistance or outright rejection of their CSR initiatives.

Additionally, informal institutions significantly influence conflict resolution in the context of CSR effectiveness.<sup>116</sup> Disputes surrounding land ownership, compensation, environmental damage, and employment opportunities are common in Nigeria's extractive sector. While legal frameworks exist to address these conflicts, many communities prefer customary mediation, wherein local chiefs, elders, and religious leaders serve as arbitrators. Incorporating traditional conflict resolution mechanisms into CSR initiatives prevents protracted disputes and fosters a cooperative partnership between companies and host communities. Firms that respect and utilize these mechanisms can resolve grievances more swiftly, avoid litigation, and mitigate tensions that could otherwise hinder operations. In contrast, companies that disregard traditional dispute resolution often face prolonged opposition, protests, or even sabotage of their projects.<sup>117</sup>

Effective CSR programmes go beyond financial contributions and legal compliance; they require direct engagement with the community in project design and implementation. Informal institutions are vital for mobilizing participation and addressing real needs, with examples including kinship networks, women's groups, and youth associations. Businesses that involve these networks in decision-making and resource distribution foster a sense of ownership among community members, making their CSR initiatives more effective and sustainable. For instance, when corporations collaborate with advisory councils or include traditional leaders in project oversight, they typically experience enhanced community buy-in and less opposition. Conversely, projects lacking local involvement in their design or execution often fail to meet the community's social realities and priorities, leading to less successful outcomes.

Fostering inclusive economic development is a critical insight from the perspective of the old institutional economic theory, emphasizing that economic growth must integrate the imperatives and structures inherent in community life. CSR initiatives that overlook Indigenous economies, enterprises, and social networks often yield limited, short-lived benefits. Rather than imposing external development models, companies should engage with existing community frameworks to promote inclusive growth. For instance, in many Nigerian oil-producing communities, informal economic structures such as group farming, traditional trading networks, and local markets are vital for sustenance. CSR efforts that bolster these frameworks—like funding cooperative businesses, enhancing access to local markets, or investing in traditional apprenticeship programs—are more likely to achieve sustainability and community acceptance. In alignment with the ideas of the old institutional economics, this paper advocates for businesses to consolidate, not replace, these indigenous economic institutions to foster long-term growth through their CSR initiatives.

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<sup>114</sup> E Isaac Mostovicz and Nada K Kakabadse, 'Between Trust and CSR: The Role of Leadership', *Theory and Practice of Corporate Social Responsibility* (2011).

<sup>115</sup> Lukman Raimi, 'Reinventing CSR in Nigeria: Understanding Its Meaning and Theories for Effective Application in the Industry', *Developments in Corporate Governance and Responsibility*, vol 13 (2018).

<sup>116</sup> Ans Kolk and François Lenfant, 'Multinationals, CSR and Partnerships in Central African Conflict Countries' (2013) 20 *Corporate Social Responsibility and Environmental Management* 43.

<sup>117</sup> *Ibid.*

Furthermore, the extractive industry in Nigeria faces unique sector-specific challenges, such as land disputes, environmental degradation, and inequities in resource distribution.<sup>118</sup> Accordingly, these issues cannot be resolved merely through formal regulation; they necessitate engagement with informal governance structures. In Nigeria, land ownership is typically governed by customary tenure regimes, with local chiefs or families managing land collectively. Corporations acquiring land without consulting these traditional authorities can lead to conflicts that hinder operations. Companies can negotiate equitable agreements and provide fair compensation by adhering to established customary land-use practices, thereby preventing disputes. Similarly, environmental issues like oil spills and pollution often fuel tensions between local communities and corporations. Although environmental protection laws exist, their enforcement is frequently lax. Informal institutions, including traditional councils and community-based environmental monitoring groups, ensure corporate accountability and promote practical remediation efforts.

In addition, enhancing social accountability in CSR is another significance of informal institutions in driving effective CSR. While formal institutions rely on legal mechanisms for compliance, informal structures encourage corporate responsiveness through community involvement, social expectations, and traditional governance systems. In Nigeria's extractive sector, religious groups, youth associations, and community leaders serve as watchdogs to ensure corporations meet their CSR obligations. These entities provide platforms for the community to voice concerns and negotiate CSR benefits. In this context, economic actors, including companies, exist within a complex web of social obligations and relationships. Those corporations that acknowledge and nurture these informal accountability frameworks are more likely to gain trust and establish long-term legitimacy within host communities.<sup>119</sup>

## Conclusion

In conclusion, this paper emphasises the critical necessity of incorporating local informal institutions into the Corporate Social Responsibility (CSR) framework within Nigeria's oil extractive sector. The analysis highlights that for CSR initiatives to be genuinely effective and sustainable, they must go beyond mere compliance with regulations or philanthropic gestures that provide short-term relief. Instead, these initiatives must be deeply rooted in the social and cultural realities of the communities they aim to serve. This requires a profound recognition of the invaluable role that informal governance systems play, including cultural norms, religious values, and local social networks, which significantly shape community dynamics and expectations.

The findings advocate strongly for a paradigm shift in multinational oil corporations' approach towards CSR. Instead of imposing pre-defined, externally generated frameworks that may not resonate with local realities, these companies should make a concerted effort to engage directly with local stakeholders. This includes actively seeking input from community leaders, grassroots organisations, and a broad range of community members, allowing them to identify their needs and priorities collaboratively. Such an inclusive approach enhances the perceived legitimacy of CSR initiatives and fosters trust and collaboration between corporations and local communities. This can significantly reduce conflicts and challenges that often arise in oil-rich regions, ultimately contributing to long-term social cohesion and economic stability.

Moreover, companies can transform their operations into powerful catalysts for sustainable development by adopting a comprehensive and contextually aware CSR strategy that aligns with both formal and informal institutions. This evolution requires moving away from a Western-centric perspective on CSR—often characterised by one-size-fits-all solutions—and towards one that genuinely incorporates and respects local dynamics and contexts. This shift will enable corporations to achieve meaningful, impactful outcomes that benefit their bottom lines and their communities.

Consequently, CSR can evolve into a transformative tool that effectively balances corporate interests with the social fabric of local populations. Doing so fosters a more equitable and sustainable future within Nigeria's extractive sector, paving the way for healthier relationships between

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<sup>118</sup> Tom Fox, Halina Ward and Bruce Howard, 'Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study' [2002] The World Bank 1.

<sup>119</sup> Mallika Tamvada, 'Corporate Social Responsibility and Accountability: A New Theoretical Foundation for Regulating CSR' (2020) 5 International Journal of Corporate Social Responsibility.

corporations and the communities they impact. This comprehensive integration of local realities into CSR initiatives not only elevates the social responsibility of these companies but also enriches the social and economic landscape of Nigeria's oil-rich regions, promoting prosperity for all stakeholders involved.