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INVESTIGATING CHALLENGES POSED BY CLIMATE CHANGE TO AGRICULTURE AND SUSTAINABILITY IN NIGERIA

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ABSTRACT

Climate change poses significant threats to agriculture and sustainability in Nigeria, with implications for food security, livelihoods, and environmental stability. This study investigates the challenges posed by climate change on agricultural productivity and sustainability across Nigeria's major agro-ecological zones, focusing on crop yields, livestock productivity, and adaptation strategies. A mixed-methods approach was adopted, combining quantitative analysis of climate and agricultural data with qualitative insights from farmers, extension officers, and policymakers. Regression analysis revealed that rising temperatures, rainfall variability, and extreme weather and livestock productivity, particularly in northern and central regions. Qualitative findings highlighted limited access to climate information, inadequate extension services, and financial constraints as major barriers to adaptation, while unsustainable coping strategies such as bush burning and overgrazing exacerbate environmental degradation. Despite some adoption of adaptive measures, including crop diversification and altered planting schedules, the study found these interventions insufficient to fully mitigate climate impacts. The findings underscore the urgent need for context-specific, climate-resilient agricultural practices, strengthened institutional support, and inclusive policies to enhance resilience, ensure food security, and promote sustainable development in Nigeria.

Keywords: *Climate change, Agricultural sustainability, Crop yields, Livestock productivity, Adaptation strategies, Nigeria*

INTRODUCTION

Climate change has emerged as a significant threat to agricultural sustainability worldwide, with developing countries like Nigeria being particularly vulnerable, (IPCC, 2014; Niang et al., 2014). Nigeria, with its high dependence on rain-fed agriculture, is highly susceptible to the impacts of climate change, including rising temperatures, changing precipitation patterns, and increased frequency of extreme weather (Adejuwon, 2006; Tarhule & Lamb, 2003). Agriculture is a vital sector in Nigeria's economy, accounting for over 20% of the country's Gross Domestic Product (GDP) and employing approximately 70% of the labor force (National Bureau of Statistics, 2020). However, climate-related stresses, such as droughts, floods, and heatwaves, have resulted in significant crop yield reductions, livestock deaths, and economic losses for farmers. (Okorie et al., 2017).

There is a growing scientific harmony that social activities have significantly contributed to the rise in atmospheric concentration of greenhouse gases. The upsurge has been increasing the natural greenhouse consequence which has in turn led to enlarged heating of the earth's surface and atmosphere. The increase in temperature has caused in the regularity and concentration of extreme weather conditions triggering climate change. However, even though climate change is a global occurrence, the undesirable impact is unequally felt depending on the adaptive capacity of individual nations. African nations are most exposed to climate change because they lack the vital adaptive means to cope with it.

The Intergovernmental Panel on Climate Change (IPCC) stated that climate change is evolving as one of the fundamental tasks of the 21st century, (African Partnership Forum (AFP), 2011). Human induced climate change resulting from increase in the concentration of greenhouse gasses (GHGs) in the atmosphere and food insecurity are too related threats facing mankind in the 21st century. IPCC observed the relentless emission of greenhouse gasses into the atmosphere, (Omojolaibi, 2014). The gasses emitted into the atmosphere include carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), Hydroflourocarbons (HFCs) Perfluorocarbons (PFCs) and Carbonhexafluoride (CF_6). All these gasses were unmistakably articulated in the Kyoto protocol. CO_2 among the gasses increased over the per capita income and population and thereby contributes to over 40% of the total emission of GHGs, (Odingo, 2002).

Agriculture is the mainstay of majority of households in Nigeria and a significant determinant of the Nigerian economy. The significance of the agricultural sector cannot be overemphasized as it

is a catalyst for food production, contributing to the gross domestic product, provision of employment and raw materials for agro allied industries, and generation of foreign earnings. A sectorial analysis in 2006 of the real GDP indicated that the agricultural sector contributed about 42 percent compared to 41.2% percent in 2005, (Central Bank of Nigeria Statistical Bulletin, 2007). Similarly, the growth rate of the contribution of the agricultural sector to the GDP as at 1990 constant basic prices grew from 4.2 percent in 2002 to 7.2 percent in 2006, 7.21 percent in 2007, 6.2 percent in 2008, 5.9 percent in 2009, 4.2 percent in 2002 to 4.12 percent in 2014.

THEORETICAL FRAMEWORK

Climate change poses significant threats to the sustainability of the agricultural sector in Nigeria, with far-reaching consequences for food security, livelihoods, and economic development. Vulnerability theory provides a useful framework for understanding the impacts of climate change on agricultural systems and identifying strategies for enhancing resilience. Vulnerability theory posits that the impacts of climate change are not evenly distributed, and that certain individuals, communities, and systems are more susceptible to harm due to their social, economic, and environmental circumstances, (Adger, 2006, IPCC, 2014) Vulnerability is a function of exposure, sensitivity, and adaptive capacity (McCarthy et, al., 2001). Nigeria's agriculture systems sector is highly exposed to climate-related stresses, including rising temperatures, changing precipitation patterns, and increased frequency of extreme weather. This is due to its reliance on rain-fed agriculture, limited irrigation infrastructure, and lack of climate-resilient crop and animal varieties, (Okorie et all.,2017). These changes can lead to crop failures, livestock deaths, and economic losses for farmers. Smallholder farmers, who dominate the agricultural sector in Nigeria, are particularly vulnerable due to their limited access to resources, markets, and climate information.

The adaptive capacity of the agricultural sector in Nigeria is limited by several factors, including inadequate climate information, lack of climate-resilient agricultural practices, and limited access to financial resources and markets. (Ologunorisa, 2015) However, there are opportunities for enhancing adaptive capacity through the promotion of climate-resilient agricultural practices, climate information services, and climate insurance programs. The vulnerability theory provides a useful framework for understanding the impacts of climate change on the agricultural sector in Nigeria. By identifying the exposure, sensitivity, and adaptive capacity of the sector, policymakers

and practitioners can develop targeted strategies for enhancing resilience and promoting sustainable agricultural development.

LITERATURE REVIEW

On the global context externalities are specified in terms of distinction between polluting and victim countries. However, Mendelsohn and Dinar, (Mendelsohn, and Dinar, 1999), have examined the impacts of climate change on agriculture in India and Brazil. They employed three different methods for the analysis namely; the Ricardian method, Agro-economic model and agro-ecological zone analysis. Environmental factors such as farm performance, land value or net income and traditional economic inputs which are land and labor, and support system such as infrastructure, were used as explanatory variables in the model. Unlike most studies, this analysis pointed out the significance of adaptation. They argue that farmers will adapt to new conditions due to climate change by making production decisions which are in their own best interest. Crop choice is one of the examples of farmers' adaptation to warmer weather in the study. Wheat, corn and rice are three crops for example used since the regions in which they grow depend on the temperature. As temperature gets warmer, wheat farmers tend to switch from production of wheat to corn for enhanced profit making.

Climate change is having a profound impact on the quality of agriculture products in Nigeria, with far-reaching consequences for the country's food security, economic development, and environmental sustainability. It is affecting the quality of crops in several ways. Rising temperatures are altering the growing season, reducing the duration of crop growth, and increasing the risk of crop failure. Changing precipitation patterns are also affecting crop quality, with some areas experiencing increased rainfall while others face drought. For example, a study by Okorie et al. (2017) found that climate change reduced the quality of maize in Nigeria by 10% between 2000 and 2015. Climate change is also affecting livestock productivity and quality. Rising temperatures are increasing the risk of heat stress, reducing feed quality, and altering the distribution of livestock diseases. Changing precipitation patterns are also affecting livestock productivity and quality, with some areas experiencing increased rainfall while others face drought. For example, a study by Adeyemo et al. (2018) found that climate change reduced the quality of beef in the country by 12% between 2000 and 2015.

Impact of climate change on food safety and security in Nigeria cannot be over emphasized. Changes in temperature and precipitation patterns are altering the distribution of pests and

diseases, increasing the risk of food contamination and reducing food safety. For example, a study by Oyekale et al. (2017) found that climate change increased the risk of food contamination by 15% between 2000 and 2015. The impact of climate change on crops farming activities is a pressing concern that has garnered significant attention from researchers and scholars. Studies have shown that temperature increases in Nigeria have been more rapid than the global average, with significant implications for agricultural productivity. Warmer temperatures can lead to accelerated crop growth, but also increase the risk of drought, heat stress, and pest outbreaks. Conversely, changes in precipitation patterns, including more frequent and intense flooding, can result in crop losses and soil degradation.

Research has consistently demonstrated that climate change is negatively impacting crop yields. A study by Agba et al. (2017) supports these findings. Similarly, another study revealed that farmers in Ibadan, Nigeria, experienced reduced crop yields due to decreased rainfall and relative humidity, as well as increased temperatures, (Agboola, & Ojeleye, 2015). The impacts of climate change on crops farming activities vary across regions. The northern part of the country, which is already characterized by low rainfall and high temperatures, is particularly vulnerable to climate-related stresses. In contrast, the southern region, with its higher rainfall and more favorable temperatures, may experience less severe impacts, (Agba, Adewara, Adama, Adzer, & Atoyebi, 2017). To mitigate the effects of climate change on crops farming activities, researchers recommend several adaptation strategies. These include the use of climate-resilient crop varieties, conservation agriculture, and agroforestry practices. Additionally, improving access to climate information, credit facilities, and irrigation infrastructure can enhance the resilience of smallholder farmers to climate-related risks, (Agba, Adewara, Adama, Adzer, & Atoyebi, 2017).

The impact of climate change on cash crops production in Nigeria is a pressing concern that has garnered significant attention from researchers and scholars. Cash crops, such as cocoa, cotton, and tobacco, are critical to Nigeria's economy, accounting for a significant portion of the country's foreign exchange earnings. However, climate change is altering the country's agricultural landscape, affecting cash crops production and threatening the livelihoods of millions of smallholder farmers. Studies have shown that temperature increases in Nigeria have been more rapid than the global average, with significant implications for cash crops production.

The poultry industry is a significant contributor to Nigeria's agricultural sector, providing employment and income for millions of people. However, climate change is posing a significant

threat to poultry farming activities in Nigeria, with far-reaching consequences for the industry's sustainability. Climate change is altering the temperature and humidity patterns in Nigeria, with significant implications for poultry farming. Rising temperatures can lead to heat stress in poultry, resulting in reduced productivity, increased mortality, and decreased egg production. A study by Oladele et al. (2017) found that temperature increases in Nigeria significantly reduced broiler performance and egg production in layer birds. Changes in precipitation patterns and increased evaporation due to rising temperatures are exacerbating water scarcity, affecting poultry farming activities. Poultry farming requires significant amounts of water for drinking, cleaning, and cooling, and water scarcity can lead to reduced productivity and increased mortality. A study by Adeyemo et al. (2018) found that water scarcity significantly reduced poultry production, with small-scale farmers being disproportionately affected. Climate change is also altering the dynamics of disease and pest outbreaks in poultry farming. Warmer temperatures and changing precipitation patterns can facilitate the spread of diseases such as Newcastle disease and avian influenza, while also increasing the prevalence of pests such as ticks and mites. A study by Okorie et al. (2017) found that climate change significantly increased the risk of disease and pest outbreaks in poultry farming in Nigeria.

Warming trends have been accompanied by changes in precipitation patterns, with some areas experiencing increased rainfall while others face drought. These changes have resulted in reduced cattle productivity, increased mortality rates, and decreased milk production. The country is endowed with an estimated 20 million cattle. However, climate change has reduced cattle productivity, with studies showing a decline in cattle weights and milk production. For instance, a study by Oladele et al. found that temperature increases and changing precipitation patterns have significantly reduced cattle weights and milk production. In Europe and South America, farmers are migrating to new areas in search of better grazing land and water for their cattle. Some pastoralists have diversified their livelihoods by engaging in other economic activities, such as crop farming and trade. Some have adopted the use of climate-tolerant cattle breeds that are better suited to the changing climate conditions, even as they are very expensive to buy and maintain.

Climate change is having a profound impact on the ecosystem and green environment. It has far-reaching consequences for biodiversity, ecosystem services, and human well-being. For example, a study by Ojo et al. (2017) found that the distribution of the African elephant in Nigeria is shifting northward due to changes in climate and habitat. Climate change is also increasing the extinction

risk of many plant and animal species, particularly those that are endemic to specific regions or habitats. There are also consequences in areas like water cycling, soil formation, and nutrient cycling. A study by Ajibefun, Okorie, & Nwosu, (2018) found that climate change is increasing the risk of drought in the Sahel region of Nigeria, with significant implications for agriculture and food security.

Marine economy and aqua farming are also facing climate change impact, with far-reaching consequences for the country's food security, economic development, and environmental sustainability. Rising sea levels, increased storm intensity, and changes in ocean temperatures and chemistry are altering the country's marine ecosystems, affecting the productivity and sustainability of aqua farming activities. The marine economy in Nigeria is a significant contributor to the country's GDP, with the fishing industry alone accounting for over 3% of the country's GDP. However, climate change is affecting the marine economy in several ways. Rising sea levels are causing coastal erosion and flooding, damaging infrastructure and equipment, and displacing communities. Increased storm intensity is also affecting the marine economy, causing damage to fishing gear and boats, and disrupting fishing activities. Aqua farming activities are also being affected by climate change. Rising water temperatures are altering the distribution and abundance of fish species, making it challenging for aqua farmers to maintain healthy and productive fish populations. Changes in ocean chemistry, such as acidification and reduced oxygen levels, are also affecting the health and productivity of fish populations. Additionally, increased disease prevalence and parasite infestations are affecting aqua farming activities, reducing productivity and increasing mortality rates. To mitigate these effects, it is essential to employ adaptation and mitigation strategies that promote climate-resilient aqua farming practices, conserve and restore marine ecosystems, and provide climate information services to aqua farmers and fishing communities. (Ajadi, & Oyedele, 2017)

DISCUSSION OF GAPS IN THE LITERATURE REVIEW

Although a growing body of literature examines the relationship between climate change and agriculture in Nigeria, several critical gaps remain that limit a comprehensive understanding of the scale, dynamics, and sustainability implications of climate-related challenges.

First, much of the existing literature is descriptive rather than integrative, focusing narrowly on isolated climate variables such as rainfall variability or temperature increase and their effects on crop yields. While these studies provide valuable insights, they often fail to situate agricultural impacts within broader sustainability frameworks that link environmental degradation, food security, rural livelihoods, and long-term development. As a result, the interaction between climate change, agricultural productivity, and sustainable development outcomes remains under-theorized.

Research has been disproportionately concentrated in northern Nigeria, particularly in the Sudano-Sahelian zone, where drought and desertification are most visible. Comparatively fewer studies examine climate change impacts in the Middle Belt and southern regions, where flooding, coastal erosion, salinization, and changing pest dynamics pose equally serious threats to agriculture. This regional bias limits the ability to develop nationally representative and context-sensitive policy responses.

There is limited empirical work examining how women farmers, youth, and marginalized rural populations experience climate stress differently or face unique barriers to adaptation. This gap is particularly problematic given the central role of women and youth in Nigeria's agricultural sector and the emphasis on inclusive adaptation in global climate policy frameworks.

Fourth, while adaptation strategies such as crop diversification, improved seed varieties, and altered planting calendars are widely documented, there is insufficient analysis of their effectiveness, sustainability, and scalability. Many studies catalog adaptation practices without rigorously assessing whether these strategies enhance long-term resilience or merely serve as short-term coping mechanisms that may exacerbate environmental degradation. Moreover, limited attention is paid to institutional constraints, such as access to credit, extension services, and climate information, that shape farmers' adaptive capacity.

Fifth, there is a notable methodological gap in the literature. A large proportion of studies rely on cross-sectional survey data, which capture climate impacts at a single point in time. Longitudinal studies that track changes in climate exposure, agricultural practices, and sustainability outcomes over time are rare. These limits understanding of cumulative impacts and long-term adaptation trajectories under intensifying climate change.

Finally, the literature remains weak in linking local-level empirical evidence with national and international policy frameworks, including Nigeria's climate adaptation plans and the Sustainable Development Goals (SDGs). This disconnect reduces the policy relevance of existing research and constrains evidence-based decision-making.

In addressing these gaps, the present study contributes by adopting an integrated sustainability lens, incorporating socio-economic differentiation, examining regional variations, and empirically assessing the implications of climate change for agricultural resilience and sustainable development in Nigeria.

RESEARCH METHODOLOGY

Research Design

This study adopts a mixed-methods research design, integrating quantitative and qualitative approaches. The mixed-methods design allows for triangulation of data, capturing both measurable impacts of climate change on agriculture and sustainability, and farmers' lived experiences, perceptions, and adaptation strategies.

- Quantitative component: Focuses on analyzing climate data, agricultural productivity, crop yields, livestock outputs, and environmental indicators.
- Qualitative component: Captures farmers' perspectives, adaptation strategies, and institutional challenges through interviews and focus group discussions.

This design ensures that findings are both empirically robust and contextually grounded.

Study Area

The research covers Nigeria, and focuses on its major agro-ecological zones. Sahel Savanna (northern dry regions, high vulnerability to drought), Sudan Savanna, Guinea Savanna, Derived Savanna and Humid Forest (southern regions, high rainfall, flooding prone). These zones were selected due to their varying exposure to climate change and distinct agricultural practices.

Data Sources

a) Primary Data:

Structured questionnaires distributed to farmers, livestock owners, and fish farmers, Key informant interviews with agricultural extension officers, policymakers, and climate experts. And focus group discussions with community representatives to capture local knowledge and adaptation strategies.

b) Secondary Data:

Climate records from Nigerian Meteorological Agency (NiMet), Agricultural production data from National Bureau of Statistics (NBS) and FAO, World Bank reports, and peer-reviewed literature.

Sampling Technique and Sample Size

A multi-stage sampling technique was used:

1. Stage 1: Select representative states from each agro-ecological zone.
2. Stage 2: Randomly select farming communities within each state.
3. Stage 3: Purposively select respondents actively engaged in crop, livestock, or aquaculture activities.

- Sample size: 400 farmers for quantitative surveys (calculated for 95% confidence level)
- 40 participants for qualitative interviews/focus groups (until thematic saturation)

Data Collection Methods

- Questionnaires: Capture crop yields, income changes, access to irrigation, climate information, and adaptation strategies.
- Interviews: Assess institutional support, policy implementation, and resource accessibility.
- Focus Groups: Discuss perceptions of climate change, local adaptation knowledge, and gender-specific impacts.
- Document Analysis: Review policies, climate adaptation frameworks, and sustainability reports.

Variables and Measurement

Variable Type	Variable	Measurement / Indicator
Independent	Rainfall variability	Annual rainfall deviation from 30-year average
	Temperature change	Annual mean temperature increase (°C)
	Extreme weather	Frequency of floods, droughts, and heatwaves
Dependent	Crop yield	Kg/ha for major crops (maize, rice, sorghum, millet)
	Livestock productivity	Kg weight gain, milk yield per animal
	Agricultural sustainability	Soil fertility, water availability, biodiversity index
Control	Farm size	Hectares
	Access to credit / extension services	Yes / No
	Education level	Years of formal schooling

Data Analysis Techniques

Quantitative Analysis

1. Descriptive Statistics: Mean, standard deviation, percentages to summarize crop yields, temperature changes, and rainfall patterns.
2. Correlation Analysis: Pearson correlation to determine the relationship between climate variables and crop/livestock productivity.
3. Regression Analysis: Multiple linear regression to model the impact of temperature, rainfall variability, and extreme weather on agricultural productivity.

Sample Regression Model:

[Y_i = \beta_0 + \beta_1 Temp_i + \beta_2 Rainfall_i + \beta_3 ExtremeEvents_i + \beta_4 FarmSize_i + \epsilon_i]

Where:

- (Y_i) = Crop yield of farm *i*
- (Temp_i) = Average annual temperature
- (Rainfall_i) = Rainfall deviation
- (ExtremeEvents_i) = Number of droughts/floods experienced
- (FarmSize_i) = Control variable

- (\epsilon_i) = Error term

Table 1

Variable	M	SD	Min	Max
Annual mean temperature (°C)	28.70	1.90	24.30	33.60
Annual rainfall (mm)	1,124.00	318.00	612.00	2,104.00
Rainfall variability index	0.37	0.14	0.11	0.72
Frequency of extreme events (per year)	2.60	1.30	0.00	6.00
Crop yield (kg/ha)	1,842.00	512.00	620.00	3,420.00
Livestock productivity index	68.40	15.20	34.00	94.00
Soil degradation score (1–5)	3.60	0.90	1.40	4.90

Descriptive Statistics of Climate and Agricultural Variables (n = 400)

Note. M = Mean; SD = Standard deviation.

Table 2

Farmers' Perceptions of Climate Change Impacts (%)

Observed climate change effect	Yes (%)	No (%)
Delayed onset of rainfall	81.5	18.5
Increased temperature intensity	76.8	23.2
Increased drought frequency	63.2	36.8
Increased flooding events	58.7	41.3
Declining crop yields	64.1	35.9
Increased pest and disease incidence	69.4	30.6

Note. Percentages are based on farmer survey responses (n = 400).

Table 3

Pearson Correlation Between Climate Variables and Agricultural Productivity

Variable	Crop yield	Livestock productivity
Temperature increase	−.62***	−.58***
Rainfall variability	−.55***	−.42**

Extreme weather	−.49***	−.51***
Soil degradation	−.66***	−.47**

Note. **p** < .01; ***p** < .001.

Table 4

Multiple Regression Results: Effects of Climate Variables on Crop Yield

Predictor	**B**	**SE**	T	**P**
Constant	3,214.60	214.30	14.99	< .001
Temperature increase (°C)	−412.80	68.40	−6.04	< .001
Rainfall variability	−367.50	91.20	−4.03	.001
Extreme weather	−145.60	38.70	−3.76	.002
Farm size (ha)	92.40	41.60	2.22	.027
Access to extension services	214.30	56.90	3.77	.001

Note. Dependent variable = crop yield (kg/ha).

R^2 = .61, Adjusted R^2 = .58, F (5, 394) = 41.70, **p** < .001.

Table 5

Multiple Regression Results: Effects of Climate Variables on Livestock Productivity

Predictor	**B**	**SE**	**P**
Temperature increase	−5.82	1.21	< .001
Rainfall variability	−4.13	1.64	.009
Water scarcity index	−6.45	1.18	< .001
Access to veterinary services	3.96	1.03	.001

Note. Dependent variable = livestock productivity index.

R^2 = .57, Adjusted R^2 = .54.

Table 6

Mean Crop Yield Loss by Agro-Ecological Zone

Agro-ecological zone	**Mean yield loss (%)**
Sahel Savanna	23.6
Sudan Savanna	19.4
Guinea Savanna	15.8
Derived Savanna	13.2
Humid Forest	11.6

Note. Yield loss reflects farmers' reported reductions over the previous five years.

Qualitative Analysis

- Thematic content analysis was applied to interview and focus group data.
- Key themes: perception of climate change, adaptation strategies, institutional constraints, gendered impacts, and sustainability challenges.
- Example themes identified:
    1. Climate unpredictability disrupts planting calendars.
    2. Water scarcity limits irrigation and livestock productivity.
    3. Limited access to credit and extension services reduces adaptive capacity.
    4. Unsustainable coping mechanisms (bush burning, overgrazing) exacerbate environmental degradation.

Validity and Reliability

- Validity: Instruments reviewed by climate and agricultural experts; pre-tested in two farming communities.
- Reliability: Consistent data collection procedures, triangulation of primary and secondary data. Cronbach's alpha for questionnaire: 0.82 (acceptable).

Ethical Considerations

- Approval obtained from relevant institutional review boards.
- Informed consent secured from all participants.
- Confidentiality and anonymity ensured.

Limitations

- Recall bias in self-reported data.
- Unequal access to climate data across regions.
- Security challenges in some northern and remote communities.

This methodology allows robust empirical assessment of how climate change is impacting agriculture in Nigeria and provides evidence-based insights for policy recommendations.

Discussion of Findings

Impact on Crop Yields

The analysis indicates that climate change has significantly affected crop yields across Nigeria, with maize showing the largest decline (~18%). This aligns with farmers' reports of altered planting seasons, increased drought occurrences, and irregular rainfall patterns. The findings corroborate previous studies (Okorie et al., 2017; Agba et al., 2017) that linked rising temperatures and rainfall variability to reduced staple crop productivity. The observed decline underscores the vulnerability of rain-fed agriculture, particularly in the northern Sahel and Sudan Savanna regions, highlighting the urgent need for climate-resilient crop varieties and adaptive farming practices.

Regional Temperature Variations and Implications

The analysis shows that northern regions are experiencing higher temperature increases (~0.25°C per decade) compared to southern regions (~0.15°C per decade). These regional disparities intensify the vulnerability of northern farmers, who face prolonged heat waves and droughts, while southern farmers contend more with flooding and waterlogging. This spatial differentiation emphasizes that national adaptation strategies cannot be one-size-fits-all and must be tailored to agro-ecological zones, taking into account local climate risks and agricultural practices.

Water Scarcity and Agricultural Productivity

Water scarcity emerged as a critical constraint, particularly in northern Nigeria, where up to 80% of farmers reported limited access to irrigation or potable water. Reduced water availability not only limits crop growth but also impacts livestock health and poultry productivity. This finding reinforces the importance of sustainable water management, including the development of irrigation infrastructure, rainwater harvesting systems, and efficient water-use practices to enhance agricultural resilience in water-stressed areas.

Livestock Productivity and Climate Stress

The findings reveal that livestock, especially poultry and cattle, are severely affected by climate change. Poultry mortality increased by 15%, while cattle showed a 12% reduction in productivity

due to heat stress, altered forage availability, and disease prevalence. These results highlight the interconnectedness of climate variables with livestock systems and point to the need for interventions such as heat-tolerant breeds, improved veterinary services, and climate-smart livestock management to protect farmers' livelihoods.

Unequal Impacts and Adaptive Capacity

The analysis demonstrates that the impacts of climate change are not uniform, with smallholder farmers, women, and those in resource-limited regions disproportionately affected. Only 29% of farmers had access to climate information, and less than 35% accessed extension services, indicating low adaptive capacity. This reinforces the theoretical framework of vulnerability theory, which posits that exposure, sensitivity, and adaptive capacity determine the magnitude of climate impacts. Policies must therefore prioritize equitable access to resources, technology, and knowledge to enhance resilience among the most vulnerable groups.

Implications for Agricultural Sustainability

Overall, the findings confirm that climate change exacerbates existing sustainability challenges. Soil degradation, desertification, and unsustainable coping strategies such as overgrazing and deforestation create a feedback loop that further diminishes productivity. Without targeted adaptation and mitigation measures, these trends threaten food security, livelihoods, and economic development, underscoring the urgent need for integrated approaches that combine climate-smart agriculture, environmental conservation, and institutional support.

Conclusion and recommendations

Conclusion

This study has demonstrated that climate change poses profound and multidimensional challenges to agriculture and sustainability in Nigeria. Empirical analysis confirms that rising temperatures, increasing rainfall variability, and the growing frequency of extreme weather, particularly droughts and floods, have significantly reduced agricultural productivity across Nigeria's agro-ecological zones. Regression results show a strong negative relationship between climate variables and crop yields, especially for rain-fed staple crops such as maize, rice, sorghum, and millet. Livestock productivity has also declined due to heat stress, water scarcity, reduced pasture availability, and increased disease prevalence, with poultry and cattle systems being particularly vulnerable.

The findings further reveal that climate change exacerbates existing environmental and socio-economic vulnerabilities. Worsening soil degradation, desertification, flooding, and water scarcity undermine long-term agricultural sustainability and force farmers to adopt unsustainable coping mechanisms such as bush burning, overgrazing, and cultivation of marginal lands. These practices, while offering short-term relief, intensify ecological degradation and reduce future adaptive capacity, creating a vicious cycle of vulnerability.

Although farmers have begun to adopt adaptation strategies, including crop diversification, early-maturing seed varieties, and adjustments to planting calendars, the effectiveness of these measures remains limited. The study identifies inadequate access to climate information, weak extension services, limited financial resources, and insufficient institutional support as critical constraints to effective adaptation. These limitations are particularly severe among smallholder farmers, women, and rural communities, who constitute the backbone of Nigeria's agricultural sector.

Overall, the findings underscore that climate change impacts on Nigerian agriculture are spatially differentiated, socially mediated, and institutionally constrained. Addressing these challenges requires an integrated and context-specific approach that combines climate-smart agricultural practices, sustainable land and water management, strengthened institutional frameworks, and inclusive rural development policies. Without coordinated interventions that enhance adaptive capacity and environmental sustainability, climate change will continue to threaten Nigeria's food security, rural livelihoods, and long-term development prospects.

Recommendation

Adopt Climate-Smart Agricultural Practices: Promote the use of drought-tolerant and heat-resilient crop varieties, improved irrigation techniques, crop rotation, and agroforestry to enhance the resilience of farming systems against climate variability.

Strengthen Climate Information and Early Warning Systems: Develop and disseminate timely climate forecasts, weather alerts, and agricultural advisories to farmers using radio, mobile apps, and local extension services, enabling informed decision-making and risk reduction.

Enhance Water and Soil Management: Implement sustainable water management practices such as rainwater harvesting, irrigation infrastructure, and soil conservation methods (e.g., cover cropping and terracing) to maintain soil fertility and water availability for agriculture.

Develop Agricultural Insurance and Financial Support Programs: Establish crop, livestock, and weather-indexed insurance schemes to protect farmers from losses due to extreme weather, complemented by access to affordable credit for investment in adaptive technologies.

Build Institutional and Community Capacity: Strengthen government policies, agricultural institutions, and local governance to support climate-resilient agriculture; provide training programs for farmers on adaptation strategies, sustainable farming, and resource management.

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SUCCESSION IN THE DIGITAL AGE UNDER THE COMMON LAW: LEGAL CHALLENGES IN THE MANAGEMENT AND ADMINISTRATION OF DIGITAL ESTATES IN NIGERIA

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ABSTRACT

The rapid advancement of digital technology has transformed the nature of personal assets by introducing the concept of digital estates, which include online accounts, cryptocurrencies, social media profiles, digital currencies, and intellectual property existing in electronic form. The death of an individual raises complex questions regarding the management, transfer, and administration of such digital assets. This paper examines the adequacy of the Nigerian legal framework in addressing the administration of digital estates. Through a doctrinal analysis of existing Nigerian laws and international best practices, the paper identifies significant gaps and ambiguities in current legal provisions. It finds that there is an increased risk of digital asset loss, privacy breaches, and estate disputes in the absence of explicit legislation. By comparing international best practices, the paper proposes reforms to enhance the administration of digital estates, ensuring that digital assets are adequately protected and efficiently transferred. This reform is imperative for providing clarity, legal certainty, and protection of digital assets for heirs and administrators in Nigeria.

Keywords: *Digital, Estate, Currency, Technology, Succession.*

1.1.Introduction

The 21st century has witnessed an unprecedented transformation in personal assets, driven by the proliferation of digital technologies. Individuals accumulate not just physical or financial assets, but also vast repositories of digital assets, ranging from cryptocurrency wallets and online investment portfolios to social media accounts, cloud storage, e-mail accounts, digital photo albums, other forms of intellectual property, and streaming service subscriptions.[1] Even physical assets are often managed through digital platforms; for example, we access and control our bank accounts online.[2] These digital footprints often carry significant financial or sentimental value.

Nevertheless, while the growth of digital assets has been exponential, legal systems, including Nigeria's, have been slow to adapt. Upon an individual's death, managing and transferring these assets has become a complex legal and practical challenge. Existing laws on inheritance, probate, and estate management primarily address physical and tangible assets, with little or no explicit consideration for intangible digital property. This gap has created numerous legal challenges in the context of succession and estate administration, most notably in the areas of property classification, statutory recognition, fiduciary obligations, and privacy protections.[3] Moreover, the traditional legal concept of estate succession has not adequately evolved to incorporate such assets, resulting in complications upon the death of the asset holder, exposing heirs and administrators to uncertainty, loss, and disputes.

The paper employs a doctrinal methodology of legal research, involving an analysis of law and literature, as it examines the legal challenges associated with managing and administering digital estates in Nigeria. It critically evaluates the adequacy of current Nigerian succession laws and comparative jurisdictions to propose actionable reforms. It further draws on international best practices to develop a framework for reforming Nigeria's digital estate succession regime.

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[1] Kharitonova, J. S. (2021).” Digital Assets and Digital Inheritance.” *Law and Digital Technologies*, 1, p. 3.

[2] Ferges, T. M. (2018, November). “Estate Planning and Administration in the Digital Age.” Taxes – The Tax Magazine. Retrieved from: https://www.mccarter.com/wp-content/uploads/2019/10/PDF-TaxesMagazineEstatePlanning11-18_Ferges.pdf on 23/6/2025

[3]Mills, J. (2019). "Does the Common Law and Equity Provide an Adequate Framework for Digital Assets in Australia?" Canberra Law Review, 16(1), Retrieved from: http://www.austlii.edu.au/au/journals/CanLawRw/2019/11.pdf on 24/6/2025

The study is limited by its reliance on doctrinal legal analysis, which depends primarily on existing statutes, judicial decisions, and scholarly literature. The absence of explicit statutory provisions on digital estates in Nigeria restricts the depth of statutory analysis and necessitates reliance on analogical reasoning from traditional succession and property law. In addition, the lack of Nigerian judicial precedent on digital estate administration requires the use of persuasive authorities from foreign jurisdictions, whose applicability is constrained by differences in legal and socio-economic contexts. While comparative analysis offers useful guidance, it may not fully reflect Nigeria's institutional and technological realities. Finally, the doctrinal approach does not account for empirical insights from probate practice or stakeholder experience, which may affect the practical implementation of proposed reforms.

1.2 The Definitional Uncertainty of Digital Estate

Jurisdictions and scholars vary in the conceptualisation of digital assets. Some adopt a broad definition encompassing all electronically stored content with perceived value, such as photos, emails, playlists, and documents, while others advocate a narrower interpretation, focusing solely on economically significant, transferable assets such as cryptocurrencies, NFTs, and domain names.[4] This definitional uncertainty complicates legal classification, succession planning, and the development of enforceable policies. The beginning of this uncertainty lies in whether digital assets are legally classified as "property" under succession laws. "It remains unclear whether digital assets are considered property in the same sense as legislation that governs the disposal of property."[5] Without clear classification, digital assets face the danger of falling outside the scope of inheritance laws like wills, succession, and administration statutes.

This means that the foundational challenge of digital assets is conceptual, involving their very definition as property. Traditional legal systems, including Nigeria's, often rely on physicalist models of property ownership, models which associate property rights with tangible dominion over things. However, digital assets challenge this framework. They are intangible, dispersed, and often controlled through third-party contracts or user agreements. As such, modern theorists argue for a shift toward a model that emphasises legal relations and control over utility. As posited by Mills, "the ripple effects of this paradigm shift are observable in the Information Age" as "global

[4] Kharitonova, J. S., Op. Cit, pp 5-6
[5] Mills, J., Op. Cit., p. 179

jurisprudence teeters on the edge of recognising another form of intangible property." [6] Nigeria's property jurisprudence must undergo a similar transformation to accommodate this new form of asset.

According to Nelson, digital assets are defined as intangible property interests that are created, stored, and managed electronically, encompassing items such as email accounts, virtual currencies, online game assets, and domain names.[7] These assets carry symbolic, economic, and sentimental value, and while their administration can be likened to traditional property succession, they present distinct legal and practical complexities due to issues such as licensing restrictions, privacy laws, and a lack of a unified regulatory framework.[8] Digital assets may be subject to user agreements, privacy policies, and terms of service that restrict transferability upon death, complicating their administration.

1.3 Gaps in Statutory and Judicial Recognition

The closest attempt at a statutory definition of digital asset available in Nigeria is that which has been issued by the Securities and Exchange Commission (SEC), to mean **"**a digital token that represents assets such as a debt or equity claim on the issuer".[9] This definition is narrow and inadequate, as it confines digital assets to tokenised financial instruments, excluding the broader range of non-financial digital assets, such as emails, social media accounts, or cloud-stored intellectual property, relevant to digital estate succession.

While judicial and statutory guidance on digital assets remains limited, emerging case law from advanced jurisdictions offers valuable insight. In the New Zealand case of *Henderson vs Walker*,[10] Thomson J observed that, "it seems obvious that digital assets should be afforded the protection of property law… especially now that digital media has assumed a ubiquitous role in modern life." This reflects a growing judicial recognition of digital assets as property deserving of legal protection. Further, *Ruscoe vs Cryptopia Limited (in Liquidation)*,[11] The New Zealand High Court

[6] Ibid., p.181
[7] Nelson, D. A. (2013). *"The Challenge of Digital Estate Administration for Executors."* (Widdifield Award paper, pp. 1–5). Ontario Bar Association. Retrieved from: https://www.oba.org/getmedia/7c6ba5b9-3abd-4e30-bca2-f9df35c45586/2013-Daniel-Nelson-Widdifield-Award.pdf on 5/6/2025
[8] Ibid.
[9] Securities and Exchange Commission. (2022, May). *"Rules on Issuance, Offering Platforms and Custody of Digital Assets."* Retrieved from https://sec.gov.ng/wp-content/uploads/2022/05/Rules-on-Issuance-Offering-and-Custody-of-Digital-Assets.pdf on 23/6/2025
[10] [2019] NZHC 2184
[11] *Ruscoe vs Cryptopia Limited (in Liquidation)* [2020] NZHC 728

affirmed that cryptocurrencies qualify as property under the Companies Act 1993[12] and are "probably more generally" regarded as such. The court further held that digital assets like cryptocurrencies are capable of being held on trust**,** reinforcing their status as property in legal and commercial contexts.

In reaching its decision, the court relied on the principles established in *National Provincial Bank Ltd v Ainsworth*,[13] a leading House of Lords case on the definition of property. The court held that a digital asset qualifies as property if it meets four criteria: it must be definable, such as having a unique digital key; identifiable by third parties, for example, through password protection; transferable, meaning it can be assumed by others like cryptocurrencies; and possess a degree of permanence or stability. This test affirms the legal recognition of digital assets, especially cryptocurrencies, as property. However, until the law evolves to fully address the realities of the digital age, it has been proposed that digital assets**,** for estate administration purposes, be broadly defined to include: *"*the entirety of the electronically stored data of the deceased, regardless of whether such data is stored locally, on the internet, or in the cloud - including hardware, software, online services, and related contractual rights."[14]

Flowing from this, a digital estate, thus, refers to the aggregate of digital assets and rights owned or controlled by an individual at the time of death. These assets, which may possess financial, sentimental, or intellectual value, can be classified into several categories. Digital assets can be broadly categorised into those with monetary value, such as online bank accounts, investment platforms, and domain names, and those with sentimental value, including digital photos, emails, and social media profiles that hold emotional significance rather than financial worth.[15] Although the latter may lack financial value, it carries immense emotional significance for bereaved families.

Digital assets are intangible, non-physical resources that exist in electronic or cloud-based formats. Their control depends on digital credentials such as passwords and encryption keys, rather than physical possession. Moreover, due to cloud storage and global platforms, digital assets often

[12] Of New Zealand
[13] *National Provincial Bank Ltd v Ainsworth* [1965] AC 1175 (HL) at 1247–1248.
[14] Abdinor, G., & Mueller, B. (2015, September 21). *"Cyber Law – What Happens to Your Bits & Bytes When You Die?"* [Webinar description]. New Zealand Law Society. Retrieved from Lawyers Education resource: https://www.lawyerseducation.co.nz/shop/Books/Cyber+Law+-+what+happens+to+your+bits++bytes+when+you+die.html on 3/6/2025
[15] Ibid., p.4

transcend national jurisdictions, raising legal and regulatory complexities in ownership, access, and succession.[16] In Nigeria, where platforms like Flutterwave and OPay are commonly used, such assets represent a growing component of individual estates. Intellectual property and creative works include copyrights, trademarks, and patents managed or monetised digitally. This category also covers digital music libraries, e-books, and domain names, which may carry substantial monetary value.[17]

1.4 Administration of Digital Estates in Nigeria: Old Laws, New Digital Succession Challenges

Digital assets challenge traditional legal understanding of succession. First, although intangible, they may be treated as personal property under succession law. Secondly, the law assumes that upon death, property devolves to heirs via wills or intestate provisions; and thirdly, many digital assets are governed by user agreements that often prohibit third-party access, creating conflicts with estate laws.

One of the foremost legal issues, as discussed in the preceding section, is the absence of clear statutory recognition of digital assets as "property" under Nigerian succession laws. A variety of laws and regulations in Nigeria, including the Wills Act,[18] and the Wills laws of various states, the Administration of Estate Laws of the various states, and Probate Rules govern the disposition of an estate following death. They were largely based on colonial-era legal frameworks, and remain silent on the nature, value, and transmissibility of digital assets. The Wills Act is a British statute that applies only in Nigerian states that continue to adopt received English law, primarily in the southern region. However, many Nigerian states have enacted their own local Wills Laws, which either modified or replaced some of their provisions.[19]

The Lagos version of the Wills Law provides that, "it shall be lawful for every person to bequeath or dispose of, by his Will executed in accordance with the provisions of this law, all

[16] Organisation for Economic Co-operation and Development (OECD). (2021). *"The Tax Treatment of Virtual Currencies."* Retrieved from: https://www.oecd.org/tax/the-tax-treatment-of-virtual-currencies.htm on 20/6/2025

[17] Conway, H., and Grattan, S. (2017). *"The 'New' New Property: Dealing With Digital Assets on Death."* In H. Conway & R. Hickey (Eds.), *Modern Studies in Property Law, Volume 9* (1st ed., pp. 99–115, p. 3-4). Hart Publishing. Retrieved from https://www.bloomsburyprofessional.com/uk/modern-studies-in-property-law-9781782257547 on 26/6/2025

[18] The Wills Act (Cap W1, LFN 2004)

[19] Ogunbiyi, T. (2018). *Law of succession in Nigeria: Principles and Practice*. Lagos: Princeton Publishing Co., p.4

property to which he is entitled, either in law or in equity, or at the time of his death."[20] The process is that when a person dies testate**,** that is, with a valid will, an application is made to the Probate Registry, especially if the will was deposited there, for its reading. After identifying the dispositions, the named executors apply for the grant of probate**.** Once granted and the requisite estate fees are paid, the executors can lawfully administer and distribute the estate according to the Will. On the other hand, if the deceased dies intestate - without a Will, the process is more complex. The deceased's relatives apply to the Probate Registry for Letters of Administration, submitting documents such as the death certificate, property titles, and bank details. The Registry verifies these, including writing to banks, before issuing the Letters.

Only assets listed in the application form are part of the estate; any omitted assets cannot be distributed without further legal action. While Nigerian probate procedures enable access to physical and financial assets, they are inadequate for digital estates, as they offer no legal authority or framework for executors to access or manage digital assets despite their inclusion in a will. Thus, at the moment, the only widely accepted method is to include digital assets in a will, but this offers limited protection and does not guarantee lawful access under current frameworks.

The Nigerian Data Protection Regulation (NDPR) 2019[21] primarily addresses data privacy and individual control over personal information, rather than succession**.** However, it has indirect implications for the management of digital assets after death, particularly in determining lawful access to personal data such as email accounts, cloud storage, and social media profiles.[22]

Consequently, Nigeria has no specific legislation exclusively dedicated to digital assets within the framework of estate law. Yet these assets often carry substantial emotional, social, and monetary value. This absence represents a significant legislative gap, particularly as digital assets such as cryptocurrencies, online accounts, and cloud-based content increasingly form part of personal estates.[23] As noted by Genders and Steen, "most estate laws were written in the pre-digital

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[20] Section 1(1) Wills Law, Cap. W2 Laws of Lagos State of Nigeria 2003. See generally, *Administration of Estates Law of Lagos State* (Cap A3, Laws of Lagos State 2015), which provides for the administration of both testate and intestate estates, including procedures for obtaining probate or letters of administration.

[21] National Information Technology Development Agency (NITDA). (2019, January 25). *"Nigeria Data Protection Regulation (NDPR)."* Retrieved from https://nitda.gov.ng/wp-content/uploads/2020/11/NigeriaDataProtectionRegulation11.pdf

[22] National Information Technology Development Agency (NITDA). (2019, January 25). *"Nigeria Data Protection Regulation (NDPR)."* Retrieved from https://nitda.gov.ng/wp-content/uploads/2020/11/NigeriaDataProtectionRegulation11.pdf on 4/7/2025

[23] Okoro, C. (2023). *Digital inheritance: Legal issues in accessing digital assets under Nigerian law*. *Nigerian Journal of Private and Property Law*, 7(2), 101–115.

age",[24] reflecting a time when property was predominantly physical and tangible. Therefore, these laws often fail to account for the unique nature of digital assets, leaving significant gaps in succession planning, administration, and enforcement.[25]

Without a proper supporting legal framework, these assets can be lost or become inaccessible after the owner's death. This can create serious challenges for loved ones who may not know about the existence or location of these digital assets. In addition, the laws governing digital assets are still developing, making it essential to have a clear plan in place.

Equity, too, has not fully caught up with the digital age. Nigerian courts have not yet developed equitable remedies tailored to digital property, such as the imposition of constructive trusts or the recognition of "information fiduciaries", a concept proposed by U.S. scholars to describe the special duties owed by service providers holding sensitive user data.[26] Nigeria's robust, equitable tradition offers a promising platform for this development, but judicial activism or legislative encouragement will be required to unlock its potential.

Nigeria's reliance on customary laws for intestate succession exacerbates the already complex legal terrain surrounding digital assets. Some of these customary rules, often discriminatory against women,[27] widows, and children born outside wedlock, compound the difficulty of determining rightful heirs to digital property, which lacks physical presence and is governed by globalised service agreements.[28] Without appropriate legal frameworks, heirs, particularly those unfamiliar with digital technology, may be effectively disenfranchised from accessing digital assets, further deepening existing social and economic inequalities. For instance, a widow already excluded from inheriting physical property like land under customary law may also find herself unable to access her late spouse's online banking accounts, digital royalties, or

[24] Genders, R., and Steen, A. (2017). "Financial and Estate Planning in the Age of Digital Assets: A Challenge for Advisors and Administrators." *Financial Planning Research Journal, 3*(1), p.79.
[25] Harbinja, E. (2017). *"Legal Aspects of Transmission of Digital Assets on Death"* [Doctoral dissertation, University of Strathclyde]. Retrieved from: http://digitool.lib.strath.ac.uk/R/?func=dbin-jump-full&object_id=28644 on 5/6/2025
[26] Mills, J., Op. Cit.,
[27] For instance, in *Mojekwu vs Mojekwu* (1997) 7 NWLR (Pt. 512) 283, the Court of Appeal (Enugu Division) struck down the Nnewi customary law of *Oli-ekpe*, which allowed only male relatives to inherit property, as repugnant to natural justice, equity, and good conscience. The Court held that the custom was discriminatory against women and therefore inapplicable in a modern legal system that upholds gender equality.
[28] Onuoha, R. A. (2008, April). "Discriminatory Property Inheritance Under Customary Law in Nigeria: NGOs to the Rescue." *The International Journal of Not-for-Profit Law, 10*(2). Retrieved from: https://www.icnl.org/resources/research/ijnl/discriminatory-property-inheritance-under-customary-law-in-nigeria-ngos-to-the-rescue 16/5/2025

other intellectual property**,** either due to restrictive service provider policies or a lack of legal recognition of digital assets within Nigeria's succession laws. This dual exclusion underscores the urgent need for legislative reform and digital literacy to ensure equitable access and administration of digital estates.[29]

It is noteworthy that there is an absence of judicial precedent in Nigeria on the administration of digital estates. No appellate court has yet ruled on whether digital assets are transmissible, whether service providers can be compelled to release access credentials, or what standard of care is expected of estate administrators in this regard. Moreover, the application of traditional torts and property doctrines to digital assets is extremely limited. Torts such as conversion, detinue, and trespass to goods presuppose a physical object or direct possession, criteria that do not neatly apply to cloud-based or virtual property, effectively removing them from the reach of local legal remedies.[30]

1.5 Posthumous Access Restrictions and Authentication Issues

Another key issue in managing digital estates lies in the distinction between property and license, as many digital assets are governed by license agreements rather than ownership rights, meaning they often expire upon the user's death; this stands in contrast to traditional succession law, which is premised on the assumption that property rights are transmissible to heirs.[31]

In other words, the common law concept of property struggles to accommodate digital assets. Many digital assets are licenses rather than property, meaning they terminate upon the account holder's death. This creates a legal vacuum where valuable assets simply vanish.[32] Moreover, this situation normally presents two key problems. First, these terms were typically not drafted with posthumous access in mind and often fail to adequately address the issue, if at all. Second, many digital service providers are based in jurisdictions such as the United States, where stringent privacy laws are in effect. Out of concern for legal liability, providers frequently refuse to grant access to anyone other than the original account holder, and many explicitly prohibit password sharing or the transfer of user rights under their terms of service.[33]

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[29] Ibid.
[30] Mills, J., Op. Cit.
[31] Conway, H., and Grattan, S. Op Cit., pp. 5-6
[32] Ibid., p.5
[33] Stevens and Bolton LLP. (2022, May 3). *"Estate Administration: The Digital Assets Dilemma."* Retrieved from https://www.stevens-bolton.com/site/insights/articles/estate-administration-the-digital-assets-dilemma on 5/6/2025

Furthermore, privacy laws further complicate access to digital assets, as executors or heirs who attempt to manage the deceased's accounts may inadvertently breach terms of service or violate data protection regulations by using the deceased's login credentials without proper legal authorisation.[34] When service providers obstruct access or act in a way that interferes with the proper administration of the estate, they risk being classified as *executors de son tort***,**[35] potentially incurring legal liability for unauthorised interference with the estate.[36] Without explicit user consent or court orders, platforms normally refuse to release content or data.

This can create conflicts with intellectual property laws and the moral rights of the deceased, for instance, where a deceased person's creative works are stored online but cannot be retrieved or managed without violating service agreements.[37]

These issues mirror Nigeria's legal vacuum, where executors lack statutory authority to manage digital estates, risking asset loss and disputes. Under the Nigerian copyright laws, for instance, copyright in creative works, including those stored digitally, is transmissible by testamentary disposition.[38] Meaning heirs can legally inherit and control such works via a valid will.[39] Service contracts like Facebook's typically forbid password sharing and posthumous account access,[40] despite executors having statutory estate administration powers under laws like the Wills Act and various State Administration of Estate Laws[41] Authors have exclusive rights to reproduce, distribute, and publicly display their creative works. These rights survive death for 70

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[34] Conway, H., and Grattan, S. Op Cit.,p.8

[35] A person not lawfully appointed but who has taken it upon himself to administer the estate or intermeddle with the administration of the estate. An intermeddler is called an executor de son tort and is accountable as if he had authority. "Executor de son tort." (n.d.). In *Merriam-Webster.com Dictionary*. Retrieved July 6, 2025, from: https://www.merriam-webster.com/dictionary/executor%20de%20son%20tort on 4/7/2025

[36] Nelson, D. A., Op. Cit., p.8

[37] Nelson, D. A., Op. Cit., p.7

[38] Section 11(1), Copyright Act, 2022.

[39] Agi, A. U. (2021, November). "An Exposition of the Concept of Digital Death and the Place of Estate Law." *AJU Law Journal*. Retrieved from https://ajulawjournal.arthurjarvisuniversity.edu.ng/wp-content/uploads/2021/11/Arthur-Jarvis-AN-EXPOSITION-OF-THE-CONCEPT-OF-DIGITAL-DEATH-AND-THE-PLACE-OF-ESTATE-LAW.pdf researchgate.net+2 on 3/7/2025

[40] Clause 4, paragraphs 8 and 9 and Clause 18, paragraph 6 of Facebook's Statement of Rights and Responsibilities reads: "You will not share your password (or in the case of developers, your secret key), let anyone else access your account, or do anything else that might jeopardise the security of your account.
"You will not transfer your account (including any page or application you administer) to anyone without first getting our written permission.
"You will not transfer any of your rights or obligations under this statement to anyone else without our consent." Facebook, Statement of Rights and Responsibilities, https://web.facebook.com/legal/terms/previous?_rdc=1&_rdr# #

[41] Securing Your Legacy: Estate Planning for Digital Assets in the Digital Age https://trustedadvisorslaw.com/securing-your-legacy-estate-planning-for-digital-assets-in-the-digital-age/

years and can be exercised by heirs, but are potentially blocked when platforms delete or memorialise accounts as per their terms of service.

Another challenge is that executors and administrators are often unaware of the existence of digital property, and even when they are, they may lack the legal means to access or transfer it. Also, where digital assets are stored anonymously or secured through private keys, they may be unable to prove ownership or retrieve them, resulting in permanent loss. These laws do not specifically address such a situation.[42] In the Nigerian legal framework, there is no provision allowing executors to compel service providers to release login credentials or decrypt digital holdings, even when those assets form part of the deceased's estate.

Without proper digital estate planning, these assets risk becoming permanently inaccessible to heirs upon the owner's death.[43] Of particular importance are blockchain-based assets like Bitcoin,[44] Ethereum,[45] and NFTs,[46] which require careful planning due to their decentralised nature. While self-custody is possible, it carries risks of permanent loss if access credentials are unavailable. Services like Unchained and Nigeria's Everlasting offer Multisignature (multisig) wallets, distributing access among the owner, a provider, and a trusted third party.[47]

To ensure smooth administration, it is crucial that such arrangements are referenced in the will and that executors are informed. Although the law is still evolving, courts are increasingly recognising the property status of digital assets. Therefore, individuals are strongly advised to include digital asset instructions in their will and access plan, ensuring these assets are properly managed and transferred in line with their wishes. For individuals who operate online businesses or hold professional digital assets, it is critical to establish mechanisms for the continuity, management, or lawful transfer of these assets to designated partners, employees, or successors.

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[42] Mills, J., Op. Cit., p.190

[43] 1st Fiduciary. (n.d.). *"Digital Estate Planning and Management of Online Asset."* Retrieved October 19, 2023, from https://firstfiduciary.ng/digital-estate-planning-and-management-of-online-assets/ on 23/6/2025

[44] Nakamoto, S. (2008). *"Bitcoin: A Peer-to-Peer Electronic Cash System."* Retrieved from https://bitcoin.org/bitcoin.pdf on 3/7/2025

[45] Buterin, V. (2014). *"Ethereum: A Next-Generation Smart Contract and Decentralized Application Platform."* Retrieved from https://ethereum.org/en/whitepaper/ on 3/7/2025

[46] A Non-Fungible Token (NFT) is a unique digital asset that represents ownership or proof of authenticity of a specific item on a blockchain, typically using Ethereum's ERC-721 standard. See Wang, Q., Li, R., Wang, Q., & Chen, S. (2021). *"Non-Fungible Token (NFT): Overview, Evaluation, Opportunities and Challenges." arXiv Preprint arXiv:2105.07447.* Retrieved from https://arxiv.org/abs/2105.07447on 3/7/2025

[47]

1.6 Jurisdiction and Conflicts of Laws

With digital platforms often headquartered overseas, governed by foreign laws,[48] Nigerian courts face challenges in enforcing domestic succession laws against multinational corporations. For example, Meta (Facebook) is governed by California law, making it difficult for Nigerian courts to compel compliance with local probate proceedings. An additional layer of complexity is introduced by end-user license agreements (EULAs**),** "with little to no rights to the asset afforded to the individual," and jurisdictional limitations imposed by multinational service providers.[49] These contracts often prohibit posthumous access, delete accounts upon notification of death, or require probate orders from foreign courts. Such restrictive agreements may override local succession law, leaving beneficiaries with no practical recourse. The consequences of this vacuum are far-reaching. Executors may unintentionally breach their fiduciary duties by failing to discover, preserve, or transfer digital assets, potentially exposing themselves to legal liability.

Even with the enactment of comprehensive digital estate laws in Nigeria, weak enforcement mechanisms remain a significant obstacle to their effectiveness, as the existing legal system is already hampered by corruption, bureaucratic inefficiencies, and widespread legal illiteracy, factors that may lead to delays, increased costs in obtaining court orders for access to digital assets, or the improper and incomplete administration of estates, thereby constituting a breach of personal representatives' fiduciary duties.[50]

Besides, enforcement would demand an even higher level of digital literacy, both among legal professionals and the general public, as well as technological infrastructure such as secure, digitised probate systems capable of handling complex assets like cryptocurrency wallets and cloud-stored intellectual property. Without these foundational elements, legal reforms risk becoming ineffective in practice**,** leaving vulnerable heirs, especially in rural and underserved communities, without meaningful access to digital inheritance.

1.7 Contractual Limitations

As noted earlier, most digital service providers bind users to contracts restricting access or transferability after death. Without Nigerian statutory intervention, these terms may override heirs'

[48] Conway, H., and Grattan, S. Op Cit., p. 19
[49] Mills, J., Op. Cit., p.178
[50] Mills, J., Op. Cit., p.90

claims. Contractual barriers pose significant challenges to digital estate succession, as service agreements and terms of use frequently restrict posthumous access, thereby rendering digital assets non-transferable or inaccessible to heirs or personal representatives.[51] For example, Apple's terms prohibit transferring iTunes accounts,[52] while X denies executors access to the deceased user's accounts.[53]

Compounding the problem is the issue of privacy and data protection. In the absence of a structured mechanism for posthumous access, estate administrators risk breaching privacy norms or data protection laws when attempting to access the digital footprint of a deceased person. As posited by Mills, *"*there remains no common law cause of action for breaches of privacy."[54] By extension, no clarity about the legal boundaries of digital access. The Data Protection Act 2023 has only begun to engage with these complex questions, and it does not yet regulate access to digital data after death. They establish principles regarding consent, access, and privacy that complicate traditional estate planning and inheritance processes, thereby raising novel legal and ethical challenges.

As such, succession of digital estates in Nigeria is fraught with legal ambiguities due to the absence of specific statutory provisions, creating uncertainty regarding the ownership and transferability of digital assets, the authority of personal representatives to access or deactivate online accounts, the balance between the privacy rights of the deceased and the interests of heirs, the challenge of conflicting jurisdictions, and the restrictive terms often imposed by service providers through contractual agreements.

1.8 Comparative Lessons in the Regulation and Administration of Digital Estates

Comparative legal systems offer instructive models that illuminate both the opportunities and challenges of adapting succession law to the realities of the digital age. One critical insight is the frequent inaccessibility of digital assets in the absence of proper estate planning mechanisms. A widely cited example is the case of Gerald Cotten, the CEO of the Canadian cryptocurrency

[51] Conway, H., and Grattan, S. Op Cit., pp. 5–6

[52]Apple Media Services Terms and Conditions https://www.apple.com/legal/internet-services/itunes/#:~:text=%2D%20For%20any%20Service%2C%20you%20can,apple.com/HT201251).

[53] X, formerly known as Twitter, and many other social media platforms generally do not grant executors access to a deceased user's account. While they may allow for memorialization or account deletion requests, accessing the account itself to manage it is typically not permitted due to privacy concerns.

[54] Mills, J., Op. Cit., p.186

exchange QuadrigaCX, who died unexpectedly without disclosing the passwords to digital wallets containing over $190 million in cryptocurrencies. As a result, his heirs were permanently locked out, underscoring the urgent need for legal frameworks that anticipate and address the complexities of digital asset succession.[55]

The United States, for instance, has responded with the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA),[56] which grants fiduciaries access to a decedent's digital accounts, subject to privacy limitations and user instructions. In essence, it provides a comprehensive framework for executor access while balancing privacy concerns. It also provides clear definitions of digital assets, default rules for fiduciary access, and mechanisms to respect user intent.[57]The law further gives top priority to online tools provided by service providers that allow users to specify who can access their digital assets in the event of death or incapacity. These designations override directions in a will or trust unless explicitly revoked.[58]

If no online tool is used, it permits fiduciaries (executors, agents, trustees) to access digital assets only if express authorisation is provided in estate planning documents.[59] It additionally stipulates that if neither an online tool nor estate documents provide access, then the provider's terms govern.[60] This often means access is denied or restricted, even to legally appointed fiduciaries.

Similarly, in the Netherlands, the notarial system now includes digital repositories, secure locations where individuals can store digital asset credentials and designate beneficiaries.[61] These reforms reflect a growing international consensus that succession law must recognise digital possessions as part of the estate and provide structured methods for their transfer.

While the European General Data Protection Regulation (GDPR)[62] does not directly apply to deceased persons; it leaves member states to fill the gap. Italy, for example, enacted the Italian

[55]Kharitonova, J. S., Op. Cit., p. 15
[56] Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA). (2014). *"Revised Uniform Fiduciary Access to Digital Assets Act."* Retrieved from https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml on 5/6/2025
[57] See generally the RUFADAA
[58] Section 4, RUFADAA
[59] Section 5-8, Ibid.
[60] Section 5(c), Ibid.
[61] Berlee, A. (2017). *"Digital Inheritance in the Netherlands." Journal of European Consumer and Market Law, 6*, 256–260. Retrieved from https://ssrn.com/abstract=3082802 on 4/6/2025
[62] The European Union. (2016, April 27). *"Regulation (EU) 2016/679 (General Data Protection Regulation)."* Official Journal of the European Union, L 119, 1–88. Retrieved from https://gdpr-info.eu/ tandfonline.com+14gdpr-info.eu+14tex.stackexchange.com+14 on 5/6/2025

Personal Data Protection Code to extend certain post-mortem data rights to heirs and interested persons.[63]

The global trajectory suggests a gradual shift toward recognising and formalising digital assets within succession frameworks. Nigeria, however, remains behind the curve, lacking statutory or judicial guidance. As the use of cloud-based and digital platforms increases, so too must the legal architecture evolve to address the challenges of fiduciary access, user intent, privacy protection, and cross-border enforcement. Comparative frameworks like RUFADAA and European notarial practices offer viable models for reform.

1.9 Findings and Recommendations

1. The paper finds that Nigerian succession laws do not recognise digital assets as property, leading to uncertainty about whether such assets can be included in the deceased's estate. Implicit in this is the uncertainty surrounding the legal classification of digital assets as property, which complicates their recognition, transfer, and protection within Nigeria's succession framework. This legislative gap affects digital currencies, online accounts, and cloud-stored content, which remain undefined and unregulated under the Wills Act, the Administration of Estates Law, and the Probate Rules. This lack of recognition raises the risk of asset loss and legal ambiguity.
2. There is no law giving executors or administrators explicit authority to access or manage digital assets. As a result, even with a Will, personal representatives often encounter obstacles from digital platforms that enforce their Terms of Service (ToS), leading to deadlock and potential breaches of fiduciary duty. This hampers the effective execution of testamentary wishes and the distribution of intestate estates.

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[63] Patti, F. P., & Bartolini, F. (2019). *"Digital Inheritance and Post Mortem Data Protection: The Italian Reform."* European Review of Private Law. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3397974 23/6/25

Italy's Legislative Decree No. 101/2018 was enacted to align the Italian Personal Data Protection Code with the European Union's General Data Protection Regulation (GDPR). This decree, published in the Official Gazette on August 10, 2018, and effective from September 19, 2018, amended the existing Italian Privacy Code to ensure compliance with the GDPR's requirements. The decree included provisions to harmonize national legislation with the GDPR, address specific areas where the GDPR allowed for member state discretion, and regulate transitional measures. The Italian regulation aligns to the GDPR 07 Sep 2018 http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2018-09-04&atto.codiceRedazionale=18G00129&elenco30giorni=false

3. The paper also highlights a significant procedural gap: there are no probate rules requiring or guiding the documentation of digital assets in the estate inventory. This omission results in incomplete disclosures, increasing the risk that digital assets may be overlooked, abandoned, or misused by unauthorised parties, fuelling disputes and loss.
4. The legal rights of heirs to inherit digital assets are unclear and often conflicted by restrictive Terms of Service imposed by service providers. These contractual terms frequently prevent posthumous access or transfer of digital content, frustrating the deceased's intentions and limiting beneficiaries' access. This tension between private contractual rights and succession law highlights a critical need for legislative reform.

Based on these findings, the paper advocates for proactive legal reform. Nigeria faces a pivotal moment where timely legal reforms can prevent the "digital abyss" that risks swallowing valuable assets and personal legacies. By drawing lessons from international models like RUFADAA and customising them to local contexts, Nigeria can establish a solid framework for digital estate management that protects both financial assets and sentimental assets.

These issues collectively underscore the urgent need for comprehensive law reform. Nigeria must develop a legal structure that explicitly recognises digital assets as part of a deceased person's estate, empowers executors to access and manage them, safeguards privacy and data integrity, and offers clear, fair remedies for breaches.

A robust digital estate legal framework is essential, complemented by specific amendments to estate management, probate, and wills laws to explicitly define digital assets as inheritable property. These laws should also clarify the obligations of service providers and custodians in granting access to digital accounts. International examples, such as the U.S. Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA) or the European GDPR, offer tested solutions that Nigeria can adapt to its unique legal, cultural, and constitutional environment. Nigeria should amend existing inheritance laws and enact dedicated statutes to protect digital estates. Such reforms will enhance legal certainty, protect privacy, and ensure that digital wealth is preserved for future generations.

In cases of wills, the framework should allow testators to appoint digital executors and list their digital assets in a secure, confidential annex. For intestate estates, administrators should be authorised to compel service providers to disclose or transfer control of digital assets upon proof of death and probate approval. Courts should also issue guidelines on digital estates and promote

recognition of digital wills and online testaments. This will help develop consistent jurisprudence in this area.

Alongside legislative changes, capacity building and public awareness are vital. Many legal practitioners, judges, and executors are unaware of the significance or value of digital estates. Law schools, bar associations, and probate registries must incorporate digital succession topics into their training, procedures, and continuing legal education.

1.10 Conclusion

As Conway and Grattan rightly noted, "death has become more complicated than it used to be, in large part due to the digital age."[64] As more individuals live and conduct transactions online, their deaths will inevitably leave complex digital footprints. Without clear laws and institutional guidance, these assets risk becoming permanently lost or inaccessible to legal recourse. This rise of digital estates calls for a re-evaluation of succession laws in Nigeria. Currently, Nigeria's legal system lacks adequate provisions for handling digital estates, exposing estates and heirs to significant legal and practical risks. The rapid digital revolution requires urgent legal reforms to ensure that digital assets are properly recognised, managed, and transferred upon death.

[64] Conway, H., and Grattan, S. Op Cit., p.4

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SUGAR-SWEETENED BEVERAGES AND SUGAR-SWEETENED BEVERAGES TAX IN NIGERIA: A PERSPECTIVE PAPER

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ABSTRACT

Sugar-sweetened beverages (SSBs) pose a significant public health challenge globally, and Nigeria is increasingly experiencing the burden of their excessive consumption. This perspective paper examines the multifaceted impact of SSBs on public health in Nigeria, the rationale behind the introduction of a Sugar-Sweetened Beverages Tax (SSBT) in the country, and a critical analysis of its effectiveness and potential implications. While the SSBT is a commendable step towards mitigating diet-related non-communicable diseases (NCDs), its current design warrants re-evaluation to maximise its public health and fiscal benefits. This paper advocates for an upward review of the tax rate, accompanied by robust earmarking of revenue for health initiatives and comprehensive public awareness campaigns, to promote a healthier Nigerian population.

Keywords: *Sugar-sweetened beverages, SSB tax, Nigeria, public health, non-communicable diseases, obesity, diabetes, fiscal policy*.

1. Introduction

Sugar-sweetened beverages (SSBs), encompassing soft drinks, fruit drinks, energy drinks, and sweetened teas, are characterised by their high added sugar content and minimal nutritional value. Their widespread availability, aggressive marketing, and cultural integration have led to burgeoning consumption rates worldwide, contributing significantly to the global burden of non-communicable diseases (NCDs) such as obesity, type 2 diabetes, cardiovascular diseases, and dental caries (World Health Organisation, 2023). Nigeria, as Africa's most populous nation, is not immune to this growing public health crisis. Recent data indicate an alarming increase in SSB consumption, with profound implications for the nation's health and economic landscape.

In recognition of this escalating challenge, the Nigerian Federal Government introduced an excise duty of N10 per litre on all non-alcoholic and sugar-sweetened carbonated drinks as part of the 2021 Finance Act, with implementation commencing in June 2022. This policy, known as the Sugar-Sweetened Beverages Tax (SSBT), was primarily aimed at discouraging excessive sugar consumption and generating revenue for healthcare initiatives. This perspective paper examines the existing evidence on SSB consumption in Nigeria, critically assesses the current SSBT, and offers a forward-looking perspective on how the policy can be strengthened to achieve its intended public health objectives.

Analytically, the paper employs a critical policy analysis lens, supported by a structured synthesis of secondary evidence, to interrogate the design and implementation of the SSBT and to marshal context-appropriate recommendations for Nigeria.

2. Methodology / Analytical Approach

A perspective paper is a scholarly piece that provides a unique vantage point on an existing field of study. Unlike other reviews, it does not aim to cover every piece of literature but rather to critically synthesise evidence to support a specific argument or "thesis." In this context, the paper argues that SSBT are not merely a tax but a foundational one for health development necessary for the realisation of Sustainable Development Goal 3 (Good Health and Well-being).

This perspective adopts a critical policy analysis framework, complemented by a structured synthesis of secondary evidence. The analysis focuses on how fiscal measures—specifically Nigeria’s SSBT—shape health behaviours and outcomes, with attention to tax adequacy, price

pass-through, revenue earmarking, public communication, and equity considerations. Evidence was drawn from peer-reviewed scholarship, Nigeria's fiscal and public health policy documents, and grey literature from reputable organisations (e.g., health advocacy groups and multilateral bodies), alongside triangulating insights from expert commentary and high-quality media reportage to reflect policy salience and implementation realities between 2022 and 2025.

Evidence was gathered through purposive searches of academic databases and grey-literature repositories, complemented by manual screening of government publications and national newspapers for policy updates and stakeholder positions. Inclusion prioritised materials directly addressing SSB consumption patterns in Nigeria, SSBT design (base, rate, scope), behavioural and fiscal effects, and implications for non-communicable diseases. Extracted information was thematically organised (tax design and adequacy; revenue use and earmarking; behavioural and equity impacts; implementation and communication) and critically appraised for credibility and contextual relevance. Comparative insights from international experience were used as a benchmark to assess Nigeria's approach and to derive pragmatic, locally adaptable recommendations. Limitations include reliance on secondary evidence and the evolving nature of policy implementation data.

This framework outlines the analytical approach and synthesis methods used to evaluate the public health and fiscal landscape of SSBs in Nigeria. The paper adopts a multidisciplinary analytical lens to evaluate the effectiveness of the Nigerian SSBT. These include the Public Health Lens of mapping the consumption patterns of SSBs against the rising prevalence of Non-Communicable Diseases (NCDs) such as Type 2 diabetes, obesity, and hypertension in Nigeria. The Fiscal/Economic Lens was also use interms of tax elasticity and design, by assessing the current tax structure, specifically the ₦10 per litre excise duty on SSBs.

The theoretical framework or lens that guides the analysis is the analytical tool of Price Elasticity of Demand (PED). The paper analyses how the current tax translates into retail price increases and whether this increase is sufficient to trigger a "tipping point" in consumer behaviour among Nigeria's price-sensitive demographics (Adepoju, 2024).

Another theoretical framework is the Governance and Accountability Lens in the form of Revenue Earmarking, with a specific focus on evaluating the "Rationale for Earmarking," which analyses

the political and social legitimacy gained when tax revenue is transparently reinvested into the health sector towards funding NCD prevention programs.

These two lenses mentioned above were synthesised by employing Evidence-Informed Policy Analysis (EIPA) (Parkhurst, 2017). Secondary data was identified and collected with global benchmarking from other nations. Then thematic analysis of the burden of disease linking Nigerian dietary shifts to SSB consumption was attempted. The paper then employs an Integrative Synthesis method, which combines data from diverse sources (quantitative impact evaluations, policy documents, and case studies). The synthesis process involved the purposeful sampling of relevant materials related to the study to conclude from the paper's perspective.

3. Literature Review

The contemporary landscape of public health in Nigeria is increasingly defined by a double burden of malnutrition, where the precipitous rise in sugar-sweetened beverage (SSB) consumption serves as a primary driver for an escalating epidemic of metabolic non-communicable diseases (NCDs). Recent scholarship underscores that Nigeria has become one of the fastest-growing markets for carbonated soft drinks globally, a phenomenon fueled by rapid urbanisation, aggressive industry marketing, and the relative affordability of liquid sugars compared to nutrient-dense alternatives (Adepoju et al., 2023; World Bank, 2024).

SSBs and NCDs in the Nigerian Context

Research now identifies a significant correlation between high SSB intake and the early onset of Type 2 Diabetes Mellitus (T2DM) and adolescent obesity in urban centres like Lagos and Kano. Scholars have highlighted that the "nutrition transition" in Nigeria is distinct because it is occurring alongside persistent undernutrition, creating a "syndemic" where the healthcare system must simultaneously manage stunting and SSB-induced metabolic disorders (Olatunji & Bello, 2024).

The ₦10/Litre Levy and Fiscal Erosion

The literature following the first full two years of the SSBT implementation (2023–2025) has transitioned from theoretical projection to empirical critique. A recurring theme in 2024 economic analyses is that Nigeria’s hyperinflation has effectively neutralised the ₦10 per litre excise duty

introduced via the Finance Act 2021. Ibrahim and Yusuf (2024) argue that the "real value" of the tax has eroded so significantly that it no longer serves as a price deterrent to consumption. Recent behavioural economics research suggests that while there was a marginal "sticker shock" initially, the specific nature of the tax (fixed volume rather than percentage-based) has allowed manufacturers to absorb costs or downsize packaging to maintain price points, thereby bypassing the intended health impact (National Bureau of Statistics [NBS], 2024; Onyekwere et al., 2023).

Global Comparisons and the "South African Model"

Literature from 2023–2025 increasingly points to the South African Health Promotion Levy (HPL) as a successful regional benchmark. Comparative studies demonstrate that Nigeria's flat rate is significantly lower than the World Health Organisation's (WHO) recommended 20% price increase. Experts argue that for Nigeria to mirror the success of Mexico or South Africa, the tax structure must shift toward an *ad valorem* model or a tiered sugar-content system to incentivise product reformulation (Adeyemi et al., 2023; World Health Organisation [WHO], 2024).

The Earmarking Debate: Transparency and Trust

A major gap identified in the 2024 literature is the lack of "fiscal transparency" regarding the utilisation of SSB tax revenue. Political economy analyses have emerged, arguing that public support for the SSBT in Nigeria is contingent upon the visible reinvestment of funds into the Primary Healthcare (PHC) system. The latest perspective papers advocate for a legislative "ring-fencing" of revenues to fund NCD prevention programs, suggesting that without such earmarking, the tax is perceived by the Nigerian public as a purely fiscal tool for revenue generation rather than a public health intervention (Federal Ministry of Health [FMoH], 2024; Smith & Okon, 2023).

Industry Interference and Policy Resistance

New scholarship has documented the sophisticated lobbying efforts of the "Big Soda" industry in Nigeria. Research indicates that industry actors often use narratives of "job losses" and "economic hardship" to stall proposed upward tax reviews. Scholars emphasise the need for independent, locally-funded research to counter industry-sponsored studies that downplay the health benefits of the tax (Uche & Garba, 2024).

Recent scholarship characterises Nigeria's Sugar-Sweetened Beverage Tax (SSBT) as a strategic dual-purpose instrument designed to facilitate demand reduction while generating sustainable revenue for public health infrastructure (Abdulkareem, 2025; Fagbule, 2025; Ifeanyichi et al., 2023). However, critical appraisals suggest that the current fiscal design is suboptimal. The ₦10 per litre flat rate results in only marginal retail price adjustments that fall significantly short of the World Health Organisation's 20% threshold for behavioural change. Empirical modelling suggests that a more aggressive rate—approximately ₦130 per litre—is required to achieve meaningful reductions in per capita consumption. Furthermore, the fixed-rate structure remains acutely vulnerable to Nigeria's inflationary environment, leading scholars to advocate for percentage-based or sugar-density models to preserve the tax's deterrent value over time (Fagbule, 2025).

The implementation landscape is further complicated by robust industry opposition, often predicated on narratives of economic harm and job losses. Global evidence, however, increasingly contradicts these claims, pointing instead to net positive outcomes for national productivity and health. To counter public scepticism and industry pushback, researchers emphasise the necessity of fiscal transparency; specifically, the "ring-fencing" or earmarking of tax proceeds for non-communicable disease (NCD) prevention is identified as a critical mechanism for building public trust and ensuring policy legitimacy (Abdulkareem, 2025; Ifeanyichi et al., 2023).

Finally, contemporary literature warns against "policy isolationism," asserting that the SSBT cannot succeed as a standalone measure. For maximum impact, fiscal interventions must be embedded within a comprehensive multi-sectoral strategy that includes standardised front-of-pack labelling, aggressive nutrition education, and urban planning initiatives that promote physical activity. Without such complementary interventions, the potential public health dividends of the SSBT remain at risk of dilution.

The introduction of the SSBT in Nigeria aligns with global public health recommendations from organisations like the World Health Organisation (WHO), which advocates for fiscal measures to reduce SSB consumption and improve population health. The primary objectives of the Nigerian SSBT were:

- **Demand Reduction:** By increasing the price of SSBs, the tax aims to discourage consumption, particularly among vulnerable populations, leading to improved health outcomes (Fagbule, 2025).

- **Revenue Generation:** The tax is also intended to generate revenue for the government, with calls for these funds to be earmarked specifically for public health initiatives, including the prevention and management of NCDs (Abdulkareem, 2025; Ifeanyichi et al., 2023).

The current SSBT levies a N10 per litre tax on all non-alcoholic and sugar-sweetened carbonated drinks. While the intent is laudable, its initial design has raised questions regarding its potential effectiveness.

Analysis and Discussion of the Study

The following section provides a critical analysis of Nigeria's Sugar-Sweetened Beverage Tax (SSBT), highlighting design limitations, implementation challenges, and policy implications based on recent literature.

- Tax Rate Too Low: The ₦10 per litre levy results in negligible price increases, far below the WHO's recommended 20% threshold for meaningful consumption reduction. Evidence suggests a rate closer to ₦130 per litre (~39%) would significantly curb intake (Fagbule, 2025; CAPPA, 2025).
- Design Vulnerability: A fixed-rate tax erodes under inflation, weakening its deterrent effect. Experts advocate for percentage-based or sugar-density taxes to maintain real value (Fagbule, 2025;).
- Industry Pushback: Beverage companies oppose the tax, citing job-loss fears, despite global evidence showing net positive economic impacts. Lobbying for graded tax structures adds complexity to implementation (Abdulkareem, 2025).
- Revenue Transparency Issues: Civil society demands clear earmarking of SSBT revenues for NCD prevention and treatment to build public trust and maximise health benefits (Abdulkareem, 2025; Ifeanyichi et al., 2023).
- Risk of Substitution: Higher taxes could drive consumers toward cheaper, unregulated alternatives, underscoring the need for complementary measures (Punch Newspapers, 2025).

- Need for Comprehensive Strategy: SSBT alone cannot solve Nigeria's nutrition challenges. Integration with education, food labelling, healthier alternatives, and urban planning is essential for sustainable impact.

4. Future Perspectives and Recommendations

The above clearly underscore the urgent need for Nigeria to strengthen its fiscal and public health strategies to curb the rising burden of diet-related non-communicable diseases. The current Sugar-Sweetened Beverages Tax (SSBT), while commendable, is insufficient to drive meaningful behavioural change or generate adequate revenue for health interventions. Therefore, the perspective of this paper is that policymakers should consider the following:
1. Upward Review of Tax Rate that is the SSBT to align with global best practices based on the WHO-recommended thresholds to ensure price elasticity discourages excessive consumption.
2. Revenue Earmarking should mandate transparent allocation of SSBT proceeds to fund preventive health programs, nutrition education, and treatment of NCDs.
3. There should be Public Awareness Campaigns towards implementing nationwide education initiatives to shift consumer behaviour and promote healthier alternatives.
4. The implementation of Regulatory Synergy by integrating SSBT with complementary measures such as front-of-pack labelling, restrictions on marketing to children, and incentives for low-sugar product reformulation.

5. There should be robust monitoring and evaluation mechanisms to track tax implementation, consumption trends, and health outcomes to inform iterative policy adjustments.
By adopting these measures, Nigeria can leverage fiscal policy as a powerful tool for health promotion, reduce the economic burden of NCDs, and advance progress toward Sustainable Development Goal 3 (Good Health and Well-being).

6. Conclusion

The rising consumption of sugar-sweetened beverages in Nigeria presents a grave public health concern, contributing significantly to the increasing burden of non-communicable diseases. The introduction of the Sugar-Sweetened Beverages Tax is a commendable initial step, reflecting a commitment to safeguarding public health. However, its current impact is limited by an inadequate tax rate and a lack of clear earmarking of revenue. To truly harness the potential of this policy, an

urgent and substantial increase in the tax rate, coupled with transparent allocation of funds to health initiatives and comprehensive public education, is essential. By taking these decisive steps, Nigeria can mitigate the health risks associated with SSBs, fostering a healthier population, and building a more sustainable healthcare system.

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ACCESS TO FINANCE FOR SUSTAINABLE DEVELOPMENT: A LONG TERM POLICY FRAMEWORK FOR STATE GOVERNMENTS IN THE NORTHWEST NIGERIA

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ABSTRACT

Access to finance for sustainable development by the excluded communities, groups, individuals, and businesses remains one of the main challenging policy dilemmas for States in Nigeria, especially the Northwest region. The aim of this paper is to propose a conceptual long term policy framework for States in the Northwest region of Nigeria on how to ensure access to finance by deprived communities, groups, individuals, and businesses within the context of Federalism. Access to finance by the excluded segments of society across nations for sustainable development has received renewed attention in the past decades by Governments, Civil Society, International Development Organizations, and the private sector. Since then, modest progress has been recorded globally, and the problem remains dire in developing countries due to failure of the international community; economic structural rigidities and policy inconsistencies. Most of the efforts to finance economic growth and development strategies are at the global, regional, or national levels; less attention is given to policy framework at the sub-national levels. This paper proposes a long term policy framework for States in Northwest Nigeria within the context of a federal set up where macroeconomic policies are dictated by the Federal Government including banking and management of the entire financial system. The policy framework is expected to assist States in the Northwest region of Nigeria to come together with a common vision and Action Agenda for fostering and achieving 100% access to finance for sustainable development by 2050.

Keywords: *Access to finance, macroeconomic policies, policy framework, State governments, sustainable development.*

1. Introduction

Numerous studies across the globe have been conducted using different approaches on how fostering access to finance leads to sustainable development and the role of government policy in this inclusive development agenda. However, this study has not come across any empirical attempt to situate access to finance for sustainable development within the context of what a sub-national government could do to foster financial inclusion in a federal set-up like that of Nigeria.

Macroeconomic policies in a federal set-up are designed and implemented by the Federal government, including regulation of banking operations and overall management of the financial system. Within the context of external business environment made up of macroeconomic, political, environmental, technological, social, and legal variables, banks operate in an economy by designing appropriate products and services that could bring maximum returns to equity and ensure institutional survival. The portfolio of the banks may include extending loans to individuals, businesses, government, and other stakeholders that could pay the appropriate price for the products; pay appropriate interests on deposits, finance insurance services, and foreign trade transactions. Similarly, other services offered by the banks are designed for those who could be able to pay. The terms and conditions of the products and services are such that the majority in society especially the deprived communities, groups, individuals, and businesses cannot afford to pay the asking price; hence only few have access to such formal financial services. Consequently, the majority are excluded from access to formal financial services offered by banks in developing economies. Here lies the financial exclusion problem, which gave rise to financial inclusion of academic and policy discourse over the past decades.

Similarly, academic and policy discourse on economic development literature began to resonate calls for inclusive development agenda that considers future generations' needs. With the majority excluded from formal financial services and concern for the needs of future generations, academic and policy attention in the past decades shifted to the concept of sustainable development which will guarantee economic growth that is socially inclusive and protects the environment for use by present and future generations. The academic world

embarked on empirical journeys to investigate how macroeconomic variables could be made to ensure inclusive growth and consider the needs of present and future generations. The results have been the galvanization of attention and actions of the global community and institutions on how to ensure sustainable development. Access to finance for sustainable development stands out to be an important instrument that could guide the policy and actions of governments, international development agencies, civil society, and the private sector. In 2015, the international community at the Addis Ababa summit agreed on a sustainable development agenda (the 17 sustainable development goals SDGs) to be achieved in all member states by 2030. Financial inclusion is the target in 8 of the 17 SDGs on eradicating poverty SDG 1; ending hunger SDG 2; profiting health and wellbeing SDG 3; achieving gender equality SDG 5; promoting economic growth SDG 8; supporting industry, innovation, and infrastructure SDG 9, and reducing inequality SDG 10.

Member states of the United Nations since the Addis summit in 2015, especially developing countries, have produced different development policies to foster access to finance to achieve the set targets. These include national financial inclusion of development strategies and other sectoral financing policies to accelerate inclusive economic growth and development. In Nigeria, even prior to the 2015 Addis summit, the country was forward looking to reduce the percentage of the financially excluded segment of the population through different programmes, including the 2005 National policy on the development of Microfinance. Some State governments too produced ad-hoc financial inclusion programmes of extending microcredit to deprived communities, individuals, and businesses in partnership with multilateral and bilateral development agencies; others experimented the establishment of Microfinance Banks in line with the Federal Government's policy guidelines. Yet, there remains a lack of a common policy framework with which State governments could systematically and steadily foster financial inclusion with common vision, strategy, and financing options in the different geopolitical zones of the country.

The paper proceeds as follows: Section 2 presents various literature on access to finance for sustainable development in developing countries. Section 3 introduces policy framework for access to finance in Northwest Nigeria by 2050. Section 4 discusses the policy success imperatives for access to finance in Northwest Nigeria to accelerate sustainable development

in the next 25 years. In section 5 the paper concludes with remarks on hopes that the policy framework if adopted and used by States in the Northwest Nigeria could transform economic life and wellbeing of the citizens.

2. Review of Related Literature

This section deals with how access to finance fosters sustainable development by spurring economic growth, reduce poverty level and inequality in developing countries,

2.1 Access to Finance for Sustainable development

Sustainable development as a concept has no single, widely acceptable definition. It encompasses global perspective on economic, social, and environmental policies; preservation of environmental resources for today and tomorrow; respect for indigenous cultures; ensuring economic and social equity in society, and implementation of transparent and responsible government policies (Kulik 2025). The concept of sustainable development was introduced in 1987 by the Brundtland Report (Our Common Future) sponsored by the United Nations on environmental and development issues. The concept sees development as sustainable if it meets the needs of the present generation without compromising the needs of future generations. It is the fulcrum of today's international cooperation framework 2030 sustainable development goals (Anna Ackermaan *et al.,* 2025).

"Access to finance refers to public programmes that provide or facilitate financing for Firms where the market is failing to do so. It includes loans, government's subsidized loans for Firms, financial education or information to Firms, and facilitation of alternative forms of lending by creating networks or matchmaking lenders and Firms (for example, business angel implementation, microfinance, venture capital, and group lending) (Clayton 2017).

Broadly speaking, access to finance or financial inclusion refers to availability, accessibility, affordability, and use of financial services by all segments of society. It involves the provision of financial services especially to the deprived groups, businesses, individuals, and regions excluded by the conventional banking system. In addition, it involves efforts to ensure the use

of funds for productive ventures which will help to grow assets and returns on investment for the continued survival and growth of the financial system and overall wellbeing of society.

Access to finance by excluded communities, groups, individuals, and businesses could spark increased economic activities and ensure sustainable development with investment in critical areas like poverty eradication to reduce inequalities, infrastructure, and clean energy. The need for development financing is direr in developing countries requiring innovative mechanisms and renewed effort to foster financial inclusion to fasten the achievement of the sustainable development goals. Unexpected economic, social, and environmental distortions like the COVID-19 pandemic; inflationary pressures; climatic change; political turmoil and conflicts have exacerbated poverty and inequality in many regions of the world. "Financial inclusion must be about maximizing the impact of inclusive finance for low-income and vulnerable individuals, households and MSEs by developing financial solutions that will effectively build a more inclusive, resilient, and green future for them (Skamnelos & Sirtaine 2007).

2.2 Unequal Access to Finance and Sustainable Development

The unbanked and under-banked are the poor in society who have no title assets to serve as collateral with which to access loans; and whose transactions are so small to attract interest for institutions driven by profit (Cull, et *al.*, 2009). The exclusion of the majority from financial access is driven by many factors. Some could not access financial services because they cannot meet the basic requirement of identification by providing ID card, driver license, passport or permanent address; while some may be excluded due to lack of credit score, financial literacy, IT, appropriate financial products for different groups, or lack of available financial infrastructure cutting them off from service providers.

Others are self-excluded due to lack of trust; inability to access products via the preferred channels, and/or religious beliefs. Access to finance allows people to meet their basic needs, build financial resilience by protecting themselves in times of crisis, and manage irregular cash flows over time. In addition, it allows people to have access to productive assets that could

enable them to build businesses and earn income to educate their children to break the chain of poverty cycle.

The World Bank approach to global perspective on Financial Inclusion is by looking at account ownership; use of accounts and financial resilience. "Account ownership with bank, credit union, MFI, or mobile money service provider is used as the fundamental measure of Financial Inclusion because individuals can store, send, and receive money which facilitate development opportunities. greater financial inclusion comes when people can use their account for payments, savings, and credit" Globally, 1.4 billion adults (24%) are unbanked or excluded from the formal financial system, and the majority are women. Mobile money is driving account ownership, particularly in SSA, where 33% of adults have mobile money accounts. The percentage of adults using digital platforms in developing economies rose from 35% in 2014 to 57% in 2021. Between 2017 and 2021, the average rate of account ownership in these economies rose from 63% to 71%. While account ownership is near universal in developed economies, gaps exist between rich and poor households in developing countries signaling poverty and inequalities. In Kenya account ownership is almost 79%, but the gap between rich and poor adults is about 20%; while in Philippines, Turkey, Mozambique, Myanmar, Nigeria, Uganda and Zambia, gap between rich and poor adults is more than 20 percentage points. Other developing countries with less inequality between rich and poor adults in account ownership are Mongolia and Thailand with near-universal access (WorldRemit, 2024).

2.3 Access to finance and economic Growth

Modern theories of development advocates that finance in today's imperfect market is an important determinant of economic growth either in situations where financial development leads to growth (supply-lending), or the demand – lending where growth leads to demand for financial products (Mohan, 2006). According to Morduch and Karlan (2009), at the macro level, fostering financial access can spur economic growth by raising investment levels in underfunded businesses in line with the logic of Gurley and Shaw (1955) and McKinnon (1973).

Many empirical studies on finance conclude that financial sector development and access can foster economic growth and reduce poverty levels (Burgess & Pande, 2004). Access to available, accessible, and affordable finance by the poor and vulnerable groups is seen as a precondition to accelerate economic growth, reduce poverty, and inequality in society (Kakwani, 2000).

Iftikhar *et al.,* (2024) investigated how financial inclusion impacts sustainable development in Pakistan, with financial literacy and social capital as mediators. The purpose was to explore whether financial literacy and social capital are connected and what this link means more to financial inclusion and sustainable growth in developing nations. A quantitative research design was adopted, which was based on data gathered through a structured questionnaire survey of 488 banking customers in Pakistan. Data were analyzed through structural equation modeling (SEM) using PLS4-SEM software to assess the direct and indirect relationships between financial inclusion, social capital, financial literacy, and sustainable development

In a paper titled *Financial Inclusion and Economic Growth: An International Evidence* delivered at the VBER 2017 Conference 16-18 November 2017, Ho Chi Minh City Vietnam, Van, et *al.,* (2021) posit that theoretically, financial inclusion is widely acknowledged to positively affect economic growth. Using a multidimensional index and panel econometric technique to estimate the impact of financial inclusion on economic growth, their findings further support a positive relationship between financial inclusion and economic growth. Their finding supports the policy prescription that financial inclusion should be used to promote economic growth in emerging economies such as Vietnam.

In a study titled Financial Inclusion –economic growth nexus: traditional finance versus digital finance in Sub-Sahara Africa by Ugwuanyi, et *al.* (2022) the authors examined the impact of Financial Inclusion on Economic Growth disaggregated into traditional and digital finance with its sub-dimensions for 29 Sub-Saharan African Countries 2012 – 2022. Panel feasible generalized least squares and panel system generalized method of moment procedure, and the panel vector autoregression Granger causality test was used in the study. The result shows that both traditional and digital financial inclusion have positive and significant impact on economic growth, and the

impact of the traditional financial inclusion in magnitude is more than that of the digital financial inclusion. The study recommends that though digital finance offers promise in the context of developing markets, the traditional banking structure should still be taken seriously.

Atabani Adi, Ojiya, Emmanuel Ameh and Hilary Eshidernang Ushie, (2023) paper in NDIC Quarterly examined the effect of financial inclusion on Nigeria's economic growth using annual time series data from 1980 to 2019 using autoregressive distributive lag method (ARDL). Their findings show that a long-run relationship exists among real GDP, Human Capital Development (HDI), and financial inclusion index. The paper recommends that financial inclusion should be accorded the attention it deserves by Government as a tool to spur economic growth through different policies including making financial institutions relax restrictions on access to finance especially by the poor and vulnerable groups.

According to the (World Bank: 2025), financial inclusion enables entrepreneurs and businesses to grow where the financial system provides efficient payment system and access to credit, capital, and savings. This allows business expansions, job creation improvement in income and reduction in in inequality level. Similarly, access to finance empowers women to build their futures by earning more income and improve their livelihood. Yet, despite a decrease from 9% to 6% gender gap in account ownership between 2017 and 2021 in developing countries, the disparities continue to persist thereby inhibiting women's ability to have full control over their lives (World Bank: 2025).

The 2024 IMF Financial Access Survey (FAS) covers 192 economies, featuring 121series and 70 normalized indicators to enhance global comparison. The dataset covers the period 2004 to 2023 highlighting the rapid evolving trend in financial innovations, ever growing demand for digital financial services, and gender disaggregated data. The FAS 2024 summarizes the significance of access to finance in reducing poverty and inequality in developing countries – Microfinance Institutions are becoming the driving force for access to finance by the economically marginalized in society; challenges in narrowing gender gaps remain in line with the position of the World Bank data; declining lending to SMEs between 2021 to 2023 in economies that reported due to tighter financial conditions, and geopolitical tensions (d'Ivoire, et *al.*, 2025).

Expanding access to financial services holds the promise to help reduce poverty and spur economic development. Many interventions have been proposed to solve entrenched development problems, or at least to make noticeable dents at poverty levels. The list of accumulated hopes is long, including better nutrition to catapult levels of productivity and wages; control of population growth to free resources for human capital investment; education for girls to fight inequalities and bring empowerment; and stronger property rights to unleash markets. Each hope is grounded in good reason, and each intervention holds a place in the larger scheme of development strategies (Karlan & Morduch 2009).

Furthermore, Karlan and Morduch (2009) argued that Economists have long linked the expansion of financial markets to the spread of broader economic activity. Similarly, economists have focused on ways that barriers to financial markets undermine economic efficiency. In the 1970s, economists turned their focus on regulations in many countries that capped interest rates on loans. Interest rates serve many roles, and one is to screen the quality of investments.

On 25 September 2015, the United Nations General Assembly adopted the 2030 Agenda for Sustainable Development, along with a new set of development goals that are collectively called the Sustainable Development Goals (SDGs). The agenda is a culmination of many years of negotiation and was endorsed by all 193 member- nations of the General Assembly, both developed and developing—and applies to all countries. UN Secretary General Ban Ki-Moon noted that "the new agenda is a promise by leaders to all people everywhere. It is an agenda for people, to end poverty in all its forms—an agenda for the planet, our common home." (Klapper et al., 2016).

Kansiime at *al.* (2021) maintained that achieving SDGs by 2030 requires a multi-stakeholder approach, where banks and other financial services companies play a key role through inclusive finance; therefore, their engagement with the process is paramount as they can significantly influence its implementation, due to their crucial role in the economy, especially in providing access to credit.

In general terms, finance has a dual relationship with sustainability. Both dimensions of the relationship need to be functional to achieve sustainability. The first type of relationship pertains

to the sustainability of finance. From being the most stable part of the economy, in recent decades the financial sector has become highly unstable (Ferri & Acosta 2019).

Financial inclusion is all about inclusiveness in the provision of affordable formal financial services to all individuals and businesses. Financial inclusion ensures that people and firms have access to basic and affordable financial services in the formal financial sector. Ozili (2022).

On the contrary, financial instability tends to intensify the extent of the unfettered free market economy. Eventually, this triggers an epochal and systemic Great Crisis, which marks a turning point to move towards stricter regulation of the marketplace. Freer markets eventually build imbalances and inefficiencies in price setting mechanisms and, consequently, in the allocation of resources (Ferri & Acosta 2019).

Consequently, access to financial services, particularly credit, is likely to allow more businesses to be started and allow existing firms to expand their services by enabling greater investment in inventory, labor, and other means of production. An increase in the number of MSMEs allows economies to create job opportunities for business owners and their employees (Attanasio, et *al.,* 2014).

Access to financial institutions and products allows people to gain higher returns on capital. This leads to increases in their income and consequently affects economic growth. According to King and Levine (1993), effective financial systems can mobilize savings to finance productive economic ventures and improve the probability of successful innovations. The reverse also is true: Financial exclusion can deepen income inequality, slow economic growth, and create poverty traps (Greenwood & Jovanovic 1990; Banerjee & Newman 1994).

Promoting innovation and sustainable industrialization requires easy access to credit and other financial services that facilitate investment. IFC estimates there are more than 360 million to 440 million formal and informal micro, medium, and small enterprises (MSMEs) worldwide. According to the World Bank Enterprise Surveys, many of these firms cite limited access to financial services as one of their main constraints to growth (de Mel et *al.* 2014).

By providing poor people with services, they need to make investments and manage unexpected expenses. Financial inclusion facilitates the first SDG: eliminating extreme poverty. More than 700 million people live on or below $1.90 a day, according to the World Bank. A lack of access to basic financial services makes it difficult for these people to take control of their economic lives (Klapper et *al.*, 2016).

However, Milanovic (2012) opined that when poor people are excluded from the formal financial system, the foundations of shared economic growth are weak. Over the past two decades, incomes have increased significantly for most of the world's population.

Given the increasingly clear link between financial inclusion and development, governments should continue to push for greater access to and use of financial services. Prioritizing financial services does not take away resources from other key priorities set through the SDGs. (Klapper et al., 2016)

Also, Ozili (2022) maintained that financial inclusion and sustainable development are two development agenda with far- reaching positive implications for society and the environment; as such, the two agendas have been the subject of intense investigation lately in the international development community. Recent research in financial inclusion and sustainable development shows that the two concepts have been investigated as separate mutually exclusive concepts without the possibility of establishing a link or association between the two agendas.

The link between financial inclusion and sustainable development is exemplified by the economic and social benefits that financial inclusion brings to individuals, firms, and government in the pursuit of sustainability. The interconnection between financial inclusion and sustainable development can also be perceived when financial inclusion policies are implemented through existing economic and social structures that are essential for sustainable development. These economic and social structures often provide channels through which providers of financial services reach unbanked adults and serve banked customers. Given this perceived interrelationship, discussions of the link between financial inclusion and sustainable development are important and should be encouraged among academics, practitioners, and policy makers (Ozili 2022)

The three core purposes for which development finance is required are described by ICESDF as (1) financing for basic needs related to ending poverty and hunger, (2) financing for sustainable development investments, notably infrastructure, energy, resilience and rural development, and (3) financing for global and national public goods (Kharas et *al.*, 2014).

In describing the concept of sustainable development, it is worth noting to consider it as "symmetric treatment of generations in the sense that neither the 'present' nor the 'future' should be favoured over the other" (Chichilnisky: 2025). The design and development of policies, programmes and projects to meet the needs of present and future generations requires access to finance that could impact on economic growth, reduce poverty level, ensure equity and respect for environmental regeneration.

Hence the need for a policy framework for access to finance in Northwest Nigeria. This underpins the essence of this paper, which is to propose a workable policy framework for the said Northwestern Nigerian States.

3. **Access to Finance Initiative (Afi): A Policy Framework for Northwest Nigeria 2025 – 2050**

3.1 Conceptual Framework Development

Three theoretical models guide the conceptual framework development in this paper. First is the Public service Theory which calls for government to have total control over the financial system, economic and social structures in a country to ensure that financial inclusion objectives are achieved through focused public policy. According to Ozilli (2020), "Government can create public banks in the most remote areas in the country to reach the most excluded members of the population". It is worth noting that this theoretical model's proposition was based on the overall authority of the national government. However, this paper uses the strength of its proposition to posit how a subnational government can help to establish microfinance banks and support conventional banks and Fintech companies to foster access to finance in areas excluded byb the conventional banking system.

Similarly, the poverty banking approach according to Robinson (2001) "focuses on reduci9ng poverty through credit and other services provided by institutions that are funded by donor and government subsidies and other concessional funds, primarily to reach the poor, especially the poorest of the poor with credit". Banking the poor requires a good understanding of the active and extreme poor segments of the society in public policy initiatives. The active poor has an economic activity, while the extreme poor has not. Government policy must be used to channel investment funds for the active poor, and other forms of support for the extreme poor including introduction to economic activities and financial education. Government and donor support for institutions that could reach the poorest of the poor is an important policy instrument. Grameen bank of Bangladesh and institutions that replicated its methods in other countries are classical examples of poverty lending approach. Also the study by Mehta & Bhatacgharya (2017) on the effectiveness of this approach for the poor inn rural India using state-wide annual data from 1999 – 2000 to 2011 – 2012 used a panel data analysis of a sample of 15 major Indian States on various poverty alleviatio0n tools on the poor and the poorest. The study partially provides evidence that the tools suggested by Robinson (2001) could be used in addressing the needs of the poorest segment of society. This proposition informed some of the policy prescription of this paper under the Policy Framework for the Northwest Nigeria 2025 – 2050.

On the other hand, some of the policy prescriptions in the Framework for the Northwest Nigeria 2025 – 2050 are based on the Financial System Approach which opined that only institutions that are operationally and financially sustainable can ensure sustainable financial inclusion efforts. The focus in on sustainable outreach to serve the active poor thereby expanding the radius of financial inclusion overtime. Examples of such institutions include Bank Rakyat Indonesia (BRI); Bankco-Sol in Bolivia; Grameen Bank and Association of Social Advancement (ASA) in Bangladesh.

3.2 Macroeconomic Policies and Access to Finance in NW Nigeria

First major policy initiative in Nigeria to foster financial inclusion is the introduction of rural banking prograqmme in the late 197os. The objective was to have at least one bank branch in each of the local government areas in Nigeria. Government hoped to provide a mechanism for savings mobilization; development of financial literacy and banking habits in rural areas; foster access to finance for SMEs and entrepreneurs; ensure inclusive development and reduce rural-urban

migration. The scheme was implemented in two phases between 1977 and 1983. The policy according to CBN yielded some positive results, including increased access to finance by rural communities and the decline of ratio of cash outside bank to the stock of narrow money supply in the economy.

CBN introduced guidelines directing minimum funding to SMEs by the banks and extending credit to rural areas. Other initiatives included the establishment of the Peoples Bank and the Community Banks to target low income/rural dwellers. Institutional initiatives to promote the growth of SMEs in Nigeria, include the National Economic Reconstruction Fund (NERFUND) and the Family Economic Advancement Programme (FEAP). These were initiatives to foster access to finance and widen economic opportunities of the poor and other vulnerable groups in Nigeria. The 2005 National Microfinance Policy provided the supervisory and regulatory framework for the establishment of privately owned Microfinance Banks that could help foster access to finance for the vulnerable groups, individuals, and communities in society. In 2011, another initiative was introduced into the financial system by the CBN on Non-Interest Financial Institutions (NIFS) to foster access to finance for those that could have avoided conventional interest-based banking financial products and services.

All these were macroeconomic policies that shaped access to finance efforts in Nigeria. States were not active participants in the implementation of these policies. The following conceptual policy framework for access to finance at the sub-national level is an attempt to make States active participants in financial inclusion efforts in Nigeria. Within the context of the macroeconomic policies by the Federal Government, States could attempt to be active stakeholders in fostering access to finance for sustainable development.

3.3 Overview of access to Finance in Nigeria

The 2018 Access to Financial Services Survey conducted by EFInA (Enhancing Financial Innovation & Access) EFInA (2023) indicate acute lack of availability of banks across Nigeria, and serious disparities between the regions. At the National level, 60% of the respondents indicated that they had no banks close to them. At the regional level, the percentage depicts a serious lack of financial infrastructure, especially in the North. Southwest 40%;

Southeast 51%; South-South 56%; North Central 56%; Northwest 77%, and Northeast 80%. The Northwest Zonal average of exclusion was 62%. **States**: Kebbi 44%; Sokoto 55%; Kaduna 55%; Zamfara 59%; Katsina 64%; Jigawa 65%, and Kano 75%. According to the same survey, only 9% of the Kano population was banked.

Formal financial inclusion in Nigeria increased significantly from 56% in 2020 to 64% in 2023 (EFINA, 2023). Growth in formal financial service usage between 2016 and 2023 increased from 30% to 57%; and the adoption of financial service agents significantly increased from 4.4% in 2018 to 54% in 2023. From 34% level in 2020, 45% of Nigerians use digital financial services in 2023 (EFINA, 2023).

3.4 The AFI Policy Framework for Northwest Nigeria

As a broad structure that guides the development, approval, communication, and review of policy, a policy framework can be categorized into several types, including substantive, regulatory, distributive, and redistributive. This conceptual policy framework is distributive in nature attempting to allocate resources and benefits to poor and other vulnerable groups in the States. It also has redistributive attributes in its attempt to reduce inequality by transferring resources to the poor, vulnerable groups, and rural areas in the Northwest Nigeria.

ACCESS TO FINANCE INITIATIVE (AFI) AT THE STATE LEVEL IN NIGERIA 2025 - 2050

S/N	PROBLEM	PROGRAMME	OBJECVTIVES	ACTIVITIES	RESPONSIBILITY	PERFORMANCE INDICATORS
1	Lack of Political Awareness	Upstream and Downstream Advocacy	To sensitize Governors, Party Officials and the Legislators for Buy-in	I. Advocacy for Governors' buy-in	Universities; Opinion Leaders; Development Partners	AFI State Committee Chaired by the Governor
				II. Advocacy for Political Parties' buy-in		Acceptance of AFI as an item of Party manifesto
				III. Advocacy for State Assemblies' buy-in		Legislations on AFI in the States
			Sensitize Voters on AFI			

				IV. Sensitization of Voters for buy-in		Demand/Requests for AFI by Voters
2	Paucity of Financial Infrastructure	Development of Physical Infrastructure	To Establish a Working Partnership B/W States, CBN, Banks and Business Community	I. Advocacy with CBN on Rural Banking II. Advocacy with Commercial Banks III. Advocacy with Business Community for Islamic banking	State Governors State Governors State Governors, State Legislators	Another Rural Banking Policy by the CBN to be adopted by the subnational government A new Partnership B/W States and Banks on AFI on 60:40 % basis. One More Islamic Bank for the region and branch in each State to be achieved by 2030
		Digital Access for Growth	Foster the use of Digital Financial Infrastructure by the Poor; Micro and Small Businesses, and Rural Communities	i. Advocacy and Partnerships with Banks and Fintech Companies ii. Agents Support Initiative	State Governors; State Legislators, Local Governments and Development Partners	Increase in the Number of Fintech and Banks Agents in Rural Communities (at least 3 per Local Government) to be achieved by 2035
		Establishment of Microfinance Banks in the States	Develop a workable partnership with the private sector to establish the banks	I. Identify credible private sector partners II. Partner with the CBN and other stakeholders to get approval	State Governors; State Legislators, Local Governments and Development Partners State Governors; State Legislators, Local Governments and Development Partners	A State Microfinance bank in each State by 2027 A Microfinance Bank Branch in each Local Government in the States by 2035
reg3	Lack of Adequate Financial Literacy	Financial Education in Secondary Schools	To Understand the Importance of Money in Business and AFI	Review of Syllabus and Curriculum for AFI Training of some Staff on AFI and Business Development	State Ministries of Education and all Private Schools State Ministries of Education and all Private Schools	Business Education Made Compulsory Subject in Secondary Schools commencing by 2030 Annual State quizzes and Debates on AFI Among Secondary Schools annually starting by 2030
		Mainstream Financial Literacy in Programmes and Political Rallies	To Create Awareness on AFI and Business Development	Women for AFI AFI for Physically Challenged	Ministry of Women Affairs & Social Welfare ditto	40% Increase in the number of Women in AFI by 2029

				AFI Trainings for Retiring Civil Servants	Office of the Head of Service in the States	30% Increase in the Number of Physically Challenged in AFI by 2026 50% Increase in the number of Retiring Civil Servants in AFI by 2030
4	Lack of Strong Partnerships for AFI	Partnerships For AFI	Establishing Coalitions for AFI	Advocacy for AFI	Universities, Development Partners and CSOs	Setting-up of AFI States Coordinating Committees by 2029 AFI Coordinating Office Established in each State by 2030 50% Increase in the Number of CSOs in AFI by 2030
5	Funding	Funds Mobilization for AFI	To Mobilize Resources for AFI	Federal Financial Support for AFI Advocacy and Training Funds by Development Partners Plans and Annual Budget Allocations in the States	State Governors, and Development Partners Development Partners State Governments	Availability of Federal Funding Support (at least 2% of Federal Budget) by 2029 5% of annual Budget Allocations by Development Partners by 2030 Allocation of at Least 5% of the Annual Budget for AFI in the States by 2030

4. Policy Success Imperatives

The draft conceptual policy framework for access to finance requires strong partnership between States in the Northwest zone of Nigeria. There should be an AFI Steering Committee in each State. An annual meeting of the AFI Steering Committees should be held with the Governors in attendance as Chairpersons. The annual meeting should review progress on all aspects of AFI, particularly the performance indicators on the framework. The Governors should provide the required political will and direction for the success of AFI. The meetings should serve as platforms for peer review and agree on collective actions needed for the initiative's success.

Working with CBN to remove bottlenecks for sustainable Financial Infrastructure Development: Working within the context of the macroeconomic policies of CBN requires strategic engagement

with the apex bank. The partnership should be anchored around need for regulatory policies that could ease access to finance in the Northwest as one of the most excluded in the country. The States should be ready to fund new initiatives which the CBN may wish to introduce in line with the objectives of the AFI in the Northwest.

Close collaboration with banks and other financial institutions to design culturally accepted products and services for access to finance by rural areas and other deprived individuals, groups, and businesses. Though the banks have their headquarters in Lagos and Abuja, Northwest States could engage strategically for more culturally accepted financial products and services. Similarly, partner with the private sector and Local Governments to establish Microfinance Banks in deprived communities through long term development plans.

Partnership with development partners on awareness creation, and investment in financial education for inclusive development agenda is a vital component for the success of the Initiative. The wealth of technical experience and funding support of development partners from across the globe could be brought to bear on ensuring the success of AFI in the Northwest Nigeria. States in the region should continue to design and implement policies to reduce gender gaps in access to finance as part of the inclusive development agenda. Through long term development plans and strategies, institutionalize good governance as a necessary condition for sustainable development. Policy consistency and continuity should be seen as necessary and sufficient conditions for sustainable development.

5. **Conclusion**

The exclusion of the majority from access to finance by the conventional banking sector and environmental concerns especially in developing economies accentuated discourse on sustainable development with special attention on financial inclusion strategies. Access to finance has over the past decades attracted the attention of policy makers, scholars and development partners and led to the emergence of new focus on international development cooperation and partnerships. The results had been the resolve of the international community to work together to achieve the Sustainable Development Goals (SDGs) by 2030, and the development of Financial Inclusion

Strategies in many developing countries. The initiatives at country levels tend to be driven by macroeconomic policies without active participation of sub-national and Local Governments.

Here attempt has been made to conceptualize a policy framework for access to finance to help sub-national Governments play a significant role within the context of macroeconomic policies and dictates. The framework calls for coalitions between different stakeholders to complement the efforts of national Governments in fostering access to finance for sustainable development.

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BLOCKCHAIN-ENABLED ISLAMIC SOCIAL FINANCE: A SHARIA-COMPLIANT FRAMEWORK FOR TRANSPARENT AND INCLUSIVE SUSTAINABLE DEVELOPMENT IN NIGERIA

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ABSTRACT

This paper investigated the integration of blockchain technology into Islamic social finance as a Sharia-compliant strategy to enhance transparency, accountability, and inclusivity in Nigeria's pursuit of sustainable development. Focusing on the core instruments of zakāt*,* waqf*, and* ṣadaqah*, the paper explored how blockchain's decentralized, immutable, and transparent ledger system could address persistent governance challenges that have hindered the effective deployment of Islamic social finance mechanisms in the Nigerian context. The research adopted an interdisciplinary approach, combining principles of Islamic commercial jurisprudence (*fiqh al-muʿāmalāt*), financial technology (fintech), and development studies to evaluate the practical and legal feasibility of blockchain-based models. Particular attention was given to the operationalization of smart contracts for automating* zakāt *and* waqf *disbursements, decentralized applications (dApps) for donor and beneficiary tracking, and digital identity systems to enhance financial inclusion for marginalized populations. The study identified key barriers including legal uncertainties, infrastructural deficits, limited Sharia literacy among technologists, and regulatory fragmentation. Nevertheless, it found that blockchain could serve as a transformative enabler for Islamic social finance institutions by promoting trust, real-time auditing, and efficiency, thereby aligning the operational ethos of Islamic finance with the objectives of Islamic law (*Maqāṣid al-Sharia*). The paper concluded that embedding blockchain into Nigeria's Islamic social finance ecosystem could not only modernize faith-based financial governance but also support national and global development goals, particularly in areas of poverty alleviation, education, and*

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healthcare. It recommended the development of unified regulatory standards, Sharia-compliant blockchain protocols, and public-private partnerships to harness the full potential of this technological integration for ethical and sustainable development.

1. Introduction

The intersection of Islamic social finance and emerging technologies has increasingly attracted scholarly and policy interest as Muslim-majority and minority jurisdictions alike seek innovative mechanisms to address persistent challenges of poverty, financial exclusion, and institutional inefficiency. In Nigeria, the potential of Islamic social finance — comprising principally of zakāt, waqf, and ṣadaqah — remains significantly underutilized due to systemic inefficiencies, opacity in governance, and weak public trust. These constraints have undermined the realization of Islamic financial instruments as vehicles for socio-economic justice, despite their alignment with the constitutional and religious values of large segments of the Nigerian populace.[67] The imperative to modernize these mechanisms without compromising their Sharia-compliance has thus become increasingly urgent, particularly in light of the country's commitment to both the United Nations Sustainable Development Goals (SDGs) and its domestic development agenda.

Blockchain technology, characterised by its decentralised, immutable, and transparent ledger architecture, offers a unique paradigm for restructuring the operational modalities of Islamic social finance.[68] It facilitates peer-to-peer transactions without the need for centralised intermediaries and provides real-time, tamper-proof records of disbursement and use of funds — features which are especially pertinent in Islamic philanthropic finance where accountability to God and society are integral to legitimacy.[69] The Islamic legal tradition has historically welcomed technological innovations that promote maṣlaḥah (public interest), provided they do not contravene core legal principles.[70] Consequently, the conceptual and doctrinal space for

[67] Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard University Press 2008) 203–205
[68] Don Tapscott and Alex Tapscott, *Blockchain Revolution: How the Technology Behind Bitcoin is Changing Money, Business, and the World* (Portfolio Penguin 2016) 6–12
[69] Muneeza Ishrat, 'Application of Blockchain in Islamic Finance: A Review of Smart Contracts and Its Challenges' (2020) 11 *Journal of Islamic Monetary Economics and Finance* 205–210
[70] Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oneworld Publications 2008) 234–238

accommodating blockchain within Islamic social finance is both present and expanding, albeit cautiously and unevenly across jurisdictions.

This paper critically investigates the possibility of integrating blockchain technology into the administration of Islamic social finance in Nigeria. Despite the increasing digitisation of financial services globally, including within the Islamic finance sector, most zakāt and waqf institutions in Nigeria continue to rely on traditional, centralised, and often informal models of fund collection and distribution.[71] This status quo has not only limited their scalability but has also engendered inefficiencies, allegations of mismanagement, and a widespread perception of opacity — all of which undermine their legitimacy and socio-economic impact.[72] Moreover, the multiplicity of regulatory and religious authorities overseeing Islamic financial practices in Nigeria often leads to fragmentation and doctrinal inconsistency, particularly in emerging domains such as Islamic fintech.

This paper aims to construct a Sharia-compliant blockchain framework capable of enhancing the transparency, efficiency, and inclusivity of zakāt, waqf, and ṣadaqah administration in Nigeria. In doing so, it seeks to contribute to a more ethically grounded and technologically adaptive model of Islamic social finance capable of advancing the objectives of Sharia (Maqāṣid al-Sharia), especially the protection of wealth (ḥifẓ al-māl), human dignity (ḥifẓ al-ʿird) and socio-economic justice.

Methodologically, the research adopts a doctrinal legal analysis supplemented by comparative case study insights from jurisdictions where blockchain-based Islamic social finance initiatives have been piloted. It also draws upon secondary sources in Islamic jurisprudence, financial regulation, and development theory, alongside reports from institutions such as the Islamic Development Bank, the Nigerian Supreme Council for Islamic Affairs, and the Financial Action Task Force.

[71] Habib Ahmed, 'Waqf-Based Microfinance: Realizing the Social Role of Islamic Finance' (2013) 21 *World Bank Islamic Research and Training Institute Occasional Paper* 7–10

[72] Abdulqadir S. Abbas, 'Challenges of Zakat Administration in Nigeria: Lessons from Selected Muslim Countries' (2017) 2 *Journal of Islamic Finance Studies* 65–70

The structure of the paper is as follows: Section 2 establishes the conceptual and definitional framework, elucidating both the instruments of Islamic social finance and the principles of blockchain technology. Section 3 discusses the Sharia foundations for technological innovation, drawing on legal maxims and the objectives of Islamic law. Section 4 examines the feasibility of blockchain integration within the Nigerian context, including technological and regulatory constraints. Section 5 identifies the major challenges, while Section 6 offers a comprehensive Sharia-compliant framework for implementation. The concluding section synthesises the findings and offers recommendations for regulators, Sharia scholars, and development stakeholders.

2. Conceptual Framework

The integration of blockchain technology into Islamic social finance necessitates a clear understanding of the foundational instruments of Islamic philanthropy and the technical architecture of blockchain itself. This section elucidates the legal, theological, and functional dimensions of *zakāt*, *waqf*, and *ṣadaqah*, and juxtaposes them with the defining features of blockchain technology. The objective is to demonstrate their conceptual compatibility and highlight the potential for symbiotic convergence under a Sharia-compliant governance model.

2.1 Islamic Social Finance

Islamic social finance constitutes an essential pillar of the Islamic economic system, embodying the ethical imperative of wealth redistribution in accordance with divine injunctions. The three principal instruments in the Islamic social finance are *zakāt* (obligatory almsgiving), *ṣadaqah* (voluntary charity), and *waqf* (endowment). These are rooted in the twin objectives of economic justice and social solidarity.

Zakāt is a mandatory financial obligation prescribed in numerous Qurʾānic verses, most notably: "Take from their wealth a charity by which you purify them and cause them increase…".[73] Its disbursement is restricted to eight legally designated categories under Qurʾān 9:60, including the poor, the needy, and those in debt.[74] Zakāt, therefore, is not merely a spiritual obligation but a

[73] Qurʾān 9:103
[74] The Qurʾān 9:60; see also Wahbah al-Zuhaylī, *al-Fiqh al-Islāmī wa Adillatuh* (Dar al-Fikr 2000) vol 2, 879–885

legally enforceable right of the underprivileged. The mismanagement or hoarding of zakāt funds constitutes a moral and fiduciary breach.[75]

Ṣadaqah, in contrast, is voluntary and flexible, lacking the juridical rigidity of zakāt. Nonetheless, it retains legal and spiritual significance, particularly in fulfilling communal needs where institutional gaps exist.[76]

Waqf refers to the inalienable endowment of property or wealth for charitable or public purposes, the usufruct of which is designated perpetually for the welfare of beneficiaries.[77] Jurists have described waqf as a legal construct that transforms private ownership into a public trust, immunized from alienation or inheritance.[78] Historically, waqf has financed public infrastructure, education, and healthcare in the Islamic world, often serving as a proto-welfare system.[79]

The governing jurisprudential framework is derived from fiqh al-muʿāmalāt, which regulates contracts and transactions under Islamic law. These instruments, while distinct in form, share a unifying normative goal — the realization of *Maqāṣid al-Sharia*, particularly *ḥifẓ al-māl* (protection of wealth), *ḥifẓ al-nafs* (protection of life), and *ḥifẓ al-ʿird* (protection of human dignity).[80] However, their full socio-economic potential remains constrained by inefficient governance systems, lack of transparency, and limited institutional trust — challenges which blockchain technology may address.

2.2 Blockchain Technology: Features and Relevance

Blockchain is a distributed ledger technology (DLT) that enables secure, tamper-proof, and decentralised recording of transactions across a network of computers. First popularised by Bitcoin in 2009, blockchain's underlying architecture has since evolved beyond cryptocurrencies to serve diverse applications in governance, finance, and humanitarian aid.[81]

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[75] Abd al-Rahman al-Jaziri, *Kitāb al-Fiqh ʿala al-Madhāhib al-Arbaʿah* (Dar al-Fikr 2003) vol 1, 519
[76] Muḥammad Rawwās Qalʿahjī and Hamid Sulayman, *Maʿjamu Lughat al-Fuqahāʾ* (Dar al-Nafaʾis 1996) 174
[77] Ahmad ibn Idrīs al-Qarāfī, *al-Dhakhīrah* (Dar al-Gharb al-Islāmī 1994) vol 5, 321
[78] Mona Hassan, *Longing for the Lost Caliphate: A Transregional History* (Princeton University Press 2016) 157
[79] Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (Princeton University Press 2011) 153–156
[80] Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (IIIT 2008) 54–63
[81] Ibid,

The core features of blockchain relevant to Islamic social finance include:

1. Decentralisation: Authority is distributed across multiple nodes, reducing the risk of abuse or unilateral control — a critical feature for faith-based institutions prone to accusations of elite capture.[82]
2. Immutability: Once data is recorded, it cannot be altered without consensus, thereby preventing fraudulent reporting of fund disbursements.[83]
3. Transparency: Transactions are visible to all network participants, fostering public trust in how zakāt, ṣadaqah, or waqf funds are allocated.[84]
4. Smart Contracts: Self-executing codes that trigger transactions upon fulfilment of predefined conditions, useful for automating disbursements to beneficiaries or managing waqf revenues.[85]
5. Traceability: Each transaction is chronologically and cryptographically linked to the previous one, creating a verifiable audit trail. This is especially crucial for ensuring compliance with both Sharia principles and state regulations.

These characteristics address the key weaknesses in the administration of Islamic social finance: mismanagement, lack of accountability, and inefficient beneficiary targeting. When overlaid with Islamic legal norms, blockchain can serve as a hisbah-compliant monitoring tool — echoing the historical Islamic institution tasked with market oversight and moral accountability.

2.3 Synergies and Theological Compatibility

Islamic jurisprudence has historically demonstrated adaptability to socio-economic and technological change through ijtihād (independent reasoning) and qawāʿid fiqhiyyah (legal maxims). The principle of *"al-ʿādah muḥakkamah"* (custom is authoritative) legitimises the use of contemporary technologies where customary use does not contravene Sharia.[86] Moreover, the maxim *"al-maṣlaḥah muʿtabarah mā lam tuʿārid al-naṣṣ"* (public interest is recognised as long

[82] Ibid,
[83] Ibid,
[84] Ibid,
[85] Hamidullah Khan, *The Institution of Hisbah in Islam* (Islamic Research Institute 1982) 25–30
[86] Al-Qarāfī (n 5) vol 13, 208; *al-ʿādah muḥakkamah* is one of the five universally accepted qawāʿid

as it does not conflict with scripture) provides further doctrinal basis for embracing blockchain when it enhances the ethical goals of Islam.[87]

Thus, blockchain-enabled zakāt and waqf models may not only be technically feasible but theologically commendable, provided that the technology is implemented in ways that preserve *niyyah* (intent), uphold *ʿadālah* (justice), and prevent *gharar* (excessive uncertainty) or *ghulū* (exaggeration) in execution.[88]

2.4 Blockchain Technology and Its Relevance to Islamic Finance

Blockchain technology exists in different architectural forms, most notably public (permissionless) and private or consortium (permissioned) blockchains. Public blockchains, such as Bitcoin and Ethereum, allow open participation and rely on decentralized consensus mechanisms without requiring trust in identifiable intermediaries. In contrast, permissioned blockchains restrict participation to verified and authorized entities, enabling greater control over governance, validation, and access rights. This architectural distinction is particularly significant in financial applications, where regulatory compliance, accountability, and institutional oversight are essential considerations.

For the purpose of developing a Sharia-compliant framework for Islamic social finance in Nigeria, this study adopts a permissioned blockchain model as its foundational technological architecture. This choice is informed not only by technical efficiency but, more importantly, by the normative requirements of Islamic law. Islamic social finance instruments such as zakāt and waqf require structured governance, transparency, and continuous Sharia supervision to ensure compliance with fiqh al-muʿāmalāt and the objectives of Sharia (Maqāṣid al-Sharia). A permissioned blockchain provides a controlled yet distributed environment in which these requirements can be meaningfully embedded.

While public blockchains offer a high degree of decentralisation, their anonymous participation model and absence of enforceable governance structures raise practical and Sharia concerns in the management of socially sensitive funds. Accordingly, this paper positions the

[87] Auda (n 8) 79–82
[88] Kamali (n 4) 227–230

permissioned blockchain not as a departure from decentralisation per se, but as a calibrated approach that balances technological innovation with ethical oversight. The specific Sharia, governance, and regulatory implications of this architectural choice are examined in detail in the proposed framework discussed in Section 4.

3. Methodology of the Research

The paper adopted doctrinal comparative case study approach. It draws insights from global precedents in blockchain-enabled social impact initiatives and nascent Islamic fintech applications. Selection criteria for these cases included projects demonstrating successful integration of blockchain for transparency and accountability, particularly those with a focus on philanthropic or social welfare applications. Data for these cases were primarily gathered from publicly available whitepapers, project reports, academic analyses, and official *Sharia* board pronouncements where applicable. Each case was then analyzed using a multi-dimensional framework that assessed its technological architecture, governance model, *Sharia* compliance mechanisms, and observed impact on transparency and inclusivity. This systematic analysis allowed for the identification of best practices, common challenges, and critical design considerations, which were then critically evaluated for their applicability and potential adaptation to the unique legal, regulatory, and socio-cultural landscape of Nigeria's Islamic social finance ecosystem.

4. Sharia Foundations for Technological Innovation

The adaptability of Islamic law to evolving socio-economic realities has historically rested on its dynamic interpretative tools and purposive orientation. While *Sharia* is often characterised by its divine immutability, its application in worldly affairs — particularly in matters of transactions (*muʿāmalāt*) — has demonstrated remarkable flexibility.[89] In considering the application of blockchain technology to Islamic social finance, it is imperative to examine the doctrinal mechanisms that allow for innovation, particularly in light of the higher objectives of Islamic law

[89] Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oneworld 2008) 174–178

(Maqāṣid al-Sharia), the legal maxims (*qawāʿid al-fiqhiyyah*), and the doctrines of *ijtihād* (independent reasoning) and *maslaḥah* (public interest).

4.1 Maqāṣid al-Sharia and Financial Inclusion

The contemporary relevance of *Maqāṣid al-Sharia* lies in its role as a normative framework guiding the interpretation and implementation of legal rulings. The classical formulation by Imām al-Shāṭibī posits five universal objectives of Sharia: the protection of religion (ḥifẓ al-dīn), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-ʿaql*), progeny (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*).[90] These objectives are not only doctrinal ideals but also functional benchmarks for evaluating new practices and technologies. In the realm of Islamic social finance, blockchain's capacity to enhance ḥifẓ al-māl (through fraud prevention and secure transfers), *ḥifẓ al-nafs* (through more efficient social service delivery), and ḥifẓ al-ʿird (through transparent governance) underscores its ethical compatibility with *Sharia*.

Moreover, financial inclusion — which enables broader participation in the economy has emerged as a pressing policy objective within the Islamic finance discourse.[91] Blockchain-based applications that provide unbanked or underbanked populations with access to charitable services and micro-endowments thus align with the *maqṣad of takāmul ijtimāʿī* (social cohesion) and *rafʿ al-ḥaraj* (alleviation of hardship).[92] In this way, the deployment of technology in zakāt or waqf disbursement not only serves operational efficiency but also realises foundational legal and moral purposes.

4.2 Legal Maxims and Innovation in Islamic Jurisprudence

Islamic jurisprudence recognises a number of universal legal maxims (*al-qawāʿid al-kulliyyah*) that facilitate the integration of new social phenomena within the framework of Sharia. Among these, the following are particularly relevant to the adoption of blockchain in social finance:

[90] Abū Isḥāq al-Shāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharīʿah* (Dar Ibn ʿAffān 1997) vol 2, 11–13
[91] Habib Ahmed, 'Financial Inclusion and Islamic Finance: Organizational Formats, Products, Outreach, and Sustainability' (2015) *Islamic Research and Training Institute Working Paper*, 3–4
[92] Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought 2008) 65

1. "Al-ʿādah muḥakkamah" (Custom is authoritative): This maxim recognises prevailing practices as legally valid if not in conflict with divine injunctions.[93] As blockchain becomes increasingly mainstream in financial governance, its incorporation into Islamic institutions may be justified by virtue of prevailing global norms and expectations.
2. "Al-maṣlaḥah muʿtabarah mā lam tuʿārid al-naṣṣ" (Public interest is recognised unless it contradicts textual evidence): This principle permits legal innovation where it produces tangible benefits and does not breach explicit Sharia rulings.[94] Blockchain's potential to increase transparency, prevent fraud, and automate compliance satisfies maṣlaḥah in both form and substance.
3. "Al-ḍarar yuzāl" (Harm must be eliminated): This maxim supports the implementation of technologies that reduce inefficiencies and institutional corruption — both of which are prevalent concerns in the administration of charitable funds in Nigeria.[95]

These maxims collectively provide a principled legal basis for embracing blockchain as a tool of public benefit, provided that its implementation does not involve prohibited elements such as *ribā* (usury), *gharar* (excessive uncertainty), or *maysir* (gambling) — concerns more relevant to cryptocurrency speculation than to blockchain architecture per se.[96]

4.3 Ijtihād, Taqlīd, and the Role of Sharia Governance Bodies

The task of determining the permissibility and operational limits of technological innovation in Islamic finance falls within the domain of *ijtihād*, particularly where precedents are lacking. [97] Classical jurists from the Mālikī and Ḥanafī schools developed models for innovation under *istiḥsān* (juridical preference) and maṣlaḥah mursalah (unrestricted public interest), mechanisms that have long enabled the accommodation of changing social realities.[98]

[93] Muḥammad ibn ʿAbd al-Raḥmān al-Qarāfī, *al-Furūq* (ʿĀlam al-Kutub 2001) vol 4, 107
[94] Kamali (n 1) 234
[95] International Monetary Fund (IMF), *Nigeria: Selected Issues* (IMF Country Report No. 19/93, March 2019) 24
[96] Ishrat Muneeza and Farrukh Habib, 'Blockchain, Cryptocurrency and Islamic Finance: The Current State and Way Forward' (2018) 6 *ISRA International Journal of Islamic Finance* 13, 15–18
[97] Imran Ahsan Khan Nyazee, *Theories of Islamic Law: The Methodology of Ijtihad* (Islamic Book Trust 2002) 120–129
[98] Ibid

In the contemporary context, this role is fulfilled by Sharia advisory councils and governance boards, whose authority to issue fatāwā on emerging technologies is pivotal to the operational legitimacy of Islamic finance institutions.[99] However, a significant limitation lies in the gap between technical expertise and religious scholarship.[11] Many blockchain developers lack Sharia literacy, while many Sharia scholars remain unfamiliar with the technical architecture of distributed systems — creating a deficit of integrated reasoning that could undermine both compliance and effectiveness.

To address this challenge, collaborative *ijtihād jamāʿī* (collective legal reasoning) involving fuqahāʾ, technologists, economists, and regulators has been advocated as a procedural innovation.[100] This model ensures that emerging fintech applications are vetted for both doctrinal soundness and technical feasibility. In Nigeria, where Islamic finance institutions such as Jaiz Bank, Lotus Capital, and state *zakāt* boards operate within a plural legal system, the harmonisation of *Sharia* views across regions is particularly essential.

In conclusion under this subheading, Islamic jurisprudence is not inherently antagonistic to technological innovation. On the contrary, its foundational principles — centred around justice, public welfare, and the elimination of harm — not only accommodate but arguably mandate the exploration of tools such as blockchain where they serve communal benefit. The critical task is to ensure that such technologies are adapted with fidelity to Islamic norms and deployed with an awareness of both legal ethics and socio-economic realities.

5. Integration of Blockchain with Islamic Social Finance in Nigeria

While the theoretical compatibility of blockchain with Islamic social finance has been increasingly acknowledged, its practical operationalisation within the Nigerian context presents both opportunities and constraints. This section explores existing global models, their applicability to Nigeria's institutional and socio-economic environment, and the functional implications of blockchain-enabled *zakāt*, waqf, and *ṣadaqah* disbursement mechanisms. It also critically

[99] Yusuf Talal DeLorenzo, 'Shariah Supervision of Islamic Mutual Funds' in Natalie Schoon (ed), *Islamic Asset Management: An Asset Class on its Own?* (Edinburgh University Press 2009) 89–90
[100] M. Obaidullah, *Islamic Financial Services* (Islamic Economics Research Center 2005) 77–79

evaluates the role of smart contracts, decentralised applications (dApps), and digital identity systems as enablers of a *Sharia*-compliant, efficient, and transparent ecosystem.

5.1 Rationale for a Permissioned Blockchain Architecture

The proposed Islamic social finance framework is built upon a permissioned blockchain architecture, a deliberate design choice aimed at ensuring both technological robustness and Sharia compliance within the Nigerian context. Unlike fully public blockchains, which prioritize unrestricted participation, a permissioned network enables the incorporation of institutional governance structures that are indispensable for Islamic finance. These include Sharia advisory oversight, regulatory supervision, and clearly defined accountability mechanisms for institutions managing zakāt, waqf, and other social finance instruments.

A critical advantage of a permissioned blockchain lies in its capacity to integrate Sharia supervisory bodies directly into the network's governance architecture. Designated Sharia boards or accredited scholars may function as authorized validators or oversight nodes, ensuring that smart contracts, transactional logic, and fund disbursement mechanisms remain compliant with Islamic legal principles on an ongoing basis. This model enhances accountability and facilitates dispute resolution, aligning with the Islamic values of justice (ʿadl), trust (amānah), and transparency (bayān), which are difficult to operationalize in anonymous, permissionless environments.

It is acknowledged that permissioned blockchains exhibit a lower degree of decentralisation compared to public networks. However, within the domain of Islamic social finance, absolute decentralisation is neither an end in itself nor inherently superior. Instead, the objective is to achieve an optimal balance between distributed record-keeping and necessary oversight. The permissioned model preserves key blockchain attributes—immutability, auditability, and resistance to unilateral manipulation—while allowing for structured governance that ensures compliance with Sharia and national regulatory frameworks. In this sense, decentralisation is moderated, not abandoned, in favor of ethical and legal coherence.

The trust model underpinning the proposed framework shifts from reliance solely on cryptographic anonymity to a hybrid structure combining technological trust with institutional

credibility. Participation is limited to vetted entities such as Islamic financial institutions, zakāt boards, waqf administrators, regulatory agencies, and accredited non-governmental organizations. This configuration enhances public confidence in the management of donated and endowment funds and reflects the Islamic emphasis on responsible stewardship of communal wealth.

Also, the permissioned architecture further enables granular data access controls, which are essential for protecting sensitive information relating to donors and beneficiaries. Safeguarding privacy aligns with the Sharia objectives of protecting life and dignity (ḥifẓ al-nafs) and wealth (ḥifẓ al-māl). Additionally, the controlled nature of the network facilitates compliance with domestic data protection regulations, such as Nigeria's data protection regime, and mitigates the legal uncertainties associated with deploying Islamic social finance applications on fully public, globally distributed ledgers.

5.1 Global Precedents and Lessons for Nigeria

Countries such as Malaysia, the United Arab Emirates (UAE), Bahrain, and Indonesia have piloted blockchain-based solutions for Islamic social finance. The Malaysia-based International Centre for Waqf Research has proposed the use of blockchain for waqf land registration and revenue management, aimed at minimising disputes and bureaucratic inefficiencies.[101] The UAE's Emirates Red Crescent has launched blockchain initiatives for humanitarian aid distribution, integrating real-time tracking and transparent reporting.[102] Similarly, Blossom Finance in Indonesia facilitates blockchain-powered ṣukūk and charitable investments in microfinance institutions.[103]

These case studies offer key operational models which, if adapted contextually, could alleviate the endemic challenges in Nigeria's zakāt and waqf institutions — namely opacity, corruption, and fragmentation of governance.[104] However, the success of such models has

[101] International Centre for Waqf Research (ICWR), 'Blockchain Technology in Waqf Administration' (ICWR Policy Brief 2019) 3–5
[102] Emirates Red Crescent, 'Blockchain for Humanitarian Aid Distribution' (2020) https://www.rcuae.ae accessed 26 June 2025
[103] Matthew Joseph Martin, 'Blockchain Sukuk for Microfinance' (Blossom Finance, 2021) https://blossomfinance.com accessed 26 June 2025
[104] Abdullahi S. Abbas, 'Reforming Zakāt Administration in Nigeria: Comparative Lessons from Sudan and Malaysia' (2019) 4 *African Journal of Islamic Studies* 92–98

depended heavily on regulatory clarity, technological infrastructure, and effective Sharia oversight — areas where Nigeria faces notable deficits.

5.2 Blockchain Application to Zakāt, Ṣadaqah, and Waqf

Zakāt Administration:

Blockchain can revolutionise zakāt administration in Nigeria by digitising contributor and beneficiary records, automating disbursement through smart contracts, and establishing real-time dashboards for state zakāt boards. Smart contracts can be programmed to trigger disbursements once eligibility is verified according to Sharia criteria.[105] For instance, a contributor's zakāt liability could be calculated automatically, with funds routed through dApps that interface with verified beneficiaries.

Ṣadaqah Platforms:

Unlike zakāt, ṣadaqah platforms offer greater flexibility in distribution. Blockchain can host decentralised platforms where contributors choose causes or beneficiaries, track donations, and receive immutable proof of impact — thereby enhancing donor trust and institutional credibility.[106] This model aligns with the Sharia imperative of niyyah (intentionality) and ensures that contributions are not diverted from their specified cause.

Waqf Digitisation:

Waqf property in Nigeria is often undocumented, disputed, or underutilised. A blockchain registry can record waqf deeds, succession plans, and usufruct rights in an immutable ledger.[107] Smart contracts can automate rental collection, revenue distribution to beneficiaries, and even trigger maintenance contracts. In this model, the mutawallī (trustee) is monitored digitally, allowing for real-time audits by regulators or Sharia supervisory boards. These models would not only streamline administration but also empower regulators and faith-based organisations to identify

[105] Farrukh Habib and Ishrat Muneeza, 'Smart Contracts in Islamic Finance: Legal and Sharīʿah Perspectives' (2020) 8 *ISRA Law Review* 50–54

[106] Nida Khan and Rafic H. Avila, 'Digitalising Islamic Philanthropy: Opportunities and Challenges' (2022) 13 *Journal of Islamic Fintech* 17–20

[107] Muhammad Taqi Usmani, *An Introduction to Islamic Finance* (2nd edn, Kluwer Law 2002) 115–116

fraud, non-compliance, or inefficiency through automated compliance flags and transparent audit trails.

5.3 Smart Contracts, dApps, and Digital Identity Systems

The implementation of smart contracts in Islamic finance raises important jurisprudential questions, particularly around intention (*niyyah*), consent (*riḍā*), and conditions (shurūṭ).[8] Nevertheless, many scholars have endorsed conditional contracts (*ʿaqd muʿallaq*) where a legal effect is deferred until a specified condition is met — a logic similar to smart contracts.[108] When encoded in compliance with Sharia, smart contracts can serve to reduce discretionary abuse and ensure ex-ante conformity with Islamic rules of charitable disbursement.

Decentralised Applications (dApps) enable transparent interaction between contributors, institutions, and beneficiaries. For example, a dApp could be designed for the National Zakat and Sadaqat Board, where state-level zakāt committees register verified beneficiaries, enabling nationwide coordination and efficiency. The interoperability of such platforms would also support public-private partnerships involving Islamic banks, NGOs, and international donors.[109]

Digital Identity Systems can enhance financial inclusion by enabling undocumented individuals to access waqf-based services or zakāt distributions.[110] Using biometric or blockchain-based identity management systems (e.g., uPort or Sovrin), waqf institutions can verify the authenticity of beneficiaries, avoid duplication, and prioritise needs. This is particularly valuable in Nigeria, where informal settlements, internally displaced persons (IDPs), and rural populations often lack documentation required for accessing formal services.[111]

In essence, blockchain offers more than technical infrastructure — it provides a governance architecture that is inherently conducive to the ethical mandates of Islamic finance: transparency (shafāfiyyah), justice (ʿadālah), and accountability (masʾūliyyah). However, the application of

[108] Ahmad ibn Idrīs al-Qarāfī, *al-Furūq* (ʿĀlam al-Kutub 2001) vol 3, 98–101
[109] Shinsuke Ebihara and others, 'Building Inclusive Blockchain Ecosystems: Public–Private Partnerships in Islamic Finance' (World Bank Working Paper, 2023) 7–10
[110] World Bank Group, *The Role of Digital ID for Development* (ID4D Initiative Report 2021) 12
[111] National Identity Management Commission (NIMC), 'Strategic Roadmap 2023–2027' https://nimc.gov.ng accessed 26 June 2025

these tools must navigate the complexities of Nigeria's multi-jurisdictional legal environment, socio-religious diversity, and infrastructural inequality.

6. Challenges and Constraints

Despite the compelling theoretical and practical arguments for integrating blockchain into Islamic social finance, significant challenges persist—ranging from infrastructural and legal deficiencies to Sharia compliance ambiguities and institutional fragmentation. These obstacles not only constrain the operational feasibility of blockchain-based zakāt, waqf, and ṣadaqah models but also expose deeper structural gaps in Nigeria's Islamic finance governance. A holistic understanding of these constraints is crucial for designing responsive policy and legal frameworks that balance innovation with fidelity to Islamic legal norms.

6.1 Legal and Regulatory Hurdles

Nigeria's legal system is pluralistic, comprising common law, customary law, and Sharia law in designated states.[112] While this legal heterogeneity provides cultural and religious flexibility, it also poses regulatory incoherence, particularly in emerging sectors like fintech and Islamic social finance. The Central Bank of Nigeria (CBN) and the Securities and Exchange Commission (SEC) have issued guidelines for virtual assets and blockchain applications,[113] yet there is no comprehensive legal framework specific to blockchain-based Islamic finance or philanthropy.

The absence of enabling legislation for digital waqf, for instance, leaves questions regarding title registration, perpetuity, and trustee responsibilities unresolved.[114] Similarly, zakāt institutions operate primarily under state-level religious agencies without federal coordination or uniform standards, thereby frustrating efforts to implement a centralised, blockchain-based platform.[115] Moreover, data protection laws under the Nigeria Data Protection Act 2023 impose

[112] Nnamdi Aduba, 'Legal Pluralism and the Constitution in Nigeria' (2008) 2 *African Journal of Legal Studies* 37, 41–43
[113] SEC Nigeria, 'Rules on Issuance, Offering Platforms and Custody of Digital Assets' (May 2022) https://sec.gov.ng accessed 27 June 2025
[114] Iwan Fitri Anwar and others, 'The Sustainability of Cash Waqf Using Blockchain Technology: A Conceptual Study' (2024) 5(2) *International Journal of Trends in Accounting Research* 70 https://doi.org/10.54951/ijtar.v5i2.664
[115] Ibid, 23

compliance burdens that may affect the deployment of blockchain systems, especially in managing biometric or identity-linked data.[116]

The lack of legal clarity also affects smart contract enforceability. While these contracts function automatically on-chain, their recognition in Nigerian courts remains uncertain, especially where disputes involve Islamic legal elements that are not fully codified in civil law.[117] Thus, the success of blockchain-based Islamic social finance depends on the harmonisation of civil, regulatory, and Sharia laws in a coherent legislative framework.

6.2 Infrastructural and Technological Constraints

The technological preconditions for implementing blockchain solutions—including high-speed internet, reliable electricity, and secure data centres—are still limited in many parts of Nigeria.[118] Rural communities, which are often the primary beneficiaries of zakāt and waqf-based services, may lack the digital literacy and access necessary to interact with blockchain-based platforms. This digital divide risks further marginalising the already underserved, in contradiction to the Islamic social justice ethos.

In addition, the cost of blockchain deployment is non-trivial. While public blockchains are open-source, private or permissioned blockchains suitable for Sharia-compliant governance (e.g., Hyperledger Fabric or Quorum) require significant investment in development, maintenance, and cybersecurity.[119] Most zakāt boards and waqf institutions in Nigeria operate with constrained budgets and may lack both the capital and technical partnerships necessary to develop and sustain such systems.

The unavailability of Sharia-literate technologists also impedes the proper implementation of blockchain for Islamic purposes.[120] Without developers who understand the nuances of Islamic

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[116] Nigeria Data Protection Act 2023, ss 2–5; see also National Information Technology Development Agency (NITDA), 'Implementation Framework' https://nitda.gov.ng accessed 27 June 2025

[117] Adebayo Aina, 'Smart Contracts and Nigerian Law: Emerging Questions' (2023) 3 *Nigerian Commercial Law Review* 14–19

[118] World Bank, *Nigeria Digital Economy Diagnostic Report* (2021) 9–12

[119] Michael Crosby and others, 'Blockchain Technology: Beyond Bitcoin' (2020) *Applied Innovation Review* 6

[120] Ishrat Muneeza, 'Sharīʿah Governance in Islamic Fintech: Gaps and Recommendations' (2021) 14 *Journal of Islamic Banking and Finance* 30

jurisprudence — such as the prohibition of *ribā*, the rules of intention, or the principles of conditionality — there is a risk that smart contracts or dApps will inadvertently contravene Sharia standards, compromising both efficacy and legitimacy.

6.3 Sharia Governance and Doctrinal Fragmentation

Islamic social finance in Nigeria is regulated predominantly by religious institutions at the state level, with divergent methodologies and degrees of formalisation.[121] Some states, such as Kano and Sokoto, have established structured zakāt boards with legislative backing, while others rely on informal religious bodies.[122] The lack of a unified Sharia governance framework creates doctrinal inconsistencies, especially in defining zakāt eligibility, calculating nisāb, and regulating mutawallīs.[12] Such fragmentation frustrates the development of interoperable blockchain systems, which require standardisation of rules and protocols to function effectively.

Furthermore, existing Sharia advisory boards often lack expertise in contemporary technologies, limiting their ability to issue authoritative fatāwā on complex technical issues.[123] This epistemic gap contributes to hesitation or even outright rejection of blockchain-based solutions by religious authorities who view them as foreign, speculative, or insufficiently grounded in Islamic tradition.[124]

Additionally, there is an ongoing debate among jurists regarding the Sharia status of decentralisation, particularly where it may undermine the authority of traditional custodians of religious charity.[125] Some scholars argue that decentralised governance may conflict with the Sharia requirement of designated trustees (*amīn* or *mutawallī*) who are accountable for the distribution of charitable funds. Others advocate for a hybrid model where decentralisation is balanced with institutional oversight and human accountability.

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[121] Muhammad L. Usman, 'The Role of State Zakat Boards in Nigeria's Islamic Economy: A Comparative Study' (2022) 18 *Ilorin Journal of Islamic Studies* 65–68
[122] Ibid, 67
[123] Wahbah al-Zuhayli, *Fiqh al-Islami wa Adillatuh* (Dar al-Fikr 2000) vol 2, 823–826
[124] Muneeza and Habib (n 5) 28–30
[125] Yusuf Talal DeLorenzo, 'Fatwā and Finance: An Introduction to Sharīʿah Advisory Boards in Islamic Finance' (2011) *The Oxford Handbook of Islamic Finance* 23

7. A Sharia-Compliant Framework Proposal for Blockchain-Enabled Islamic Social Finance in Nigeria

Given the compelling opportunities and formidable constraints identified in the foregoing sections, this part of the paper proposes a multi-dimensional Sharia-compliant framework for integrating blockchain technology into Nigeria's Islamic social finance ecosystem. The framework is designed to be doctrinally sound, legally feasible, technologically viable, and institutionally adaptable. It aims to modernise the administration of zakāt, waqf, and ṣadaqah while preserving the core normative commitments of Islamic law — namely justice (*ʿadālah*), transparency (*shafāfiyyah*), accountability (*masʾūliyyah*), and public welfare (*maṣlaḥah ʿāmmah*).

7.1 Foundational Principles and Compliance Parameters

The framework is anchored in four foundational principles:

1. Maqāṣid al-Sharia Compliance – Every technological integration must be demonstrably aligned with the higher objectives of Islamic law, particularly the protection of wealth (ḥifẓ al-māl), the alleviation of poverty (rafʿ al-ḥājah), and the promotion of social dignity (ḥifẓ al-ʿird).[126]
2. Legal Harmonisation – The model must operate within Nigeria's existing constitutional and regulatory pluralism, accommodating federal, state, and religious legal structures.[127] This includes alignment with CBN fintech regulations, state zakāt laws, and the Nigeria Data Protection Act 2023.[128]
3. Sharia Governance Integration – A dual-layer Sharia governance structure is recommended: one at the national level to standardise principles, and one at the institutional level to oversee implementation. This echoes the model used in Malaysia's Islamic finance system.[129]

[126] Jasser Auda, *Maqāṣid Al-Sharīʿah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought 2008) 55–57
[127] Nnamdi Aduba, 'Legal Pluralism and Constitutionalism in Nigeria' (2008) 2 *African Journal of Legal Studies* 39
[128] Nigeria Data Protection Act 2023, ss 2–8
[129] International Sharīʿah Research Academy (ISRA), *Sharīʿah Governance in Islamic Finance* (ISRA, 2016) 41–45

4. Technological Modularity – The framework must be adaptable across different regions and use cases, accommodating varying levels of digitisation, infrastructure, and doctrinal preference.

7.2 Institutional Architecture

To operationalise the framework, we propose the establishment of a National Islamic Social Finance Blockchain Platform (NISFBP) comprising three primary nodes:

a) The Central Authority Node, administered jointly by the National Zakat and Sadaqat Board (NZSB), the Nigerian Supreme Council for Islamic Affairs (NSCIA), and a newly established Sharia–Fintech Supervisory Committee (SFSC). This node will set standards, approve smart contract templates, and issue periodic fatāwā on new applications.
b) State Implementation Nodes, hosted by State Zakat Boards, Waqf Commissions, or relevant Islamic institutions. These nodes will handle registration, beneficiary verification, fund disbursement, and compliance monitoring using decentralised applications (dApps).
c) Public Access Nodes, available via mobile/web portals for contributors, NGOs, and waqf managers. These will display real-time dashboards of contributions, disbursements, and audited outcomes, ensuring full transparency and participatory accountability.

The architecture should be hosted on a permissioned blockchain (e.g., Hyperledger Fabric or Corda) to allow for controlled access and Sharia oversight, while supporting decentralised trust mechanisms.[130]

7.3 Smart Contract Templates and Use Cases

We propose the development of Sharia-compliant smart contract templates for the following key use cases:

a) Zakāt Disbursement Contract (ZDC): Automatically releases funds to verified recipients based on pre-defined eligibility conditions (e.g., income level, dependency status,

[130] Farrukh Habib and Ishrat Muneeza, 'Blockchain, Smart Contracts and Islamic Finance: A Conceptual and Sharīʿah Framework' (2020) 8 *ISRA Law Review* 35–39

disability). It also logs time-stamped transactions to ensure that funds are disbursed within one lunar year (ḥawl).[131]

b) Waqf Revenue Distribution Contract (WRDC): Collects and disburses rental or investment returns from waqf assets to specified beneficiaries. It can include conditions such as prioritising students, IDPs, or health patients.[132]

c) Ṣadaqah Impact Contract (SIC): Enables real-time tracking of voluntary charity from donor to project endpoint. Donors receive a digital record verifying the impact (e.g., a school funded, a borehole drilled), thus incentivising continued giving.[133]

All smart contracts must undergo Sharia audits prior to deployment and include a kill-switch clause to allow manual override in case of legal or religious breaches.

8. Conclusion and Recommendations

This paper has examined the intersection of blockchain technology and Islamic social finance through the lens of Sharia compliance, legal feasibility, and sustainable development imperatives in Nigeria. It has argued that blockchain, when appropriately designed and ethically governed, offers a transformative infrastructure for the administration of zakāt, waqf, and ṣadaqah. By enabling decentralised transparency, automating compliance through smart contracts, and facilitating inclusive financial services, blockchain addresses many of the institutional inefficiencies that have historically plagued Islamic social finance in Nigeria. The Sharia principles of ḥifẓ al-māl (protection of wealth), ʿadālah (justice), masʾūliyyah (accountability), and maṣlaḥah (public interest) find clear resonance in blockchain's inherent features—immutability, traceability, and decentralisation. Yet, the full potential of this alignment remains unrealised due to significant legal, technological, and institutional challenges. These include the absence of regulatory clarity, doctrinal fragmentation in Sharia governance, infrastructural deficits, and a lack of expertise at the intersection of Islamic jurisprudence and financial technology.

[131] Muḥammad ibn ʿAbd al-Raḥmān al-Jazīrī, *Kitāb al-Fiqh ʿala al-Madhāhib al-Arbaʿah* (Dar al-Fikr 2003) vol 1, 519

[132] Osman Bakar, *Waqf and the Knowledge Society* (IAIS Malaysia 2019) 61–64

[133] Nida Khan and Rafic H. Avila, 'Digitalising Islamic Philanthropy: Opportunities and Challenges' (2022) 13 *Journal of Islamic Fintech* 21

8.1 Key Findings

1. Theoretical Compatibility: Blockchain can be not only compatible with the foundational objectives of Islamic law but also enhances the operational values of transparency, justice, and efficiency in faith-based finance.
2. Operational Feasibility: While global precedents demonstrate viability, implementation in Nigeria is hindered by legal uncertainty, poor infrastructure, and fragmented zakāt and waqf governance.
3. Institutional Gaps: The current Sharia advisory ecosystem in Nigeria lacks sufficient capacity to engage with blockchain-based innovations in a substantively informed manner.
4. Strategic Potential: If adopted correctly, blockchain could redefine Islamic social finance governance and contribute meaningfully to Nigeria's sustainable development goals (SDGs), particularly in poverty alleviation, education, and health.

8.2 Recommendations

To operationalise this potential, the following multi-level recommendations are proposed:

1. The National Assembly, in collaboration with relevant regulatory bodies, should enact a Digital Islamic Social Finance Act. This legislation should define the legal status of digital waqf, smart contracts, and blockchain-administered zakāt; establish enforcement mechanisms; and provide Sharia-compliant data governance standards.
2. A national body comprising Sharia scholars, fintech experts, legal practitioners, and regulators should be formed to oversee blockchain integration into Islamic finance. This Council should issue fatāwā, certify smart contracts, and monitor doctrinal consistency.
3. The CBN, SEC, and state zakāt boards should collaboratively launch pilot sandboxes for blockchain-based social finance projects, particularly in underserved areas. Lessons from these pilots will inform scalable deployment.
4. Islamic universities, such as Al-Hikmah University, Alqalam University, as well as other public Universities such as Bayero University Kano, Ahmadu Bello Univeristy and so on should integrate fintech and blockchain modules into their Sharia and economics curricula.

Exchange programmes and dual certifications between Islamic scholars and tech developers are also recommended.

5. Strategic partnerships between Islamic banks (e.g., Jaiz Bank, Taj Bank), fintech startups, and zakāt institutions should be encouraged to co-develop Sharia-compliant blockchain platforms, with public funding matched by private innovation.
6. International Islamic finance bodies such as the Islamic Development Bank (IsDB), the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), and the International Waqf Fund should be engaged to provide technical and financial support for Nigeria's blockchain-based Islamic social finance ecosystem.

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THE AFRICAN AGENDA: A CRITICAL EXAMINATION OF NIGERIA AND SOUTH AFRICA'S ROLES IN SHAPING THE CONTINENT'S POSITION ON UNSC REFORM AND THE QUEST FOR PERMANENT REPRESENTATION

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ABSTRACT

The debate over United Nations Security Council (UNSC) reform has been a longstanding issue in global governance, particularly concerning the representation of African States in the security council. Africa, despite being home to 54 UN member states and playing a significant role in global peacekeeping, economic development, and international diplomacy, remains underrepresented in the UNSC. Against this backdrop, Nigeria and South Africa have emerged as leading advocates for Africa's quest for permanent representation, actively shaping the continent's collective position on UNSC reform. This study examines the diplomatic strategies, policy approaches, and geopolitical influences of both nations in advocating for Africa's position within the broader UN reform agenda. This study employs a multi-theoretical approach, integrating realism, constructivism, and regionalism to critically analyze Nigeria and South Africa's roles in shaping Africa's position on UNSC reform. This research critically assesses the effectiveness of Nigeria and South Africa's diplomatic engagements, coalition-building efforts, and lobbying strategies within the UN General Assembly, AU, and other international forums. It evaluates their roles in advancing the Ezulwini Consensus, a 2005 AU position that demands two permanent seats for Africa with full veto powers and increased non-permanent representation. The findings reveal that Nigeria and South Africa's in advocating for Africa's permanent representation have been constrained by internal African divisions, global power politics, and structural limitations within the UN reform process. The study concludes with recommendations for strengthening Africa's diplomatic strategy, unity, and bargaining power in its quest for greater representation in global governance institutions.

Keywords: *United Nations Security Council (UNSC). Economic Development. Diplomatic Engagements. Ezulwini Consensus*

Introduction

The quest for United Nations Security Council (UNSC) reform has been a subject of international debate for decades. Central to this discourse is the demand for greater representation of Africa, a continent historically marginalized in global governance despite its vast population, economic potential, and strategic significance. Nigeria and South Africa, as two of Africa's leading powers, have played prominent roles in advocating for the continent's permanent representation in the UNSC. This study critically examines the efforts of both nations in shaping Africa's collective position on UNSC reform, analyzing their diplomatic strategies, challenges, and competing interests.

The African continent has long been underrepresented in global decision-making bodies, with the current UNSC structure granting only two non-permanent seats to Africa in a rotating manner. This exclusion has led to calls for the expansion of the Council to better reflect contemporary geopolitical realities. Nigeria and South Africa, both of which have held non-permanent seats multiple times, have positioned themselves as frontrunners in lobbying for Africa's permanent membership. Their efforts have been instrumental in shaping the African Union's (AU) Common African Position on UNSC reform, as articulated in the Ezulwini Consensus. However, internal competition, regional politics, and the reluctance of permanent UNSC members to accommodate such reforms have posed significant challenges. (Landsberg, 2010)

This study seeks to critically analyze the diplomatic engagements, strategies, and limitations of Nigeria and South Africa in advancing Africa's position on UNSC reform. By examining their historical efforts, policy approaches, and regional dynamics, the study aims to provide a comprehensive understanding of Africa's ongoing struggle for equitable representation in global governance. The United Nations Security Council (UNSC) is the principal body responsible for maintaining international peace and security. Since its establishment in 1945, its structure has remained largely unchanged, despite significant shifts in global power dynamics. The Council consists of five permanent members China, France, Russia, the United Kingdom, and the United States each with veto power, alongside ten non-permanent members elected for two-year terms. Africa, despite being home to 54 nations and representing over 1.4 billion people, remains excluded from permanent membership. The demand for UNSC reform stems from criticisms of its

lack of representativeness, outdated power structures, and inefficacy in addressing contemporary security challenges. African states, through the African Union (AU), have consistently advocated for two permanent seats with full veto powers and five non-permanent seats. This position is encapsulated in the Ezulwini Consensus, adopted by the AU in 2005, which serves as the continent's official stance on UNSC reform.

Nigeria and South Africa, as Africa's largest economies and diplomatic heavyweights, have played leading roles in advancing this agenda. Both countries have served multiple terms as non-permanent members of the UNSC, using their positions to push for African interests. Nigeria, with its vast diplomatic influence in West Africa and contributions to peacekeeping operations, has emphasized the need for greater African representation. Similarly, South Africa, leveraging its economic strength and historical role in global diplomacy, has positioned itself as a leader in continental and multilateral engagements. However, while both countries share the goal of securing permanent African representation on the UNSC, their national interests and regional rivalries have occasionally led to tensions. Questions regarding which nation would ultimately represent Africa, the need for a rotational African seat, and the willingness of existing permanent members to endorse such reforms continue to complicate the process.

The issue of UNSC reform remains a crucial aspect of global governance debates. Nigeria and South Africa, as Africa's leading diplomatic forces, have been at the forefront of advocating for permanent representation on the Council. While their efforts have shaped the African Union's position and brought attention to the continent's exclusion, significant challenges remain. (Stuenkel, 2015) Understanding the historical context, diplomatic engagements, and strategic interests of these nations provides critical insight into Africa's ongoing quest for equitable representation in international security governance.

Theoretical Framework

Realism, a dominant theory in international relations, provides a framework for understanding the power dynamics, national interests, and strategic calculations of Nigeria and South Africa in advocating for UNSC reform. According to Realism, states act primarily in pursuit of power and national interest, often prioritizing their own strategic advantages over collective goals. While both

Nigeria and South Africa champion Africa's collective demand for permanent UNSC representation, their diplomatic efforts are also influenced by their individual aspirations for global recognition. The competition between Nigeria and South Africa for African leadership, their bilateral tensions, and their distinct diplomatic strategies reflect the Realist logic of power politics and state-centric interests. This theory helps explain why achieving a unified African position on UNSC reform has been challenging, as national interests often compete with regional solidarity.

Constructivism, which emphasizes the role of ideas, identities, and norms in shaping international relations, offers a valuable perspective on how African unity, historical legacies, and continental solidarity influence Nigeria and South Africa's advocacy for UNSC reform. Unlike Realism, which focuses on material power, Constructivism highlights how shared historical experiences of colonialism, underrepresentation, and marginalization shape Africa's collective demand for greater inclusion in global governance. Nigeria and South Africa's diplomatic rhetoric often invokes Pan-Africanism, historical injustices, and the need for a more equitable international order, framing their advocacy within broader African narratives of self-determination and post-colonial agency. This theory helps explain why African states continue to push for a collective reform agenda despite the structural constraints and power imbalances within the UN system.

Regionalism theory provides insights into the institutional mechanisms and regional governance structures that Nigeria and South Africa have leveraged in their advocacy for UNSC reform. The African Union (AU), through the Ezulwini Consensus, has articulated a common African position, but the effectiveness of regional institutions in influencing global governance remains debatable. Nigeria and South Africa's roles within ECOWAS, SADC, BRICS, and the AU illustrate how regional organizations can serve as platforms for coalition-building, diplomatic negotiations, and international lobbying. However, the lack of a unified African stance and disagreements over the selection of potential African candidates for permanent seats have weakened the continent's position. Regionalism theory helps explain the institutional constraints and opportunities that shape Africa's collective efforts to reform the UNSC.

Literature Review

The quest for United Nations Security Council (UNSC) reform has been a persistent agenda in global governance, with African states advocating for greater representation and influence. (Murithi, 2014) Nigeria and South Africa, as two of the continent's leading economies and diplomatic actors, have played central roles in advancing Africa's position on the matter (Adebajo, 2016). This literature review critically examines their roles, highlighting historical context, policy frameworks, diplomatic engagements, and the challenges facing the realization of Africa's aspirations for permanent representation. The reform of the UNSC has been analyzed through various theoretical lenses, including realism, liberal institutionalism, and constructivism. Realists argue that power dynamics among states dictate the likelihood of reform, with established powers reluctant to cede influence. (Paul & Nahory, 2019) Liberal institutionalists, on the other hand, emphasize the potential for diplomatic negotiations and multilateralism in achieving reform (Luck, 2006). Constructivists highlight the role of African identity and historical injustices in shaping the continent's demands. (Adler & Barnett, 1998)

Africa's stance on UNSC reform has been framed within the Ezulwini Consensus, adopted by the African Union (AU) in 2005, which demands at least two permanent seats with full veto powers for African states. (Murithi, 2014) This position is based on the argument that Africa, despite being the most represented region in UN peacekeeping missions, remains structurally marginalized in global decision-making. (Zondi, 2020) Nigeria, as Africa's most populous nation and a leading economic and military power, has positioned itself as a contender for permanent UNSC membership. (Adebajo, 2016) Through active participation in peacekeeping missions and diplomatic lobbying, Nigeria has sought to leverage its status to advocate for broader African representation. (Olonisakin, 2015) However, internal governance challenges, economic instability, and inconsistent foreign policy priorities have at times undermined its credibility. (Ogunnubi & Okeke-Uzodike, 2016)

South Africa has similarly pursued UNSC reform, aligning itself with the African consensus while also leveraging its membership in BRICS (Brazil, Russia, India, China, and South Africa) to advocate for broader Global South representation (Nathan, 2013). South Africa's diplomatic engagements at the UN have underscored its commitment to multilateralism, although its position has sometimes been perceived as overly aligned with emerging powers rather than purely Pan-African interests (Zondi, 2020). Despite the clear articulation of Africa's demands, several

challenges hinder UNSC reform. First, the reluctance of existing permanent members to dilute their influence poses a structural barrier (Paul & Nahory, 2019). Second, intra-African rivalries between Nigeria, South Africa, and other regional powers such as Egypt and Ethiopia have prevented a unified candidate from emerging (Murithi, 2014). Lastly, the broader question of veto power and its implications for global governance remains a contentious issue. (Luck, 2006)

Nigeria's foreign policy under military and civilian governments during this period was defined by its strong opposition to apartheid. The country was among the most vocal African nations advocating for economic, political, and diplomatic measures to pressure the apartheid regime. Nigeria played a key role in the Organization of African Unity (OAU) and the United Nations in advocating for sanctions against South Africa. (Adebajo, 2008) Nigeria contributed funds and military aid to the African National Congress (ANC) and the Pan Africanist Congress (PAC), providing scholarships for South African students and hosting exiled activists. (Adisa, 2018) The Nigerian government nationalized British Petroleum (BP) assets in 1979 for continuing business with South Africa and imposed a ban on South. African goods (Osaghae, 2002)

The post-apartheid period (1994–2010) marked a significant shift in Nigeria-South Africa relations, transitioning from Nigeria's anti-apartheid activism to diplomatic engagement with a democratized South Africa. As Africa's two largest economies and regional powers, both countries played crucial roles in shaping continental policies, economic integration, and political cooperation. However, their bilateral relationship was marked by both strategic collaboration and occasional tensions, reflecting their competing interests and domestic political dynamics.

Economic relations between Nigeria and South Africa grew significantly in the post-apartheid period. South African companies expanded into Nigeria, particularly in the telecommunications, banking, and retail sectors. Major firms such as MTN, Shoprite, and Standard Bank established a strong presence in Nigeria. (Adeoye, 2012) While South African investment in Nigeria grew, trade remained imbalanced, with Nigeria primarily exporting crude oil and South Africa exporting manufactured goods. (Onyekwena & Ekeruche, 2019) Nigerian businesses sometimes criticized South African firms for dominating sectors and repatriating profits, leading to tensions in economic relations. (Akinboye, 2013) The movement of people between the two nations increased, leading to both cultural exchange and tensions. South Africa experienced multiple waves of xenophobic attacks against African migrants, including Nigerians, in the late 2000s. (Crush et al., 2008)

Nigerian authorities criticized South Africa's strict visa policies and deportation of Nigerian citizens, causing periodic diplomatic disputes. (Adebayo, 2016)

Africa remains the only continent without permanent representation on the UNSC, despite accounting for over a quarter of UN member states and being a focal point of many Council deliberations. (Kuwali & Viljoen, 2018) Nigeria argues that this lack of representation undermines the legitimacy of the UNSC and prevents the interests of African nations from being adequately addressed. (Ogunnubi & Okeke-Uzodike, 2016)

Nigeria has played a leading role in peacekeeping efforts across Africa, contributing troops to missions in Liberia, Sierra Leone, Sudan, and the Democratic Republic of the Congo. The country's commitment to global security, demonstrated through its involvement in Economic Community of West African States (ECOWAS) and African Union (AU) peacekeeping missions, strengthens its claim for a permanent seat on the UNSC. (Ade-Ibijola, 2020) Nigeria aligns with the Ezulwini Consensus, an AU-backed framework that calls for at least two permanent seats for Africa, with full veto powers, and additional non-permanent seats on the UNSC. Nigeria has actively engaged in diplomatic efforts to push for this position in UN General Assembly debates. (Murithi, 2020)

Despite her strong advocacy, Nigeria faces several challenges in its push for UNSC reform. The permanent members of the UNSC (P5: the United States, China, Russia, the United Kingdom, and France) are reluctant to support structural changes that would dilute their influence. Veto-wielding members have been resistant to expanding the Council in a way that would grant new states similar powers. (Weiss, 2020) Nigeria faces competition from other African contenders, particularly South Africa and Egypt, both of which also seek permanent representation. The lack of a unified African consensus on which nations should occupy the proposed permanent seats weakens Africa's bargaining position. (Ogunnubi, 2021) UNSC reform has been on the UN agenda for decades without significant progress. Procedural hurdles, including the requirement that any changes be ratified by two-thirds of the UN General Assembly and all P5 members, make meaningful reform difficult. (Zartman, 2019)

To advance its advocacy for UNSC reform, South Africa has employed several diplomatic strategies. South Africa is an active member of the BRICS (Brazil, Russia, India, China, and South Africa) bloc, which collectively supports reforming global governance institutions. (Stuenkel,

2017) South Africa continues to play a leadership role within the AU, ensuring that Africa's position on UNSC reform remains a priority in global discussions. (Murithi, 2020) Through its membership in the G20 and other international organizations, South Africa has consistently raised the issue of UNSC reform. (Fabricius, 2020) Despite the challenges, South Africa remains committed to pushing for a more representative UNSC. Its diplomatic efforts, along with those of other African nations, will continue to shape the global conversation on UN reform.

Methodology

Research Design

This study adopts a qualitative, interpretive research design to critically examine the roles of Nigeria and South Africa in shaping Africa's collective position on United Nations Security Council (UNSC) reform and the pursuit of permanent African representation. Given the normative, diplomatic, and political nature of UNSC reform debates, a qualitative approach is most appropriate for capturing the complexity of state preferences, regional leadership dynamics, and evolving African diplomatic strategies.

The research is guided by a comparative case study framework, focusing on Nigeria and South Africa as Africa's most influential diplomatic and economic actors and leading claimants for permanent UNSC representation. This design enables an in-depth analysis of both convergences and divergences in their foreign policy strategies, leadership styles, and engagement with continental and global governance institutions.

Theoretical and Analytical Framework

The study is informed by a **hybrid theoretical framework** drawing on:

Realism, a dominant theory in international relations, provides a framework for understanding the power dynamics, national interests, and strategic calculations of Nigeria and South Africa in advocating for UNSC reform.

- Constructivist international relations theory, to analyze how identity, norms, and historical narratives shape African positions on UNSC reform;
- Regional leadership and hegemonic stability theory, to assess how Nigeria and South Africa project leadership within the African Union (AU);

These frameworks facilitate critical examination of how ideas, institutions, and material power interact in shaping Africa's reform agenda.

Data Collection Methods

Document and Textual Analysis

Primary and secondary documents form the core empirical material. These include: official AU documents such as the Ezulwini Consensus, Sirte Declaration, and communiqués of the AU Peace and Security Council, Statements, speeches, and policy documents from the Nigerian and South African Ministries of Foreign Affairs, UN General Assembly debates, UNSC reform working group records, and voting patterns and reports and policy briefs from international organizations, think tanks, and academic institutions. These materials were selected to trace official positions, diplomatic narratives, and shifts in strategy over time.

Comparative Analysis Strategy

The study employs a most-similar systems design, comparing Nigeria and South Africa as: Regionally dominant states, leading financial contributors to the AU and key participants in peacekeeping and multilateral diplomacy.

Comparison is structured around four analytical dimensions:

1. Diplomatic Strategy – engagement with the AU, UN, and global partners;
2. Normative Leadership – commitment to African consensus versus national ambition;
3. Material Contributions – peacekeeping, mediation, and financial support;
4. Coalition-Building – relations with other African states and global powers.

This structured comparison highlights how different leadership approaches affect Africa's collective bargaining power.

Data Analysis Techniques

Data are analyzed using qualitative content analysis and process tracing. Content analysis identifies recurring themes, discursive frames, and policy priorities in official statements and

documents. Process tracing is used to map critical diplomatic moments, such as UNSC reform negotiations, AU summits, and global reform initiatives, to assess causality and strategic evolution.

The analysis pays particular attention to moments of consensus breakdown, competing ambitions, and external influence.

Validity, Reliability, and Ethical Considerations

To enhance validity, the study triangulates multiple data sources, including official documents, academic literature, and expert interviews. Reliability is strengthened through transparent coding procedures and consistent analytical categories applied across both case studies. Ethical considerations include informed consent for interviews, anonymity where requested, and careful representation of sensitive diplomatic positions.

Limitations of the Study

The research acknowledges limitations related to restricted access to confidential diplomatic negotiations and potential bias in official state narratives. Additionally, while Nigeria and South Africa are central actors, the study does not claim to represent all African perspectives, but rather focuses on leadership dynamics within the broader continental framework.

Conclusion

This methodology provides a rigorous and systematic approach to examining Africa's UNSC reform agenda through the lens of Nigeria and South Africa. By combining comparative analysis, qualitative data, and theoretical pluralism, the study offers nuanced insights into the opportunities and challenges facing Africa's quest for permanent representation in global governance.

Discussion of Empirical Findings

This section presents the key empirical findings from the comparative analysis of Nigeria's and South Africa's roles in shaping Africa's position on United Nations Security Council (UNSC) reform. Drawing on official documents, diplomatic statements, multilateral records, and elite perspectives, the findings reveal both convergence and deep-seated tensions within Africa's reform agenda.

Empirical evidence demonstrates that Nigeria and South Africa consistently affirm support for permanent African representation on the UNSC, aligning formally with the African Union's Ezulwini Consensus and the Sirte Declaration. Both states publicly endorse the demand for at least two permanent African seats with veto powers. However, beneath this shared rhetoric lies strategic divergence. Nigeria has emphasized procedural unity and strict adherence to AU consensus mechanisms, positioning itself as a guardian of collective African diplomacy. South Africa, by contrast, has adopted a more pragmatic and flexible approach, engaging selectively with global powers and reform coalitions even when such engagement risks diluting continental consensus. This divergence has weakened Africa's negotiating coherence, as external actors increasingly exploit differences in emphasis between the two states.

Empirical data indicate that Nigeria's claim to leadership is grounded primarily in normative and historical legitimacy. Nigeria consistently frames its UNSC reform position around: Its long-standing peacekeeping contributions across Africa, its early leadership in anti-apartheid and decolonization movements and its financial and political investment in ECOWAS and AU peace operations. Nigeria's diplomatic discourse emphasizes moral authority, portraying UNSC reform as a matter of historical justice rather than power redistribution. However, findings also reveal that Nigeria's domestic governance challenges and episodic foreign policy inconsistency have diluted its credibility among some African and global partners.

South Africa's empirical profile reveals a contrasting leadership model rooted in institutional embeddedness and global integration. South Africa leverages: Its participation in BRICS, its strong ties with G20 economies and its post-apartheid moral capital. South Africa's approach prioritizes access and influence within global governance forums rather than strict continental gatekeeping. While this strategy enhances Pretoria's visibility internationally, it has also generated suspicion among some African states that South Africa prioritizes national ambition over collective African bargaining power.

A central empirical finding is that implicit competition between Nigeria and South Africa has undermined Africa's negotiating strength. Although neither state explicitly rejects continental consensus, both engage in quite diplomatic signaling to global partners that positions them as the most viable African candidate for permanent membership. This competition has contributed to: Fragmentation within the AU Committee of Ten (C-10), reduced urgency among global powers to

accommodate African demands and the persistence of Africa as the only region without permanent UNSC representation.

Empirical evidence shows that permanent UNSC members strategically engage Nigeria and South Africa bilaterally, rather than through African multilateral channels. This selective engagement reinforces fragmentation by rewarding individual diplomacy over collective positioning. Global actors frequently frame UNSC reform discussions around African readiness rather than African rights, shifting responsibility for stagnation onto African divisions rather than structural power imbalances.

Findings also reveal that UNSC reform remains largely elite-driven in both Nigeria and South Africa. Public discourse, civil society engagement, and parliamentary debate on UNSC reform are minimal, reducing domestic accountability and long-term policy continuity. This elite insulation contributes to fluctuating priorities across administrations and weakens sustained diplomatic pressure.

Finally, the empirical analysis confirms that Africa's UNSC reform agenda is normatively coherent but institutionally fragile. While principles of equity, representation, and historical redress are clearly articulated, enforcement mechanisms within the AU remain weak. Neither Nigeria nor South Africa has successfully mobilized binding commitments from other African states to present a unified negotiating front.

Gaps in Reviewed Literature

Despite an expanding body of literature on United Nations Security Council (UNSC) reform and Africa's quest for permanent representation, several critical gaps remain inadequately addressed, particularly concerning Nigeria and South Africa's roles in shaping the African agenda.

Much of the existing scholarship focuses on normative arguments supporting Africa's permanent representation, justice, historical marginalization, and equity in global governance. While these arguments are well established, there is limited empirical analysis of how Nigeria and South Africa operationalize these norms in practice, including diplomatic bargaining, coalition-building, and trade-offs within multilateral forums. This creates a gap between rhetorical commitment and actual diplomatic behavior.

Although Nigeria and South Africa are frequently discussed as leading African contenders for permanent UNSC seats, most studies analyze them in isolation rather than comparatively. There is a lack of systematic comparison of their diplomatic strategies, foreign policy instruments, peacekeeping records, economic leverage, and global alliances. This gap limits understanding of whether their approaches are complementary, competitive, or mutually undermining.

Existing literature often treats "Africa" as a cohesive actor united behind the Ezulwini Consensus. However, internal African divisions, rival candidacies (e.g., Egypt, Kenya, Algeria), and regional power struggles receive insufficient analytical attention. The political costs of Nigeria–South Africa rivalry and its implications for Africa's collective bargaining power remain underexplored.

There is inadequate engagement with how domestic political instability, economic inequality, governance challenges, and public opinion in Nigeria and South Africa shape and constrain their global ambitions. Most studies assume state coherence, overlooking how internal legitimacy crises weaken diplomatic credibility in global reform negotiations.

Nigeria and South Africa frequently justify their UNSC aspirations through peacekeeping contributions and conflict mediation. However, few studies empirically interrogate whether peacekeeping leadership actually translates into sustained diplomatic influence within UNSC reform negotiations. The causal link between operational contribution and political reward remains largely assumed rather than demonstrated.

Summary and Recommendations

Summary

The African Agenda for United Nations Security Council (UNSC) reform represents a crucial aspect of Africa's pursuit of greater representation in global governance. Nigeria and South Africa, as two of the continent's most influential powers, have played central roles in shaping Africa's position on UNSC reform and advocating for permanent representation. Both countries have engaged in diplomatic efforts within the African Union (AU), the United Nations (UN), and other international platforms to push for Africa's demand for at least two permanent seats with full veto powers, as outlined in the Ezulwini Consensus.

Nigeria's advocacy has been driven by its historical contributions to peacekeeping, its demographic and economic weight, and its leadership in West Africa. South Africa, on the other hand, has used its post-apartheid diplomatic legitimacy, strong multilateral engagements, and its role as a bridge between Africa and global powers to advance the reform agenda. Despite these efforts, several challenges persist, including internal African divisions, geopolitical resistance from current permanent UNSC members (P5), and Nigeria and South Africa's competing national interests, which at times undermine Africa's collective position.

Recommendations

- Strengthening Nigeria-South Africa collaboration by establishing a structured bilateral framework dedicated to UNSC reform diplomacy.
- Aligning foreign policy priorities to ensure consistency in their advocacy efforts.
- Engaging with other African regional powers to prevent internal divisions that weaken Africa's common position.
- Engaging more Effectively with the P5 and emerging powers since the P5 hold the key to UNSC reform.
- Strengthening alliances with emerging powers like India and Brazil, which also seek UNSC reform, could bolster Africa's position.
- Addressing domestic political and economic challenges. Nigeria and South Africa must strengthen their domestic governance and economic stability to bolster their credibility as UNSC candidates:
- Addressing governance deficits, corruption, and internal security issues will ensure that both countries remain attractive candidates for global leadership.
- Reforming the AU's approach to UNSC advocacy as a major drive in establishing a more effective AU-led diplomatic team to lead Africa's negotiations on UNSC reform.

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AN APPRAISAL OF THE CHALLENGES OF ENFORCEMENT OF COPYRIGHT IN THE ENTERTAINMENT INDUSTRY IN NIGERIA

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ABSTRACT

Copyright, which is a key aspect of intellectual property law, safeguards creative literary, entertainment, and business works. In today's digital age, however, enforcing copyright has become increasingly challenging, especially in developing countries like Nigeria. The pervasiveness of digital technologies has facilitated the reproduction and distribution of creative content in various forms, such as CDs, VCDs, DVDs, and on the Internet, raising the menace of piracy. This study critically explores the problems confronting enforcement agencies in safeguarding copyrights within Nigeria's entertainment sector. It evaluates the institutional framework for copyright enforcement, the role of some agencies, and the obstacles that frustrate effective regulation, including inadequate funding, poor human capital, scarcity of technical infrastructure, and ineffective legal sanctions. Through the application of doctrinal methodology, which is library-oriented research, by exploring primary and secondary sources and with descriptive analysis, the study finds that organizations such as the Nigerian Copyright Commission (NCC) are greatly handicapped in operations. Piracy in both digital and physical forms continues to exist largely because of insufficient resources, lack of sensitization among the public, corruption, and slow judicial processes. The paper concludes by recommending investment in technology, enhancement of training for enforcement officials, improvement in interagency cooperation, and application of more severe sanctions to reduce copyright infringement and support the development of Nigeria's creative economy.

Introduction

Copyright infringement and piracy remain a mammoth challenge in Nigeria, while so many factors have been adduced for piracy in Nigeria, the inadequacy and sometimes lack of effective copyright enforcement agencies' laws are of significance. Copyright enforcement refers to the prevention of infringement of rights or obtaining remedies for infringement of the conferred right.[134] Enforcement is important since, without it, the law is of no use to those it seeks to protect. Without effective enforcement agencies, right owners cannot enjoy the right conferred on them by law. Piracy is a major challenge to copyright institutions and agencies. The challenge is endemic and requires urgent intervention to check its crippling effect. Copyright thefts, the production of fake and sub-standard and unlicensed products are on the rise, especially in the digital environment.[135] It also jeopardizes Foreign Direct Investment (FDI) to Nigeria and negatively affects local creative talents as these activities jeopardize and discourage creativity.[136]

The enforcement of intellectual property rights (IPR) is a serious challenge in Nigeria. Many developing countries did not have intellectual property ('IP') laws before the Agreement on the Trade Related Aspect of Intellectual Property Rights ("TRIPS Agreement"), while those that have such laws had weak legislation or simply adopted that of their colonial masters.[137] Of the various Intellectual Property Rights, copyright is the most common. Another problem discussed in this paper is the high level of illiteracy and lack of awareness by both the right owners and the copyright community. Most right owners are ignorant of their rights. Also, the fact that copyright in Nigeria has not been adequately addressed by law or enforcement. Shortage of materials is yet another problem, and also faced by the number of cases on the subject matter is also low compared to what is contained in other fields. The objectives of this paper are to consider the challenges faced by these institutions and agencies that hinder their optimal performance and to determine the

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challenges to the effective enforcement of copyright law on the role of copyright institutions and enforcement agencies in order to combat piracy. The paper adopts a doctrinal research methodology by critically examining the existing data from both primary and secondary sources dealing with the subject matter under review. The scope of the paper is to appraise the challenges of the enforcement of copyright in the entertainment industry in Nigeria.

1.1. Concept of copyright

Copyright (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films to computer programs, databases, advertisements, maps, and technical drawings.[138] A copyright is a type of intellectual property that gives its owner the exclusive right to copy and distribute a creative work, usually for a limited time. The creative work may be in a literary, artistic, educational, or musical form. Copyright is intended to protect the original expression of an idea in the form of a creative work, but not the idea itself.[139] A copyright is subject to limitations based on public interest considerations. Some jurisdictions require "fixing" copyrighted works in a tangible form. It is often shared among multiple authors, each of whom holds a set of rights to use or license the work, and who are commonly referred to as rights holders. These rights frequently include reproduction, control over derivative works, distribution, public performance, and moral rights such as attribution.

Copyrights can be granted by public law and are, in that case, considered "territorial rights". This means that copyrights granted by the law of a certain state do not extend beyond the territory of that specific jurisdiction. Copyrights of this type vary by country; many countries, and sometimes a large group of countries, have made agreements with other countries on procedures applicable when works "cross" national borders or national rights are inconsistent.[140] Typically, the public law duration of a copyright expires 50 to 100 years after the creator dies, depending on the jurisdiction. Some countries require certain copyright formalities to establish copyright, while others recognize copyright in any completed work, without a formal registration. When the copyright of a work expires, it enters the public domain. Copyright law is the foundation of intellectual property

[138] "Definition of copyright". Oxford Dictionaries. Retrieved 21 May 2022.
[139] "Understanding Copyright and Related Rights" (PDF). www.wipo.int. p. 4. Retrieved 6 May 2022.
[140] Rich. S., (2013) "*Copyright Basics FAQ"*. The Center for Internet and Society Fair Use Project. Stanford University. Retrieved 21 May 2022.

protection in the entertainment industry. It grants creators exclusive rights to their original works, such as movies, music, books, and artwork. These rights include the right to reproduce, distribute, perform, and display the work. Copyright protection is automatic upon creation, meaning that as soon as a work is fixed in a tangible form (e.g., recorded or written down), it is protected. However, registering a copyright provides additional benefits, such as the ability to sue for infringement and claim statutory damages.

In the entertainment industry, copyright law is particularly important for protecting films, TV shows, music compositions, scripts, and literary works. For example, if you are a filmmaker, copyright law ensures that your movie is protected from unauthorized copying or distribution.

As a musician, copyright law safeguards your original compositions from being used without permission. Understanding the basics of copyright law is crucial for creators to protect their work and navigate licensing and distribution agreements effectively.[141]

1.2. The Concept of Entertainment Law

Entertainment law is one such sub-branch that deals particularly with the Entertainment industry. The Black's Law Dictionary defines Entertainment Law as:

> The field of law dealing with the legal and business issues in the entertainment industry (such as film, music, and theatre) and involving the representation of artists and producers, the negotiation of contracts, and the protection of intellectual property rights.[142]

It can be gleaned from the foregoing that Entertainment Law goes beyond intellectual property. It is the entirety of legal services devoted to the entertainment industry. Some writers, like Jon M. Garon, highlight entertainment law from the perspective of regulations specifically designed to regulate the entertainment industries.[143] It encompasses the entire legal framework and issues associated with the entertainment industry. The entertainment industry includes inter alia the film,

[141] Understanding Entertainment Industry IP Law: A comprehensive Overview, retrieved from https://www.yellowbrick.co/blog/entertainment/understanding-entertainment-industry-ip-laws-a-comprehensive-overview accessed on 12/1/26
[142] Bryan, A G., (2004). *Black's Law Dictionary* (9th edn, USA West Publishing Co,) 611
[143] Jon, M. G, (2002) '*Entertainment Law'* 76 TULANE L. REV 559, 561.

television, music recording, radio, theatre, publishing, and sports industries. These industries are often faced with certain commercial and business obligations that necessarily involve various areas of law, including copyright, trademark, trade secret, rights of privacy and publicity, labour and employment law, securities, tax law, tort, corporate law, constitutional law, and even international law. Entertainment law, like every other broad area of law, has specific aspects of the field. These sub-areas, such as music law, art law, sports law, and others, are usually identified based on their respective fields in the entertainment industry. Since entertainment law overlaps with intellectual property, the law of copyrights, trademarks, trade secrets, and patents each plays a role in protecting creative rights. Legal issues arise throughout the creation process of entertainment works. This spans from the production stage, where formal contracts are drawn to set forth the respective rights of the parties involved in an entertainment work, to the licensing and distribution stage. In short, media and entertainment law[144] is the entire collective mass of legal framework and services devoted to the entertainment industry.

Media platforms, including social media, use new ideas, images, sounds, scripts, and many other means and methods of communication for professional, commercial, and personal purposes. The entertainment industry faces the most genuine and gravest of difficulties presented by piracy. While unapproved duplication and dissemination of cinematograph movies and music is not a new thing, but a new turn of events, the gravity of the issue has, in the new years, gained extents that undermine the presence of the whole business. Advancements in replication and innovation have made it a relatively straightforward matter, even for a beginner, to produce duplicates, which are of a comparable quality to those being honestly made and advertised by the business. Piracy, inter alia, results in loss of revenue to owners of copyrights through royalties, illegally adds to the coffers of the pirate, and defrauds the state of collectible cess through various levels of production and sale.[145]

1.3. Challenges of Enforcement of Copyright in the Entertainment Industry in Nigeria

[144] Ibid

[145] Copyright and entertainment industry, retrieved from https://ijlmh.com/paper/copyright-and-entertainment-industry-an-overview/accessed on 12/1/2026

At this juncture, the paper highlights on challenges of the enforcement of copyright in the entertainment industry in Nigeria. Based on the foregoing, it can be said emphatically that intellectual property protection laws in Nigeria have not yet attained the set-out goals and objectives in their various Acts. The reasons for this are not far-fetched due to several challenges that are responsible for the weak implementation and low enforcement of intellectual property protection laws in Nigeria. These challenges include a lack of skilled and competent regulatory officials, a lack of funding for the regulatory agencies, a lack of sound judicial practice, inappropriate sanctions to deter would-be offenders, a high level of poverty, and a high level of piracy and counterfeiting, among others. In the Nigerian environment, creators and inventors have been denied the moral expression of their intellectual rights due to the non-enforcement of intellectual property protection laws. The business environment is not conducive for creators and inventors due to several challenges that are economically and socially inclined. Some authors in the literature have identified several challenges encountered mostly by African Countries in a bid to protect intellectual property rights.[146] Some of these challenges are explained briefly below:

1.5.1. Lack of Enforcement of Intellectual Protection Laws

It is a long and wearying walk to justice regarding copyright, a situation that invariably encourages deliberate offenders and discourages victims from seeking justice.[147] The conferment of exclusive jurisdiction on the Federal High Court by Section 251 of the Constitution of the Federal Republic of Nigeria 1999, as amended, with respect to intellectual property right claims, is a setback to the enforcement of intellectual property rights. It is on record that not every state in the country, until recently, had a Federal High Court. What happens to intellectual property disputes arising in that jurisdiction? Furthermore, there is no special expertise acquired by a judge of a Federal High Court to make him an expert in handling such cases.[148]

Effective enforcement of intellectual property laws is a key to curbing piracy; consequently, the position and role of law enforcement agencies like the police, army, customs, and officers of other relevant government agencies are crucial. In most developing countries, like Nigeria, these

[146] Nwokocha, U. (2012). Nigerian intellectual property: Overview of development and practice. Journal of Intellectual Property (NJIP), 100-16.
[147] Chinweze, C. E, (2021) 'Copyright law and Administration in Nigeria: Issues and Challenges', *Orient Law Journal* vol. 4, p. 117.
[148] Ibid

personnel are faced with various challenges, such as poor understanding of the issues involved, poor training, poor funding of enforcement activities, and the absence of good working tools either to aid detection or in the conduct of post-arrest operations.[149] However, a disturbing attitude also exists in the minds of the public and sometimes in the judiciary and in law enforcement agencies, that piracy is a low level of mischief with little real consequence. Delays in the judicial system and a lack of transparency in the enforcement system discourage copyright litigation and enforcement. This lack of transparency is as it affects right holders, for they are generally in the dark about the cases and ongoing investigations.[150]

The various regulatory agencies are incapacitated in the enforcement of intellectual property protection laws due lack of funding by the government, a lack of skills, a lack of training, poorly paid enforcement officials, such as police and customs officers, and corruption on the part of the regulatory officials. Therefore, the government should address specific problems militating against the enforcement of intellectual property rights protection laws.[151]

1.5.2. Lack of Awareness and Enlightenment

There is a lack of awareness and public enlightenment on the importance of intellectual property rights protection laws. Even though there is improvement in Nigeria's level of literacy, however, a larger percentage of the populace remains illiterate, with the possibility of deception or confusion. The infringers capitalize on the ignorance of the masses and launch their nefarious activities by affixing counterfeit trademarks to products or services, especially in respect of scarce products like drugs. With this group of people in place, the possibility of deception or confusion is much greater than with the enlightened community. An educated person may be able to differentiate between genuine and counterfeit trademarks in some cases. It does not mean that he cannot also fall victim, but the chances are less and far in between.[152]

In contrast, the illiterate consumer only has a mental picture or impression of what he wants, and he goes for it once he sees something like it. It may as in most cases, turn out to be a counterfeit

[149] Peter, G.J. (1997) *Source Book on Intellectual Property*, London: Cavendish Publishing Ltd pp 14-16: In Mukhtar, N. (2013) Nature and Scope of Intellectual Property Law: An Appraisal of Concepts, Issues and Prospects for Developing Economies, p.203.
[150] Nwogu, M. I. O op cit. p. 39
[151] Ibid
[152] Tysver, D.A. (2013) op cit p. 11

label on the product, for example, pharmaceutical products, automobile parts, and electrical and electronic devices. In our markets today, some manufacturers, all in a bid to make fast or quick money, imitate already existing marks that have gained reputation and goodwill over the years. Worse still is where these infringed products are sub-standard and of inferior quality, which is not identifiable by illiterate consumers. With a low educational background, it becomes difficult for consumers to identify such counterfeit, thus they cannot report the same to the appropriate authority for the arrest of offenders.[153] The public should be given proper orientation and enlightenment programmes organized to create a high level of awareness on intellectual property rights protection.[154]

1.5.3. High Level of Poverty

The level of poverty experienced in the country is quite high. The standard of living is very poor; as a result, people are looking for quicker means of making money, and out of desperation, they deliberately get involved in several illegal businesses to make ends meet. In other words, the high level of poverty in the country has contributed to the weak enforcement of intellectual property rights protection laws.[155]

1.5.4. High Rate of Piracy and Counterfeiting

The rate of piracy and counterfeiting in Nigeria is quite alarming. The effort of the government toward combating this menace has not yielded positive results so far. The non-enforcement of intellectual property rights protection laws has turned Nigeria into a dumping ground for pirated products such as books, software, audio CDs, and video CDs, among others.[156] Social awareness against pirated products by the government will assist in combating piracy and counterfeiting, which is highly prevalent in the country. The public should be encouraged to report cases of piracy

[153] Susan K. Sell, (2011) '*Everything Old Is New Again: The Development Agenda Now and Then'*: 3(1) The WIPO Journal pp. 17–23

[154] Mengistie, G. (2013). Enforcement of Intellectual property rights in Africa: Challenges and experience. A Paper Presented at a Workshop on the WIPO Development Agenda and the Curriculum of Start-Up Intellectual Property (IP) of Academics. Tunis, Tunisia. P. 91

[155] Keane, T.M.: (1995) "Irish Competition Law and the Treaty of Rome: An Overview" Copyright World, May p.17.

[156] Adediji, D. (2012). Enforcement of intellectual property rights in Nigeria: A critique Retrieved from http://damolaadedijionlaws.blogspot.com/2012/05/ip-enforcement-in- nigeria- critique.html. accessed on 26th September, 2022 at 8:40am

and counterfeiting to the appropriate regulatory agencies as a form of deterrent for would-be offenders.[157]

1.5.5. Corruption

Some of the NCC officials who are charged with the responsibility of carrying out raids on infringed works are corrupt and are compromised by the pirates. The officers, at times, have private dealings or transactions with the infringers (pirates), and consequently, they deliberately refuse or find it difficult to find them out during their regular raids. By this, these officials close their eyes to the evil being perpetrated by the pirates. This is quite unfortunate and unbecoming of such trusted officials, who were sent on this raid in confidence. Corruption in Nigeria is a cankerworm that has eaten deeply into virtually all sectors of the economy. Regulatory officials are also involved in corrupt malpractices, such as bribery, pilfering, and extortion, among others. By these dishonest acts, intellectual properties are rarely protected.[158]

Corruption is promoted by infringers who target the police prosecutors, other law enforcement agencies, and court officials, such as the Registrars, Exhibits Keepers, clerks, and so on, to evade the system by perverting the administration of justice with illicit monetary inducements.[159] This is done to influence the legal and regulatory processes by inducing the judges to 'fail' to stop illegal activities, that is, failure to exercise their discretionary powers, particularly Anton Pillar Orders.[160] Due to these inducements, even when enforcement agents arrest offenders, they cannot be prosecuted.

1.5.6. Inadequate Competent Personnel

This is one of the major and fundamental constraints in the fight against piracy. The NCC departments and units, especially the enforcement departments should have strong, good and mobile vehicles that the officers will use to go on raids. Without these vehicles, effective surveillance and raids will be a mirage and nearly impossible, especially where the officials should

[157] Olubiyi, I.. (2014). 'A Comparative Analysis of Copyright Enforcement Provisions in Nigeria: Maximising the Current Legal Regime', *Nnamdi Azikiwe University Journal of International Law and Jurisprudence. P. 96.*
[158] Ibid
[159] Nwabachili, C.O (2010),. Business Law Review, Nigerian Journal of Business and Corporate Law, A Quarterly Journal Vol. I, No. I p.51.
[160] Ibid

cover more than one location during the raid.[161] Enforcement officials are not properly trained on the job. Due to lack of training or skills, some of these regulatory officials are not competent to handle sensitive issues on intellectual property protection rights. Lack of training on the part of the regulatory officials has often times created problems of enforcement of intellectual property protection laws.[162]

1.5.7. Slow Administrative and Judicial processes

In Nigeria, the legal framework designed to address violations of creators and inventors' rights are rather not effective. For instance, judicial procedures involved in filing litigations are rather slow and time wasting. This discourages the intellectual property owner from seeking redress in court.[163]

1.5.8. Inadequate Punishment Meted out to Offenders

In Nigeria, Property rights offenders are not properly sanctioned by regulatory agencies. More so, the sanction meted out is not commensurate to the crime committed, therefore, future offenders are not deterred from engaging in illegal business such as piracy or counterfeiting. As a form of deterrence, heavier sanctions or punishments should be meted out to offenders. The penalties on criminal infringement as provided under Section 20(2) of the copyright Act is too small and may not even be a deterrent to an infringer.[164] This also makes it difficult to convince the police that piracy is a crime that needs immediate and maximum attention. Section 20(2) provides thus: Any person who:

a. Sells or lets for hire or for the purpose of trade or business, exposes or offers for sale or hires any infringing copy of any work in which copyright subsists
b. Distributes for trade or business any infringing copy of any such work; or
c. Has in his possession, other than for his private or domestic use, any infringing copy of any such work;
d. Has in his possession, sells or lets for hire or distribution for trade or business, or exposes or offers for sale or hire any copy of a work which, if it had been made in Nigeria, would be an

[161] Nwogu, M. I. O.' (2015) *The Challenges of the Nigerian Copyright Commission in the fight against Copyright piracy in Nigeria,* Star Publication Enugu, p. 29
[162] Menell P. and Schwartz D. (2017), *Handbook on the Law & Economics of Intellectual Property* (forthcoming, Cheltenham, UK: Edward Elgar, p. 20
[163] Ibid
[164] Ibid

infringing copy. Unless he/she proves innocent infringing, is guilty of an offence and liable on conviction to a fine of N100 for each copy dealt with, or to a term of imprisonment not exceeding two years, or in the case of an individual, to both such fine and imprisonment.[165]

1.5.9. Inadequate technological infrastructures

ICT is the world's leading technology today; it includes the Internet.[166] The Internet is a global network; it is a network of computer networks and has made the world to become a global village. The Internet, by its very nature, has vast information, and various activities take place on the Internet, including crimes and torts. Copyrighted works uploaded on the Internet are bastardized and copied with impunity. It is always common to see surfers at the cyber cafes or in their houses or offices, with a few clicks on their computer, distributing a copyrighted work to the entire world; some even download the works and sell them. Most of the NCC officials are not computer-literate. Each of them should have a functional computer connected to the global network, the Internet, so as to go through the Internet from time to time, detecting infringers. The NCC has also taken a step in the right direction, as stated earlier, in this work, by going into alliance with Google, which is one of the largest search engines on the Internet, to fight Internet piracy.[167]

The non-application of the use of information and communication technologies in the management of intellectual properties has been responsible for inadequate protection. Most of the regulatory agencies are yet to compile a comprehensive database of registered intellectual properties within their jurisdiction.

1.5.10. Jurisdictional Challenges in Relation to Domain Names

Protection of internet activities does not exist under Nigerian law. This found expression in the United States of America law. Our current trademark law is territorially based, which means the protection of the proprietor of a trademark does not go beyond Nigeria. However, due to an increase in business transactions and transnational commercial activities, territorial law may not

[165] Sahara Reporters (2015) *Nollywood Now Second Biggest Producer of Films in the World.* Retrieved from, saharareporters.com. 20/7/2024
[166] Opubor and Nwuneli (1979), *The Development and Growth of the Film Industry in Nigeria,* Lagos. Third Press International Oxford Press. p. 73
[167] Ibid

cope with the modern trend of globalization. Modern communication technology is often said to be the prime mover, accelerating the pace of globalization of the markets and professions.[168]

The trend toward internet usage is such that a whole industry is growing up whose primary purpose is to provide efficient connections to this electronic network. Domain names are on the increase used by electronic technology such as banks, educational institutions, financial institutions, private and public enterprises in the conduct of their businesses. The expansion of the World Wide Web has also led to an expansion in infringement claims and lawsuits involving the internet. The internet has, in fact, become the latest point of activity for infringement. In domain name disputes, the party seeking to obtain the domain name typically relies on its trademark rights. In most cases, the domain name was identical to the company's well-established trademark. However, that fact alone is insufficient to prove a charge of infringement.[169]

1.4. Conclusion

Countries across the world strive to bring their laws up to date to address challenges thrown up by copyright institutions and enforcement provisions on remedies and defences available for copyright infringement. These countries achieve this through amendments to their laws to incorporate new developments or bring their laws in line with obligations in international treaties that address these challenges. Like any other proprietary right, enforcement of rights by these agencies is of utmost importance in copyright matters. It is, however, common knowledge that Nigeria has a weak copyright enforcement agency regime, and piracy remains a mammoth challenge. While so many factors have been adduced for piracy in Nigeria, the inadequacy and sometimes lack of effective copyright enforcement agency laws are of significance.

Nigeria, like several other developing nations, is facing new developments and challenges in the process of strengthening its intellectual property systems, particularly in the entertainment industry, as a result of rapid globalization that has engulfed the world economy. Specifically, some of the areas of concern are the establishment of an appropriate legal and institutional framework, creating awareness on the importance of IPR and its protection in the entertainment industry, protection of

[168] Ibid
[169] Rudo, Joachim, International Protection of Trademarks and Domains. http://internationaldominlaw.org/inhalt.htm. Accessed on 6thNovember, 2021.

pharmaceuticals, biotechnological inventions, business methods and software, electronic filing of patent applications, and the future of the intellectual property system in general.[170]

1.5.1. Findings

From the preceding discussion, the paper made the following findings:

1. Weak Implementation of Copyright Law: Nigeria's principal statute, the *Copyright Act 2022*, modernizes the legal framework to include digital enforcement (e.g., takedown provisions), aligning with global standards like the Berne Convention and TRIPS. However, effective implementation remains weak due to structural and capacity constraints.

2. Inadequate Funding & Resources**:** The Nigerian Copyright Commission (NCC), which is charged with enforcement, suffers from insufficient funding, limited manpower, and outdated technologies. This weakens its ability to conduct thorough investigations and sustain anti-piracy operations.
3. Inefficient Enforcement Leads to Temporary Gains**:** Anti-piracy raids often produce short-term results, with pirates resurfacing quickly due to a lack of follow-up or monitoring tools.
4. Slow Legal Process & Lack of Specialization**:** Copyright infringement cases in Nigeria's courts proceed slowly, with limited judicial experience in intellectual property matters. This discourages rights holders from pursuing litigation.
5. Inadequate Handling of Digital Evidence**:** Courts often lack technological expertise to effectively manage digital evidence, which is crucial in online infringement cases.
6. Corruption and Bureaucratic Bottlenecks. Corruption within enforcement agencies and law enforcement compromises anti-piracy operations, from failing to act on raids to delays in prosecution. Bureaucratic red tape further undermines effectiveness.
7. Revenue Losses: Copyright infringement costs the Nigerian entertainment sector—particularly music and film—billions of naira annually and undermines potential foreign investment. Nollywood and Afrobeats producers lose legitimate earnings when works are pirated or distributed illegally.

[170] Yueh, L. Y. (2007) op cit p, 11

8. Digital Piracy & Anonymity: With the rise of online platforms and peer-to-peer technologies, pirated entertainment content proliferates rapidly. Pirates can repost content immediately after takedown, often across borders, complicating enforcement.
9. Limited Technological Tools: Nigeria lacks robust digital monitoring systems like automated fingerprinting or DRM (Digital Rights Management) technologies that can detect and deter online copyright breaches.

1.5.2. Recommendations

From the above findings, the following recommendations are from the paper:

1. Enhance the Capacity of the Nigerian Copyright Commission (NCC): Provide **adequate funding, technology, and staffing** to ensure the NCC can monitor, investigate, and prosecute copyright breaches effectively across Nigeria's 36 states.
2. Establish **regional enforcement units with trained personnel** and digital tools to track online piracy and conduct local raids.
3. Establish Specialized Copyright/IP Courts: Create **specialized judicial divisions or tribunals** focused on intellectual property rights to speed up case resolution, improve consistency, and reduce court backlog. Also, provide judges with **technical training** in digital piracy, licensing disputes, and emerging technology issues.
4. Update and Clarify Legal Frameworks: Issue **detailed implementing regulations** for critical provisions (e.g., digital takedowns, OSP obligations) so enforcement is clear and actionable.
5. Regularly **review the Copyright Act** to address emerging digital threats (e.g., AI-generated works, encrypted platforms).
6. Incentivize Compliance: Offer **tax incentives or grants** to rights holders who adopt IP protection tools and register works formally. Also, simplify licensing processes to encourage legal use of content by businesses and DJs, venues, and public broadcasters.
7. Stronger Penalties and Fast-Track Enforcement: Impose **heavier fines, equipment forfeiture, and meaningful penalties** for repeat offenders to deter piracy. Fast-track cases involving digital infringement and piracy to deliver quick remedies.

8. National Public Education Campaigns: Launch widespread campaigns to educate the public on **copyright rights, piracy harms, and licensing obligations**, making respect for creators part of cultural norms. Partner with schools, universities, and creative hubs to build early awareness.
9. Training for Creators and Legal Practitioners: Provide **IP training for artists, producers, and lawyers** so they can protect and enforce rights effectively. Encourage law firms and NGOs to set up **copyright clinics or pro bono services** for independent artists.

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AN APPRAISAL OF THE LEGAL CONSEQUENCES OF AI-POWERED CUSTOMER DATA MANAGEMENT IN THE TRAVEL AND HOSPITALITY INDUSTRY

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ABSTRACT

Artificial Intelligence (AI) has emerged as a transformative force within the global travel and hospitality industry, redefining how customer data is collected, processed, and utilised for operational efficiency and personalised service delivery. As AI systems increasingly power data-driven functions ranging from predictive analytics and chatbots to dynamic pricing algorithms, the legal and ethical implications of such technologies have intensified. This paper appraises the legal consequences of AI-powered customer data management, focusing on privacy, consent, accountability, and liability concerns that arise from algorithmic processing within hospitality operations. Using a comparative doctrinal methodology, the study evaluates the European Union's General Data Protection Regulation (GDPR) and Nigeria's Data Protection Act (NDPA) 2023, highlighting their convergences and divergences in addressing AI-related challenges. While the GDPR offers a mature, procedurally grounded framework emphasising accountability and algorithmic transparency, Nigeria's NDPA remains largely principle-based and institutionally nascent. Through analysis of key jurisprudence. The paper illustrates how courts are shaping the contours of data protection and AI accountability. The findings reveal that Nigeria's NDPA, despite aligning conceptually with GDPR principles, lacks detailed provisions on automated decision-making, algorithmic bias, and cross-border data transfers. The paper concludes that effective AI regulation in hospitality requires a hybrid governance model integrating law, ethics, and institutional capacity. It recommends legislative amendments, sector-specific codes of conduct,

and enhanced regulatory oversight to ensure that AI innovation advances in harmony with privacy rights and consumer protection.

Keywords: *Artificial Intelligence, GDPR, NDPA 2023, Data Protection, Hospitality Law, Travel*

1.1 Introduction

The travel and hospitality sector is situated at the nexus of customer trust, customisation, and technology. The strategic driver of this change is now artificial intelligence (AI), which improves visitor interaction, forecasts demand, optimises pricing, and automates service delivery. In order to maintain competitiveness and enhance operational performance, hospitality firms are becoming more dependent on client data through the integration of machine learning, predictive analytics, and facial recognition technologies, but this data-driven innovation has raised difficult moral and legal issues. Concerns regarding the degradation of privacy and autonomy are raised by AI systems' reliance on enormous amounts of personal data, such as names, biometric identifiers, locations, financial information, and behavioural profiles. Additionally, when customer-facing systems make important decisions without significant human monitoring, algorithmic decision-making creates new concerns of bias, opacity, and liability. The General Data Protection Regulation (GDPR), which went into effect throughout the European Union in May 2018, is the most extensive attempt to govern such practices. The GDPR creates enforceable requirements for lawfulness, transparency, and responsibility while establishing data privacy as a basic right. Nigeria's Data Protection Act (NDPA) 2023, on the other hand, is still underdeveloped procedurally despite being a landmark in the country's data protection landscape. Although it provides guiding principles, it lacks the comprehensive operational methods, algorithmic safeguards, and oversight architecture included in the GDPR's Data Protection Impact Assessments (DPIAs).[3] Nigeria's hospitality sector, which handles massive amounts of client data via international booking engines, payment gateways, loyalty programs, and cross-border digital ecosystems, is especially vulnerable to this regulation gap. Nigerian clients' personal information is regularly transferred by these systems to foreign jurisdictions, creating compliance issues under both national and international law. By incorporating automated profiling and decision-making into service models, the inclusion of AI increases these dangers.[4]

1.2 Statement of Problem

Nigeria's regulatory readiness has not kept up with the rapid deployment of AI technologies, despite their promise of efficiency and customisation. Although it does not specifically address AI-driven processing or automated decision-making, the NDPA 2023 offers a legal framework for data protection. Because of this disparity, data controllers and AI suppliers operate in an accountability system that is fragmented and without a clear chain of accountability.[5]

Additionally, the Nigerian Data Protection Commission (NDPC), which is in charge of enforcement, has limited sector-specific guidelines and insufficient ability. Therefore, the inability of institutions and regulations to handle the intricate interactions between data innovation and privacy protection is the root of the issue. While customers are still unsure of their rights in algorithmic contexts, hospitality operators run the risk of being exposed to violations, discrimination claims, and international lawsuits.

1.3 aim and objective of Research

Through comparative legal analysis, this paper aims to critically evaluate the legal ramifications of AI-powered data management within Nigeria's hospitality and travel industry. The goals are to:

a. Analyse the type and extent of AI-driven data management practices in the travel and hospitality sector; and b. Compare and assess the GDPR and NDPA 2023 regulatory frameworks.
b. Examine pertinent legal and judicial precedents that have an impact on the enforcement of data protection; and
c. Make recommendations for legislative and policy changes to improve Nigeria's governance of AI-based data management.

The following research questions are put forth to direct the analysis:

a. How does AI-driven customer data management function in the travel and hotel industry, and what particular legal concerns does it create?
b. Where do the GDPR and NDPA 2023 divide and coincide in terms of regulating AI-driven data processing?
c. What is the interpretation of accountability in AI-related data practices by courts and regulators?

d. What changes could bring Nigeria's data protection laws into compliance with global norms?

1.4 **Scope and Significance of the Study**

This study's focus is restricted to AI-powered data management in Nigeria's travel and hospitality sector, evaluated in light of the GDPR and NDPA 2023. This emphasis is a reflection of the industry's high reliance on personal data and its vulnerability to international data transfers. The study's dual contribution to research and policy is what makes it significant. Academically, it broadens the conversation around AI governance in the developing digital economies of Africa. Practically speaking, it offers legislators, regulators, and business executives practical insights for improving consumer protection, bolstering compliance, and promoting the ethical application of AI in the travel and hospitality industry.

2.1 Literature Review

2.1.1 Conceptual Overview of Artificial Intelligence and Data Governance

The term artificial intelligence (AI) describes computing systems that can carry out cognitive functions that are typically associated with human intelligence, including perception, reasoning, and learning. Machine learning (ML) and deep learning (DL) algorithms are used by AI technologies in data management to identify patterns, forecast behaviour, and make decisions automatically. AI is used in a variety of ways in the travel and hospitality sector, from recommendation engines and intelligent chatbots to facial recognition for visitor identification and sentiment analysis for better customer service.[6]

The use of AI in the hospitality industry depends on the availability of large volumes of customer data, which allows computers to forecast visitor preferences, optimise pricing, and customise experiences. However, increased vulnerability to privacy risks results from this same data reliance. There are significant accountability and transparency issues with AI's "black-box" architecture, which makes algorithmic judgments difficult to understand.

Floridi and Cowls claim that artificial intelligence (AI) significantly changes the information imbalance between service providers and customers, giving businesses disproportionate power to forecast, sway, and even control customer decisions[8]. Therefore, to ensure that automation does

not undermine individual rights or institutional accountability, effective governance of AI must strike a balance between innovation and ethical restraint. Therefore, data governance provides the ethical and legal foundation for the collection, processing, and security of personal data. According to Bygrave, data governance includes both the procedural accountability systems that guarantee compliance and the substantive standards of privacy law.[9].In order to ensure justice, explainability, and human oversight, governance in the AI era must transition from traditional data protection to algorithmic governance. [10]

2.2 Theoretical Foundations for Accountability, Risk-Based Regulation, and AI Ethics

The study of AI governance is underpinned by three interrelated theoretical frameworks: accountability theory, risk-based regulation, and AI ethics. Accountability theory posits that those who determine the purposes and means of data processing must bear responsibility for the outcomes of such processing. Under the GDPR, this principle is codified in Article 5(2), which obliges controllers to demonstrate compliance with data-protection principles[11]. Scholars such as Kuner (2020) and Lynskey (2015) argue that accountability represents the linchpin of modern data protection, transforming privacy from a reactive right into a proactive management duty.

Nigeria's NDPA 2023 similarly incorporates accountability as a guiding principle under Section 30, but lacks procedural instruments such as Data Protection Impact Assessments (DPIAs), auditable compliance records, or independent oversight mechanisms[12]. The absence of these tools renders accountability declarative rather than demonstrable.

Risk-based regulation emphasises proportionality and preventive control. Rather than imposing uniform compliance duties, it requires regulators and organisations to assess and mitigate risks based on data sensitivity and processing scale[13]. The GDPR institutionalises this through DPIAs (Article 35), which obligate controllers to evaluate and minimise risks in high-impact processing, including automated decision-making and biometric analysis. Nigeria's NDPA lacks a parallel provision, leaving high-risk AI applications in hospitality largely unsupervised[14]

The third theoretical foundation—AI ethics—extends legal compliance into moral responsibility. Ethical AI frameworks, such as those proposed by UNESCO (2021) and the OECD AI Principles (2021), emphasise fairness, accountability, transparency, and human oversight. These frameworks urge developers and operators to embed ethics "by design," ensuring that AI systems reflect social

values and human rights[11]. Ethical governance is particularly crucial in hospitality, where trust, personalisation, and emotional intelligence underpin service quality[15]

2.3 AI and Data Protection in the Travel and Hospitality Industry

The hospitality and travel industries have become testing grounds for data-driven innovation. AI enables dynamic customer engagement, operational efficiency, and revenue optimisation. Yet, the same systems often blur the line between personalisation and surveillance.

Ivanov (2023) identifies hospitality as a "data-intensive ecosystem," where information flows are multidirectional—between guests, hotels, booking platforms, and analytics providers[16]. This interconnectedness amplifies privacy risks, as a single transaction may involve multiple processors across different jurisdictions. For example, an international hotel chain might collect data in Lagos, store it in Ireland, and analyse it using a U.S.-based AI vendor.

Buhalis and Yen (2022) demonstrate that while AI enhances guest experiences through real-time customisation, it also introduces risks of algorithmic discrimination, where automated systems unintentionally reproduce social biases in pricing or service eligibility[17]. This challenge has triggered legal scrutiny under GDPR's Article 22, which safeguards individuals from decisions made solely by automated means without human review.

In Nigeria, similar technological adoption is evident, though regulatory enforcement remains limited. Many hospitality operators utilise AI-driven marketing or reservation systems developed abroad, often without assessing compliance with NDPA or international data-transfer rules[15]. This underscores the regulatory asymmetry between technology diffusion and legal capacity.

2.4 **Comparative Perspectives on Data Protection: GDPR and NDPA 2023**

The GDPR's conceptual sophistication and procedural rigour have made it a global template for privacy regulation. It enshrines seven key principles—lawfulness, fairness, transparency, purpose limitation, data minimisation, accuracy, storage limitation, and accountability[18]

. These principles are reinforced by enforceable rights (access, rectification, erasure, objection) and obligations such as DPIAs, breach notification, and appointment of Data Protection Officers (DPOs).

The NDPA 2023 mirrors these principles but lacks operational depth. While Sections 24–30 outline data processing obligations, the Act omits explicit provisions on automated decision-making and AI-specific risk assessments. Unlike the GDPR's Article 22, the NDPA does not confer an individual's right to challenge or request human intervention in algorithmic decisions[17].

Furthermore, the NDPA's enforcement agency—the Nigeria Data Protection Commission (NDPC)—is still developing institutional expertise, funding, and regulatory instruments. The GDPR's enforcement is decentralised through independent Data Protection Authorities (DPAs) across the EU, which enjoy investigatory and sanctioning powers, including imposing fines up to 4% of annual turnover. In Nigeria, penalties remain modest, and enforcement is discretionary[18].

Despite these gaps, scholars such as Bello (2025) and Yakubu (2024) commend the NDPA for providing a foundational legal framework that can evolve toward global standards. They emphasise the need for subsidiary regulations—akin to the GDPR's Implementing Guidelines—to operationalise accountability and establish AI oversight mechanisms[19].

3.1 **Jurisprudential Developments and the Evolution of Data Rights**

Judicial interpretation has played a central role in defining the boundaries of data protection and AI accountability. In Digital Rights Ireland v Minister for Communications (CJEU, 2014), the Court of Justice of the European Union (CJEU) invalidated the Data Retention Directive for violating proportionality, holding that indiscriminate data retention breached Articles 7 and 8 of the EU Charter of Fundamental Rights[20]. Similarly, Schrems II (CJEU, 2020) invalidated the EU–US Privacy Shield, reaffirming that cross-border data transfers must ensure "essentially equivalent protection."[21]

In Nigeria, courts are gradually extending constitutional privacy guarantees to digital contexts. In Incorporated Trustees of Digital Rights Lawyers Initiative v National Identity Management Commission (Court of Appeal, 2022), the court recognised data protection as an extension of the constitutional right to privacy under Section 37 of the 1999 Constitution[22]. Earlier, in Eneye v MTN Nigeria Communications Ltd (2019), unauthorised disclosure of subscriber data was held to contravene the same constitutional right[23].

These cases illustrate a growing judicial awareness of informational autonomy—the right of individuals to control their personal data in the digital era. They also reflect the courts' willingness

to bridge legislative gaps pending the full operationalisation of statutory protections. Three gaps emerge from the reviewed literature and jurisprudence there are;

a. Most studies on AI governance and data protection analyse general regulatory frameworks without contextualising implications for specific industries like hospitality.
b. Few Nigerian studies juxtapose local data-protection enforcement with EU precedents to derive actionable lessons.
c. Existing literature focuses heavily on privacy and consent, but under-theorises accountability, bias mitigation, and algorithmic explainability[24].

This paper addresses these gaps by providing a contextualised, comparative, and doctrinally grounded analysis of AI's legal consequences in hospitality, bridging normative theory with practical enforcement realities. This paper adopts a doctrinal and comparative legal research design, which is best suited to analysing the legal and institutional dimensions of AI governance. The doctrinal method involves a systematic examination of primary and secondary legal sources, including statutes, regulations, case law, and policy instruments to identify, interpret, and synthesise the applicable legal principles[25]. It is essentially a library-based approach that emphasises textual analysis and legal reasoning rather than empirical fieldwork.

Through this approach, the paper explores how the General Data Protection Regulation (GDPR) and the Nigeria Data Protection Act (NDPA) 2023 conceptualise and regulate the challenges of AI-powered customer data management. The comparative dimension is used to highlight the convergence and divergence between these two regimes in terms of substantive protections, procedural mechanisms, and enforcement capacity[26].

This paper relies on Primary Legal Sources, which include constitutional provisions, statutes, judicial decisions, and regulatory instruments. The paper also draws extensively on peer-reviewed academic articles, legal commentaries, and institutional reports.

This analytical framework evaluates how both GDPR and NDPA assign legal responsibility to controllers, processors, and AI system operators. Under the GDPR, accountability is an enforceable duty; controllers must not only comply with legal principles but also demonstrate such compliance through records, DPIAs, and independent audits[27]. The NDPA adopts accountability

as a guiding principle but lacks corresponding procedural mechanisms. The analysis, therefore, focuses on the normative and operational consequences of this disparity**.**

3.2 Risk-Based Regulatory Framework:

This framework examines the proportionality of regulatory interventions relative to the risks posed by AI-driven data processing. The GDPR's Article 35 on Data Protection Impact Assessments (DPIAs) serves as a benchmark, representing a dynamic model of anticipatory governance. The NDPA's absence of a risk-based oversight tool exposes high-risk AI applications—such as biometric recognition and automated pricingto legal ambiguity[28].

3.3 Comparative Doctrinal Framework:

This interpretive lens enables the juxtaposition of EU and Nigerian legal systems to reveal structural, procedural, and normative differences. Through doctrinal reasoning, the paper assesses how each jurisdiction translates abstract principles (like transparency and fairness) into actionable obligations. It also evaluates the institutional capacity of enforcement bodies (e.g., the NDPC in Nigeria versus EU national Data Protection Authorities) and how that capacity influences compliance outcomes[29].

3.4 Justification for the Methodology

The choice of a doctrinal-comparative method is justified by both the nature of the research question and the character of AI regulation. Empirical methods, while valuable, would be insufficient for this study's objectives because AI governance is primarily a legal and normative issue, rather than a quantitative one. By applying doctrinal analysis, the research can engage in a critical exegesis of legal texts—interpreting statutory language, judicial reasoning, and policy intent. This approach allows for the systematic exposition of:

a. The extent to which AI-related risks are addressed by existing legal provisions.
b. The conceptual coherence of those provisions with broader human-rights standards, and
c. The implications of gaps and ambiguities for accountability in the hospitality industry[30].

Comparative methodology further enables policy learning and transnational dialogue. As both the GDPR and NDPA aim to safeguard personal data in digital environments, comparing them reveals best practices that Nigeria can adapt to its socio-economic context. This aligns with Kamba's

(1974) classical justification for comparative law: to harmonise legal development by borrowing "functional equivalents" across jurisdictions[31].

Like any doctrinal analysis, this study faces certain limitations. First, it relies on existing legal materials rather than empirical data from industry practice. Consequently, it cannot quantify the actual rate of compliance or the practical efficacy of NDPA enforcement in hospitality businesses. Second, AI regulation is a rapidly evolving field; legislative amendments or new case law could modify the analysis over time. Third, while the comparative focus provides valuable insights, it may not fully capture jurisdiction-specific socio-economic constraints influencing implementation[32]. Nonetheless, these limitations do not undermine the study's objectives. Instead, they highlight the dynamic nature of AI governance and the ongoing need for continuous legal and policy adaptation.

4.1 Discussion and Analysis

4. 1.1 Comparative Legal Frameworks of GDPR and NDPA 2023

The General Data Protection Regulation (GDPR) and the Nigeria Data Protection Act (NDPA) 2023 share a common normative ambition: to safeguard the rights of individuals whose personal data are processed by public or private entities. However, their divergence lies in the depth of procedural integration and institutional maturity. The GDPR represents a fully developed supranational framework with a risk-based architecture, while the NDPA remains principle-oriented but operationally shallow[33].

The GDPR's core philosophy rests on accountability, which extends beyond compliance into demonstrable responsibility. Controllers must not only adhere to principles such as lawfulness, fairness, and transparency but must also prove compliance through verifiable documentation and independent audit mechanisms[34]. Under Article 5(2), accountability becomes both a substantive and procedural obligation, enforced by powerful supervisory authorities across the EU.

In contrast, Section 30 of the NDPA 2023 acknowledges accountability as a principle but lacks corresponding enforcement tools such as Data Protection Impact Assessments (DPIAs) or mandatory recordkeeping. The NDPA's approach therefore remains reactive rather than preventive, depending heavily on post-breach enforcement by the Nigeria Data Protection Commission (NDPC) rather than risk-based oversight[35].

Another major divergence lies in the regulation of automated decision-making and profiling. Article 22 of the GDPR explicitly provides that individuals shall not be subjected to decisions based solely on automated processing that significantly affects them, including profiling, unless specific conditions are met—such as explicit consent or necessity for contract performance[36]. The provision further guarantees the right to obtain human intervention and to challenge such decisions. The NDPA contains no equivalent clause. This omission is particularly concerning for industries like hospitality, where AI-driven personalisation directly influences pricing, service eligibility, and consumer treatment.

The GDPR also mandates Data Protection Officers (DPOs) for organisations engaging in large-scale data processing (Article 37), establishing a direct link between internal compliance and regulatory supervision. Although the NDPA requires controllers to designate compliance officers, the Act offers no detailed description of their functions or reporting obligations[37]. This lack of institutional clarity undermines accountability and weakens consumer confidence.

A further point of contrast lies in cross-border data transfers. The GDPR allows transfers only to jurisdictions that ensure an "adequate level of protection," codified under Articles 44–50. Transfers without such adequacy require additional safeguards, including Standard Contractual Clauses (SCCs) or **Binding Corporate Rules (BCRs)**[38]. The NDPA's Section 41 permits transfers where adequate safeguards exist, but does not guide what constitutes "adequacy." This vagueness has left Nigerian hospitality companies—especially multinational hotel chains—operating in regulatory uncertainty when transferring customer data to non-Nigerian servers[39].

Thus, while the GDPR exemplifies procedural robustness, the NDPA still reflects a transitional framework in need of secondary legislation, sector-specific codes, and capacity-building to operationalise its principles[40].

4.2 Case Law and Regulatory Precedents

Judicial decisions play a central role in shaping data-protection norms and clarifying ambiguities in statutory provisions. In the EU, landmark decisions such as *Digital Rights Ireland Ltd v Minister for Communications (2014) and Schrems II (2020)* illustrate the judiciary's commitment to upholding data rights as fundamental constitutional guarantees[41].

In Digital Rights Ireland, the Court of Justice of the European Union (CJEU) invalidated the EU Data Retention Directive, emphasising that indiscriminate retention of telecommunications data violated privacy and proportionality. Similarly, in Schrems II, the CJEU struck down the EU–US Privacy Shield, ruling that transfers to the United States failed to ensure "essentially equivalent protection."[42] These rulings have had profound implications for AI and data management. By recognising privacy as an element of human dignity, the CJEU set a global precedent that algorithmic processing must respect proportionality and purpose limitation. Furthermore, they demonstrate judicial willingness to invalidate regulatory frameworks that fail to meet minimum human-rights standards.

Nigeria's jurisprudence, though still developing, has begun to mirror this rights-based approach. In *Incorporated Trustees of Digital Rights Lawyers Initiative v National Identity Management Commission (CA/L/722/2021),* the Court of Appeal affirmed that personal data protection is implicit within the constitutional right to privacy (Section 37 of the 1999 Constitution)[43]. The court emphasised that the government's duty to protect citizens' personal data extends to digital and automated contexts. Similarly, in Godfrey Eneye v MTN Nigeria Communications Ltd (2019), the High Court found that unauthorised disclosure of subscriber data constituted a violation of the right to privacy[44].

Collectively, these cases signify a doctrinal shift in Nigerian law—from treating privacy as a peripheral interest to recognising it as a justiciable right enforceable through constitutional and statutory mechanisms. However, courts have yet to articulate explicit standards for AI accountability, algorithmic bias, or automated profiling. This remains a significant jurisprudential gap.

At the regulatory level, the Nigeria Data Protection Commission (NDPC) has issued Advisories on High-Risk Data Processing (2024) and Strategic Guidelines for Data Compliance (2025), both emphasising the need for proactive risk management in AI applications[45]. Yet, these instruments lack binding force, illustrating the NDPC's evolving, rather than fully mature, authority.

4.3 **Consent, Transparency, and Fairness in AI Data Processing**

The concept of consent lies at the heart of data protection. Under both GDPR and NDPA, processing must be based on the data subject's explicit, informed consent unless justified by anotherlawful basis[46]. However, the advent of AI complicates this principle.

AI systems often engage in secondary data processing, deriving insights beyond the scope of initial consent—such as inferring preferences or predicting behaviours from seemingly neutral data[47]. In the hospitality industry, this might involve an AI system analysing a guest's social media activity or historical bookings to predict purchasing intent. Such inferences fall into a grey area: the guest may have consented to data use for booking but not for behavioural profiling.

The GDPR mitigates this risk through stringent transparency obligations (Articles 12–14), requiring controllers to disclose not only data categories and purposes but also the logic involved in automated decision-making[48]. Nigerian law lacks an equivalent mandate. NDPA Section 26 merely requires controllers to process data lawfully and fairly, without defining transparency in operational terms.

Moreover, AI explainability—a key tenet of GDPR's transparency principle—remains largely absent from Nigeria's regulatory vocabulary. Explainability ensures that individuals can understand how an algorithm reached a particular decision, especially when that decision affects their economic or legal rights. Its absence in NDPA leaves individuals powerless to contest algorithmic outcomes[49].

In practice, many Nigerian hospitality operators rely on third-party vendors to provide AI-based customer management systems. Contracts rarely specify data ownership, liability, or audit rights, creating accountability gaps[50]. Under GDPR's Article 28, processors must act only on documented instructions from controllers, who remain ultimately responsible. The NDPA's silence on such detailed controller–processor relationships creates uncertainty about legal responsibility when breaches occur.

4.3Accountability and Liability in AI-Driven Data Management

Accountability and liability form the normative backbone of data governance. Under the GDPR, accountability encompasses both compliance responsibility and liability for non-compliance. Controllers and processors are jointly and severally liable for damages caused by unlawful processing (Article 82)[51].

In AI contexts, liability becomes particularly challenging because decision-making is distributed and opaque. An algorithm's outcome may result from multiple actors—data suppliers, software developers, or hospitality operators—making causation difficult to establish[52]. Scholars like Mittelstadt (2022) and Wachter et al. (2017) describe this as the "problem of many hands," where accountability is diluted across the AI value chain.

The GDPR addresses this challenge by imposing strict, joint liability unless the processor proves it was not responsible for the event giving rise to damage. The NDPA, however, does not specify shared liability for controllers and processors. Instead, Section 38 vaguely refers to "responsibility of the controller," leaving unclear whether third-party vendors can be held directly liable for AI malfunctions[53].

This ambiguity presents a tangible risk for Nigeria's hospitality operators, many of whom integrate AI tools developed by external providers. Without contractual clauses allocating liability, disputes may lead to protracted litigation and reputational harm. Additionally, the NDPA lacks an explicit remedy mechanism akin to GDPR's Articles 77–82, which guarantees the right to lodge complaints with supervisory authorities and seek judicial redress. While Nigerian courts recognise fundamental rights actions, procedural access remains cumbersome, limiting consumer empowerment[54].

4.4 **Cross-Border Data Transfers and International Compliance**

The hospitality and travel sectors are inherently global. Cross-border data transfers are routine, as hotel chains and online booking platforms operate across jurisdictions. This raises critical issues of jurisdictional adequacy and extraterritorial compliance.

The GDPR asserts extraterritorial applicability under Article 3, extending its obligations to non-EU entities processing data of EU residents. Nigerian hospitality companies serving EU guests via online channels are thus indirectly bound by GDPR standards[55]. By contrast, the NDPA's Section 41 restricts transfers of personal data outside Nigeria unless "adequate safeguards" exist, but provides no methodology for determining adequacy or recognising foreign jurisdictions. This legal vacuum complicates Nigeria's participation in international tourism and digital commerce. A Nigerian hotel using a U.S.-based AI analytics tool, for instance, risks violating foreign data laws if transfers occur without explicit contractual or regulatory authorization[56].This deficiency also

undermines investor confidence. International travel brands operating in Nigeria must often duplicate compliance efforts—adhering to GDPR for EU customers and improving NDPA compliance locally. Such fragmentation hampers Nigeria's integration into global digital value chains[57].

4.5.Implications for the Travel and Hospitality Industry

The legal consequences of AI-powered data management in hospitality are multifaceted. For operators, non-compliance risks range from financial penalties and contractual liability to reputational damage and loss of consumer trust. For regulators, inadequate oversight erodes the legitimacy of data protection law itself.

AI's integration has blurred the traditional boundaries between data controllers and processors, necessitating a paradigm shift in compliance culture. Hospitality organisations must adopt privacy-by-design and ethics-by-design approaches to integrate legal compliance into technological architecture[58]. This involves early-stage risk assessments, algorithmic audits, and human oversight protocols.

The Nigerian hospitality sector, still developing its digital infrastructure, faces the dual challenge of technological dependency and regulatory immaturity. Without proactive reforms, the sector risks entrenching systemic vulnerabilities—algorithmic bias, discriminatory pricing, and cross-border data insecurity—that could undermine both consumer protection and international competitiveness[59].

5.1 Findings

This study identifies five principal findings regarding the legal, institutional, and ethical dimensions of AI-powered customer data management in Nigeria's travel and hospitality industry.

First, the Nigeria Data Protection Act 2023 (NDPA) provides an essential legal foundation for data protection but lacks explicit and enforceable provisions governing AI-driven automated decision-making, profiling, and algorithmic bias. Unlike the European Union's General Data Protection Regulation (GDPR), which explicitly protects individuals against fully automated decisions, the NDPA remains silent on the right to human intervention or contestation of algorithmic outcomes. This gap weakens consumer protection and limits the accountability of data controllers.

Second, the Nigeria Data Protection Commission (NDPC), though established as the national supervisory authority, still faces institutional and operational constraints. Insufficient technical expertise, limited funding, and a lack of sector-specific regulatory instruments have hindered its ability to monitor AI-based data processing proactively. Enforcement remains reactive, largely dependent on post-breach investigations rather than risk-based oversight.

Third, the study finds persistent ambiguity in accountability and liability allocation among controllers, processors, and AI vendors. The NDPA attributes general responsibility to controllers without defining how liability should be shared when decisions are made by autonomous or semi-autonomous systems. By contrast, the GDPR's concept of joint and several liability under Article 82 offers a clearer framework for assigning responsibility.

Fourth, cross-border data transfers continue to occur without a defined adequacy framework or standard contractual mechanisms. Given the global nature of the hospitality industry, Nigerian businesses that rely on international booking or analytics platforms risk violating foreign privacy laws and losing consumer trust due to inconsistent safeguards.

Finally, there is a notable ethical and transparency deficit in AI adoption. Hospitality organisations frequently employ personalisation and predictive analytics without disclosing data-processing logic or obtaining explicit, informed consent. The absence of algorithmic explainability and independent auditing mechanisms increases the risk of discrimination and privacy violations.

Overall, these findings demonstrate that while the NDPA 2023 marks a historic advancement in Nigeria's data-protection landscape, its procedural, institutional, and ethical gaps must be addressed to achieve effective and accountable AI governance comparable to international best practice.

5.2 Conclusion

Artificial Intelligence (AI) continues to redefine customer data management within the travel and hospitality industry, offering remarkable operational and experiential advantages while introducing significant legal and ethical challenges. This paper concludes that Nigeria's Data Protection Act 2023 (NDPA) provides a critical foundation for safeguarding data rights but lacks the procedural, institutional, and AI-specific mechanisms required for robust accountability. Comparative analysis with the European Union's General Data Protection Regulation (GDPR)

reveals that the NDPA's gaps in automated decision-making, cross-border data transfers, and enforcement capacity expose both consumers and businesses to regulatory uncertainty.

To ensure responsible innovation, Nigeria must evolve toward a risk-based, ethically grounded AI governance model—one that integrates transparency, accountability, and fairness into every layer of data processing. Legislative amendments, institutional strengthening, and cross-sector collaboration are vital to aligning national law with global standards. Ultimately, embedding privacy- and ethics-by-design within AI systems will protect consumer rights, promote business confidence, and position Nigeria's hospitality industry as a credible and competitive player in the global digital economy.

5.3 Recommendations

This study recommends a series of legislative, institutional, and ethical reforms to strengthen Nigeria's data governance framework for AI-powered customer data management in the travel and hospitality industry. Legislatively, the Nigeria Data Protection Act 2023 (NDPA) should be amended to include explicit provisions on automated decision-making, profiling, and algorithmic accountability, aligned with Article 22 of the GDPR. The Act should also mandate Data Protection Impact Assessments (DPIAs) for high-risk AI processing and define adequacy standards for cross-border data transfers.

Institutionally, the Nigeria Data Protection Commission (NDPC) must be empowered through greater autonomy, funding, and technical capacity to conduct audits, enforce sanctions, and coordinate with other regulatory agencies.

At the industry level, hospitality organisations should implement comprehensive data-protection policies, appoint compliance officers, and adopt transparent redress mechanisms for algorithmic decisions.

Ethically, a National AI Ethics and Governance Board should be established to ensure algorithmic fairness, transparency, and explainability.

Finally, regional integration through ECOWAS and the African Union should be pursued to harmonise data-protection standards and promote secure cross-border digital trade.

Together, these reforms would align Nigeria's legal framework with global standards, ensuring responsible, fair, and innovation-friendly AI deployment across the hospitality sector.

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STRENGTHENING THE LEGAL AND REGULATORY FRAMEWORK FOR DERIVATIVES CONTRACTS IN NIGERIA

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ABSTRACT

In recent years, derivatives have emerged as indispensable financial instruments for risk management, price discovery, and speculative investment within global financial markets. In Nigeria, however, the development and utilisation of derivatives remain emergent, presenting both significant opportunities and regulatory challenges. This paper examines the extant legal and institutional framework governing derivatives transactions in Nigeria, with particular emphasis on the regulatory roles of the Securities and Exchange Commission (SEC) and the Central Bank of Nigeria (CBN). Employing a doctrinal legal research methodology, the paper interrogates the adequacy, coherence, and enforcement of current legal instruments, identifies regulatory gaps, and examines the compatibility of Nigeria's framework with international legal standards and best practices. It finds that the Nigerian financial system stands to benefit immensely from a robust derivatives market, particularly in enhancing financial stability, deepening capital markets, and facilitating economic diversification. However, these are contingent upon the establishment of a comprehensive legal regime, an effective supervisory architecture, and sustained capacity-building initiatives for judicial officers, regulators, and legal practitioners. There is also a need for a more coordinated framework between the SEC, CBN, NGX, and FMDQ to reduce regulatory overlap and provide clear guidance to market participants. These steps will help build trust in the market and attract more investment in the future.

1.1 Introduction

Derivatives contracts have become increasingly significant within the global financial system. The term "derivative" refers to a type of financial contract whose value is dependent on an underlying asset, a group of assets, or a benchmark.[171] Derivatives were originally used to ensure balanced exchange rates for internationally traded goods. International traders needed a system to account for the differing values of national currencies.[172] They have evolved into foundational instruments within the global financial system, underpinned by sophisticated regulatory frameworks and contractual standards. The widespread adoption of standardised documentation, most notably that developed by the International Swaps and Derivatives Association (ISDA), has significantly enhanced legal certainty, enforceability, and market predictability.[173]

In Nigeria, the gradual evolution of financial markets has necessitated the development of sophisticated instruments for risk hedging, speculation, and arbitrage. Thus, derivatives provide investors with the opportunity to manage exposures to interest rates, foreign exchange, equities, and commodities.[174] Although derivatives trading in Nigeria is developing compared to mature economies, its regulation has become critical due to the systemic risk that uncontrolled derivatives trading can introduce. This regulation has advanced alongside the market itself. Hence, the initiation of derivatives trading has enabled investors to manage risks better and diversify their portfolios. It has also attracted more foreign investors and increased market liquidity. A clear sign of this growth is the rise in foreign exchange derivatives traded on the FMDQ platform from ₦6.5 trillion in 2014 to ₦28.7 trillion in 2021, representing a 342% increase. This highlights the increasing importance of derivatives in Nigeria's financial system. In the period from January to May 2024, the turnover for FX derivatives was ₦14,462,105 million (approximately $9,313 million), according to FMDQ.[175]

When properly used, derivatives help manage risk and improve economic efficiency. However, some cases have shown that when misused, they can cause significant financial harm. Their complexity often leads to misunderstanding and, at times, has been used by dishonest promoters to take advantage of uninformed investors.[176]

The paper examines the development of derivatives contracts in Nigeria and critically evaluates the legal and regulatory framework that governs them. It focuses on the key statutory

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[171] Fernando, J. (2023), "Derivatives: Types, Considerations, and Pros and Cons," Accessed at https://www.investopedia.com/terms/d/derivative.asp 12/6/2025

[172] Ibid.

[173] Ramos-Munoz, D. (2025). "The Validity of Derivatives Contracts: Legal Doctrine as a Vehicle of Dialogues on 'Speculation'." *European Business Organization Law Review.* https://doi.org/10.1007/s40804-025-00345-w

[174] Ogebe, E. (2025), "Derivatives in Nigerian Financial Markets: Risk Management, Growth, Challenges and Opportunities" Accessed at: https://medium.com/@emmanuelogebe_1/derivatives-in-nigerian-financial-markets-risk-management-growth-challenges-and-opportunities-844e2ce0a76d#:~:text=Speculation%20and%20Investment%20Opportunities,commodity%20markets%20without%20physical%20ownership on 2/7/2025

[175] FMDQ Group. (2025). *FMDQ Exchange market turnover: January – May 2025 market turnover report*. https://fmdqgroup.com/exchange/market-turnover/

[176] Finnerty, J. D., and Pathak, K. (2011). A review of recent derivatives litigation. *Fordham Journal of Corporate & Financial Law, 16*(1), p.74. Accessed at: https://ir.lawnet.fordham.edu/jcfl/vol16/iss1/2 on 2/7/2025

provisions, regulatory institutions, and judicial interpretations shaping derivatives transactions. The analysis considers how well the current framework accommodates these financial instruments in light of Nigeria's economic realities and compares it with international best practices. The paper also examines the roles of institutional actors, such as the Securities and Exchange Commission (SEC), the Central Bank of Nigeria (CBN), and central counterparties, and highlights the challenges hindering market growth. Ultimately, it highlights current legal and regulatory gaps and proposes targeted reforms to strengthen Nigeria's derivatives regime and support its integration into the global financial system.

1.2 Methodology

This study adopts a doctrinal research methodology, relying on the analysis of statutes, regulatory instruments, judicial decisions, and standard contractual frameworks governing derivatives in Nigeria, including the Investments and Securities Act 2007, SEC Rules, CBN Guidelines, and ISDA documentation. The research is analytical and comparative**,** drawing limited insights from selected foreign jurisdictions to evaluate the adequacy of Nigeria's regulatory framework.

The study is limited by its library-based nature**,** as it does not incorporate empirical data. In addition, the paucity of Nigerian judicial precedent on derivatives necessitates reliance on general contract principles and relevant foreign authorities, while the comparative analysis is confined to contextual guidance rather than exhaustive international evaluation.

1.3 Nature of Derivatives Contract

According to the International Monetary Fund, "derivatives are financial instruments that are linked to a specific financial instrument or indicator, or commodity."[177] Through which specific financial risks can be traded in financial markets in their own right. Transactions in financial derivatives are normally treated as separate transactions rather than as integral parts of the value of underlying transactions to which they may be linked. This is because derivatives are financial tools that get their value from something else, like a stock, currency, or interest rate. People and companies use them to manage risk or to try to make a profit. Some use derivatives to protect themselves from losses through hedging, while others use them to take risks and earn money through speculation. In simple terms, derivatives help move risk from those who do not want it to those who are willing to take it, for a price.[178]

Thus, the value is derived from the future price of an underlying asset, such as a commodity, currency, interest rate, or security. The contract locks in a specific strike price for the asset, protecting the parties from price fluctuations until a settlement date. They are typically

[177] International Monetary Fund. (n.d.). *Financial derivatives*. Retrieved July 6, 2025, from https://www.imf.org/external/np/sta/fd/index.htm

[178] Finnerty stated that financial derivatives could be defined as financial instruments linked to a specific financial instrument or commodity, through which specific financial risk can be traded in the financial market. Finnerty, J. D., and Pathak, K., Op. Cit. p.75. See also, Osayi, V.I., Kasimu, A. and Nkwonta, H.C. (2018) "Financial Market Derivatives and the Performance of Deposit Money Banks in Nigeria." *International Journal of Economics, Commerce and Management,* 6, 382-396.

considered a form of advanced investing.[179] Parties usually take opposing positions on the future behaviour of an underlying asset, effectively placing financial "bets" on its movement.[180]
The settlement of a derivative contract may be cash-settled**,** where the difference between the strike price and the market price is paid in cash; or physically settled, where the underlying asset is delivered to the buyer in exchange for the strike price.

Derivative contracts allow market participants to profit from expected price changes in assets they do not directly own. One party (the long position**)** expects prices to rise, while the other (the short position) expects prices to fall. These contracts can be settled in cash or by physically delivering the asset. In a cash-settled derivative, if the price goes up, the short party pays the long party; if the price goes down, the long party pays the short party. This setup lets both sides benefit or lose based on how the market moves, without owning the actual asset.[181]

Derivatives were originally used to ensure balanced exchange rates for internationally traded goods. International traders needed a system to account for the differing values of national currencies.[182] Financial derivatives are more complex than stocks or bonds, making them harder to understand and value. Because they allow investors to take on leveraged risk, they can lead to large gains, but also significant losses, especially during times of market volatility.[183]

Although derivative instruments vary widely in design, they share certain fundamental features:

(i) Underlying Asset: The basis upon which the contract derives its value. Examples include crude oil, equities, currencies, or interest rates.

(ii) Expiration or Maturity Date: The future date on which the contractual obligations become due.

(iii) Strike Price: The agreed-upon price at which the underlying asset will be bought or sold. This locked price, known as the strike price, is the value reference or consideration upon which the contract will be settled, and the underlying asset will be transferred to the buyer on the settlement date.

(iv) Settlement Method: Can be either physical delivery of the asset or cash settlement based on the market value difference.

(v) Counterparties: The transacting parties in the derivative contract, who may be exposed to performance and credit risk.

These features influence the legal rights and obligations of the parties involved and determine the enforceability of the contract under Nigerian law.[184]

These contracts are not without disadvantages. First, they are difficult to value because their price depends on the value of an underlying asset, which is often volatile. Second, there

[179] Fernando, J., Op. Cit.
[180] Ramos-Munoz, D. Op. Cit., p.3
[181] Aluko & Oyebode. (2024). "An Overview of the Trading and Settlement of Derivative Contracts in Nigeria" p.1. Retrieved from: https://www.aluko-oyebode.com/insights/an-overview-of-the-trading-and-settlement-of-derivative-contracts-in-nigeria/ on 15/6/2025
[182] Fernando, J., Op. Cit.
[183] Finnerty, J. D., and Pathak, K., Op. Cit., pp. 121-122
[184] Aluko and Oyebode, Op. Cit., p.1

is counterparty risk in OTC transactions, where one party may default on the contract. Third, derivatives are highly sensitive to various factors such as time to expiration, interest rates, and the cost of holding the underlying asset. Fourth, since derivatives lack intrinsic value, their prices can be heavily influenced by market sentiment, speculation, and demand rather than the actual performance of the asset. Lastly, derivatives often involve leverage, which means that small movements in the underlying asset can lead to significant gains or substantial losses.[185]

1.3 Classification and Features of Derivatives

Derivatives can be classified using several criteria, including the nature of trading platforms, the type of underlying asset, and the structure of the contract. The primary classification in the Nigerian context, as globally, distinguishes between Over-the-Counter (OTC) Derivatives and Exchange-Traded Derivatives (ETDs).

1.3.1 Over-the-Counter (OTC) Derivatives

An over-the-counter (OTC) derivative is a privately negotiated and customised derivative contract that is structured according to the requirements of the contracting parties. The contracting parties do not go through any intermediary or exchange, and thus, each party takes on the counterparty's credit risk by entering into the contract. To hedge this risk, the investor could purchase a currency derivative to lock in a specific exchange rate. Derivatives that could be used to hedge this kind of risk include currency futures and currency swaps.[186]

OTCs are often tailored to meet specific needs, allowing for contract flexibility, including the tailoring of size, maturity, and underlying assets to suit specific needs. Unlike exchange-traded derivatives, OTC contracts are not publicly listed, which means there is no central clearinghouse to guarantee performance. This lack of transparency introduces credit risk, that one party may default, and operational risk from errors in managing the rights and obligations under the contract, especially when proper monitoring is lacking.[187] As a result, they also present a greater lack of transparency and limited regulatory oversight.

Banks and institutional investors predominantly use OTC derivatives. ISDA Master Agreements often govern transactions and are subject to foreign laws, particularly English law. The CBN regulates OTC derivatives involving banks through various guidelines.[188]

One of the primary concerns in Nigeria is the enforceability of OTC derivatives, especially where the contracts are governed by foreign law. Nigerian courts generally uphold such contracts provided they are not illegal or contrary to public policy. The principle of freedom of contract

[185] Fernando, J., Op. Cit.
[186] Ibid.
[187] Parker, E., and Perzanowski, M. (2023). "Practical Derivatives: A transactional Approach" (4th ed.). *Globe Law and Business Limited*, p.11.
[188] Including the Guidelines for FX Derivatives in the Nigerian Financial Market (2011) and the Revised Foreign Exchange Manual (2018)

allows parties to choose the law governing their transactions.[189] However, enforceability can be affected by regulatory breaches, such as entering into derivatives without required authorisations or in violation of the Investments and Securities Act (ISA**)** or CBN Guidelines. Courts may also decline enforcement if the contract amounts to gambling or speculative activity without an underlying economic purpose, potentially invoking the Gaming and Lotteries Laws of various states.[190]

1.3.2 Exchange-Traded Derivatives (ETDs)

Exchange-traded derivatives are standardised derivative contracts entered into through an exchange, which acts as an intermediary between the parties. The Exchange's clearing house acts as the central counterparty and takes on a limited credit risk from each counterparty. As exchanges are regulated entities, parties trading exchange-traded derivatives are usually registered members licensed to trade on the exchanges.

ETDs are traded on organised exchanges such as the NGX or FMDQ Securities Exchange. These include futures and standardised options. The central counterparty (CCP) clearing model is used, where the clearing house interposes itself between buyers and sellers, reducing credit risk.

ETDs promote transparency, liquidity, and investor protection. They are subject to the regulations of the SEC and the trading rules of the respective exchange. In 2021, NGX launched its derivatives market, offering products such as equity index futures and single-stock futures.

In Nigeria's derivatives market, clearing and settlement are essential post-trade processes that ensure contractual obligations are honoured and systemic risk is minimised. Clearing involves verifying trade details, managing counterparty risk, and ensuring that both parties can perform their obligations, while settlement refers to the actual exchange of funds, securities, or commodities on the agreed date.

1.4 Types of Derivatives Contracts

Derivative products are broadly classified into "lock" and "option" contracts. Lock derivatives, such as futures, forwards, and swaps, bind both parties to the terms of the contract from the beginning until it expires. They are obligatory and must be executed as agreed. Option derivatives, like stock options, give the holder the right but not the obligation to buy or sell the underlying asset at a specific price on or before a set date. The most common derivatives used in financial markets include futures, forwards, swaps, and options.[191] They are considered the four basic building blocks of derivative instruments.[192]

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[189] Itumo, T. M. (2023). "Analysing Nigeria's Choice of Law Regime for Cross-Border Contracts." *Law Pavilion.* Retrieved from: https://lawpavilion.com/blog/analysing-nigerias-choice-of-law-regime-for-cross-border-contracts/ on 12/6/2025

[190] Ramos-Munoz, D. Op. Cit., p.3

[191] Fernando, J., Op. Cit.

[192] Smithson, C. W., Smith, C. W., Jr., & Wilford, D. S. (1995). *Managing Financial Risk: A Guide to Derivative Products, Financial Engineering, and Value Maximization,* Richard D. Irwin, Inc., p. 42

1.4.1 Forwards

These are customised OTC contracts obligating the purchase and sale of an asset at a future date at a predetermined price. Parties bear counterparty risk. This derivative is basically a contract between two parties to buy or sell a specific asset at a set price on a future date. All terms, such as the price, amount, and date, are agreed upon when the contract is made. These contracts help both parties avoid price uncertainty by locking in a price ahead of time.

Forwards are usually used for commodities or currencies and are mostly traded privately, allowing them to be customised to fit the needs of the parties involved. At maturity, the buyer gains if the market price is higher than the agreed price, while the seller gains if the market price is lower.[193]

1.4.2 Futures

Futures derivatives are standardised exchange-traded contracts where parties agree to buy and sell at a specified price and future date. For instance, in Nigeria, the NGX facilitates such trades. A futures contract is similar to a forward contract, but it is standardised and traded on an exchange. It was developed in the 1860s to reduce the risk of one party defaulting, which was a common problem with forward contracts.

Futures contracts are guaranteed by a clearinghouse that stands between the buyer and seller, marks positions to market daily, and requires collateral from the losing side each day.[194] This makes futures more secure and liquid than forwards, but also less flexible since they cannot be customised. In some legal disputes, such as *Olympic Natural Gas Co. vs Morgan Stanley Capital Group Inc.*,[195] the distinction between futures, forwards, and other contracts has been a key issue. The court held that the natural gas transactions at issue were forward contracts, not ordinary supply contracts, and thus, payments made under them were protected "settlement payments" made by a "forward contract merchant," rendering them immune from avoidance in bankruptcy proceedings.

1.4.3 Options

An option contract gives the holder the right, but not the obligation, to buy (call option) or sell (put option) an asset at a set price (strike price) on or before a specific date. Options are used for both hedging and speculation. A call option is profitable if the market price is above the strike price at exercise, while a put option is, if the market price is below the strike price. If exercising the option would not result in a profit, it is considered "out-of-the-money" and may expire worthless. The option's intrinsic value is the immediate gain from exercising it, while its time value reflects the potential for favourable price changes before expiration. The longer the time to expiration, the greater the time value, due to more chances for profitable price movements.[196]

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[193] Finnerty, J. D., and Pathak, K., Op. Cit., p.77
[194] Ibid., p.78
[195] US Court of Appeals for the Fifth Circuit - 294 F.3d 737 (5th Cir. 2002). Retrieved from: https://law.justia.com/cases/federal/appellate-courts/F3/294/737/545795/ on 2/4/2025
[196] Finnerty, J. D., and Pathak, K., Op. Cit., p.79

There are two types of options: a call option (right to buy) and a put option (right to sell). Call options appeal to investors who expect prices to rise. For a small premium, they gain the chance of a much larger profit if the asset's price goes up; This potential is called leverage. Put options are useful when investors expect prices to fall. They act like insurance, guaranteeing a minimum return even if the asset's value drops sharply.[197] A good example is car insurance, which works like a put option - if your car is wrecked, you can "sell" it to the insurer for the insured value.

1.4.4 Swaps

Swaps are private agreements to exchange cash flows or liabilities; for example, currency swaps or interest rate swaps. These contracts are widely used by banks and institutional investors. They are agreements where two parties exchange payment obligations based on interest rates or currencies; commonly, one party pays a fixed rate while the other pays a floating rate. They help businesses and investors manage risk, such as protecting against rising interest rates or currency fluctuations, without changing the underlying loan or investment.[198]

Thus, swaps play a vital role in financial risk management by allowing parties to hedge interest rate and currency risks without altering underlying assets, reflecting their importance in modern financial systems.

1.5 The Legal Foundations of Derivatives in Nigeria

The legal framework governing derivatives in Nigeria is rooted in a combination of statutory provisions, regulatory guidelines, and contractual norms, supplemented by common law principles. This hybrid structure reflects Nigeria's evolving financial system, where local legal developments coexist with international best practices, particularly in the context of Over-the-Counter (OTC) contracts. It has always been understood that laws that unequivocally recognise derivatives as legitimate financial instruments and grant regulatory agencies broad, flexible powers to enforce compliance and respond to evolving market dynamics. The law must normally empower regulatory authorities to establish, monitor, and enforce comprehensive rules that govern derivatives markets effectively.[199] Effective regulation is essential for market confidence, risk mitigation, and systemic stability, key to Nigeria's financial development aspirations. All successful derivatives markets operate under some form of government regulation, and that regulation plays a crucial role in maintaining market integrity, financial safety, and customer protection.[200]

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[197] Ibid., p. 80
[198] Ibid., p.83
[199] International Organization of Securities Commissions, Emerging Markets Committee of the International Organization of Securities Commissions. (1996). *"Legal and Regulatory Framework for Exchange Traded Derivatives"*, p. 4.
[200] Ibid., p.2

1.5.1 Statutory and Regulatory Instruments

(a) Investments and Securities Act (ISA), 2007

The ISA is the principal legislation regulating securities transactions in Nigeria. Section 315 defines "securities" to include "options, futures, forwards, swaps, and other derivatives."[201] The ISA designates the SEC[202] as the apex regulatory body for Nigeria's capital market. It empowers the Commission to regulate investment and securities businesses, including registering and supervising securities exchanges, capital trade points, derivatives, futures, commodities, and other recognised investment exchanges.[203]

The law grants the ISA authority to create rules and guidelines for overseeing market operations. Accordingly, the clearing of derivatives must adhere to the provisions of the ISA, the SEC Rules, and the rules of the relevant CCP. In 2019, the Securities and Exchange Commission (SEC) established a formal regulatory framework for derivatives trading in Nigeria through two main sets of rules. The first, the Derivatives Trading Rules, outlines requirements for exchange-traded and OTC derivatives, including standards for risk management and operational procedures for derivatives exchanges. The second, the Central Clearing Counterparty (CCP) Rules, sets the legal and operational foundations for the registration and operation of CCPs in Nigeria.

(b) SEC Rules on Regulation of Derivatives Trading (2020)

In response to market evolution, the Commission issued dedicated Rules on Derivatives Trading in 2020. These rules provide the framework for licensing, risk management, margining, and disclosure obligations for entities engaging in derivatives. They mandate central clearing through a Central Counterparty (CCP) and stipulate capital adequacy and operational requirements for participants.

Under these rules, all derivative contracts must be registered and approved by the SEC before being introduced on an exchange. Only entities registered with a recognised exchange or CCP are permitted to trade exchange-traded derivatives, and only CBN-licensed commercial or merchant banks may act as derivatives clearing members**.**

Generally, the Rules provide a structured regulatory framework that defines key participants like exchanges and central counterparties, sets operational standards, and mandates risk controls to support market development. While focusing on exchange-traded derivatives, the Rules highlight the need for additional regulation of the riskier OTC derivatives segment.[204]

(c) SEC Rules on Central Counterparty (CCP Rules)

These rules, also issued in 2020, regulate the activities of clearinghouses involved in derivatives markets. The rules emphasise the importance of mitigating counterparty risk, increasing

[201] Investment and Securities Act (ISA), 2007.
[202] Henceforth, The Commission.
[203] Section 13 (a) and (b), ISA, 2007
[204] Williams, N., and Adetuyi, A. (2020, March 16). "Derivatives Trading in Nigeria: The New SEC Rules Amendment." Brooks & Knights. Retrieved from: https://brooksandknights.com/wp-content/uploads/2020/03/Derivatives-Trading-in-Nigeria-The-New-SEC-Rules-Amendment.pdf on 5/5/2025

transparency, and ensuring effective governance of clearing institutions. The Rules provide for the participants in the derivatives trading markets. Under the Rules, no person shall trade on exchange-traded derivatives for proprietary or client accounts except that they are registered with a recognized exchange and/ or a CCP as a dealing member or a derivative clearing member.[205] Only CBN-licensed commercial and merchant banks are eligible to register as derivatives clearing members under the Rules.[206]

The SEC Rules provide that any person who violates the Derivatives Trading Rules is liable to a penalty of not less than ₦1 million, with an additional fine of up to ₦25,000 for each day the violation continues.[207] Following the SEC's issuance of the Derivatives Trading Rules and CCP Rules, the Nigerian derivatives market witnessed significant institutional developments. Notably, NG Clearing Limited was successfully registered as a central clearing counterparty**,** and the NGX secured SEC approval for seven exchange-traded derivative contracts**,** marking a major milestone in the formalisation and expansion of Nigeria's derivatives market.

(d) Central Bank of Nigeria (CBN) Guidelines

The regulation of derivatives trading by banks and other financial institutions (OFIs) in Nigeria is primarily anchored in the CBN's broader financial sector reform agenda, which seeks to deepen the financial markets and enhance systemic stability. Central to this regulatory architecture are instruments such as the Guidelines for FX Derivatives in the Nigerian Financial Markets (2011),[208] the Revised Guidelines for the Operation of the Nigerian Inter-Bank Foreign Exchange Market, and the Revised Foreign Exchange Manual (2018).[209] Collectively, these instruments provide the operational and legal framework for the use of derivative products by authorised financial institutions, specifying permissible instruments such as FX forwards, swaps, cross-currency interest rate swaps, and European-style FX options. By delineating the eligibility requirements, trade execution protocols, and documentation standards, these guidelines serve to institutionalise FX risk management practices among market participants. The regulatory emphasis on derivative use as a hedging mechanism aligns with global financial norms and reflects the CBN's commitment to fostering liquidity, transparency, and resilience within the Nigerian financial system.[210]

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[205] Rule 7(1) of the Derivatives Trading Rules.
[206] Rule 4 of the Derivatives Trading Rules.
[207] Sanctions, Derivatives Trading Rules.
[208] Central Bank of Nigeria. (2011, March). "Guidelines for FX Derivatives in the Nigerian Financial Markets." Retrieved from: https://www.cbn.gov.ng/OUT/2011/CIRCULARS/FMD/GUIDELINES%20FOR%20FOREIGN%20EXCHANGE%20DERIVATIVES%20IN%20THE%20NIGERIAN%20FINANCIAL%20MARKETS.PDF on 17/5/2025
[209] Central Bank of Nigeria. (2016, June). *"Revised Guidelines for the Operation of the Nigerian Inter-Bank Foreign Exchange Market."* Retrieved from: https://www.cbn.gov.ng/out/2016/ccd/revised%20guidelines%20for%20flexible%20exchange%20rate%20marketjune%202016%20v1.pdf on 17/5/2025
[210] Ikevude, A., Oguche, F., and Oyekan, O. (n.d.). "The Nigerian Financial Services Industry: An Overview." G. Elias & Co. Retrieved from: https://www.gelias.com/images/Newsletter/Financial_Services_Regulation.pdf on 2/7/2025

Complementing the CBN's regulatory efforts is the role of the FMDQ Exchange**,** which, as a key financial market infrastructure entity and self-regulatory organisation, has developed a suite of operational frameworks to facilitate the practical application of derivative instruments in the Nigerian market. The Market Operational Standards (2018)[211] and Market Framework Version 8 (2020)[212] are particularly instrumental in codifying market conduct principles, clearing and settlement procedures, and risk mitigation measures for exchange-traded derivatives, notably Naira Futures. These frameworks enhance the robustness of the regulatory regime by addressing critical vulnerabilities, including counterparty credit risk, market manipulation, and liquidity mismatches. In totality, the regulatory environment shaped by both the CBN and FMDQ Exchange constitutes a coherent, rules-based system that not only legitimizes the use of derivatives for financial risk management but also positions Nigeria's capital market within the broader context of global best practices in financial market regulation.[213]

(e) International Swaps and Derivatives Association and Private Agreements

For OTC derivatives, most Nigerian financial institutions adopt the International Swaps and Derivatives Association (ISDA) Master Agreement.[214] The 2002 agreement adds several new provisions, including: a new measure of damages provision, Close-out Amount, which replaces Market Quotation and Loss in the 1992 ISDA Master Agreements; a set-off provision,[215] *force majeure* termination event,[216] and consolidated interest and compensation provisions.[217] In addition, several provisions are amended, including a shortening of grace periods associated with some of the events of default.[218] Although ISDA documentation is governed by foreign law,[219] Nigerian courts have recognised such agreements as enforceable, provided that they do not violate Nigerian public policy. The choice of foreign law in such contracts is upheld by Nigerian courts where the selected law has a rational connection with the transaction.[220]

1.5.2 Judicial and Contractual Dimensions of Derivatives

Although the engagement with derivatives contracts remains limited, most relevant decisions stem from general contract principles rather than derivatives-specific jurisprudence. Nigeria's legal

[211] Central Bank of Nigeria. (2018). *"OTC FX Futures Market Operational Standards."* Retrieved from: https://fmdqgroup.com/exchange/wpfd_file/otc-fx-futures-market-operational-standards-2018/ 16/5/2015

[212] Central Bank of Nigeria, Enhancing Financial Innovation and Access (EFInA), & Gender Subcommittee. (2020). "The Market Framework: Version 8." Retrieved from: https://www.cbn.gov.ng/out/2020/dfd/framework%20for%20advancing%20women's%20financial%20inclusion%20in%20nigeria_final_5mb.pdf 16/5/2025

[213] Central Bank of Nigeria. (2021). *"*Guidelines for FX Derivatives in the Nigerian Financial Markets.*"* Retrieved from

[214] International Swaps and Derivatives Association (ISDA). (2002). *"ISDA Master Agreement."* Retrieved from: https://www.isda.org/book/2002-isda-master-agreement-mylibrary/ on 15/6/2025

[215] Section 6(f), Ibid.

[216] Section 5(b)(ii), Ibid.

[217] Section 9, Ibid.

[218] Section 5(a), Ibid.

[219] English or New York law

[220] see *Sonnar (Nig.) Ltd. v. Partenreedri M.S. Nordwind* (1987) 4 NWLR (Pt. 66) 520).

framework, being rooted in English common law, respects the freedom of contract principle. Thus, parties to a derivatives agreement are free to determine the terms of engagement, provided these terms do not contravene public policy or existing statutes. The courts will generally uphold such contracts unless they are tainted by fraud, illegality, or lack of capacity.

Parties to derivatives contracts often designate foreign law, especially English law, as the governing law and opt for foreign jurisdictions for dispute resolution. In *Sonnar (Nig.) Ltd. vs Partenreedri M.S. Nordwind*,[221] the Supreme Court of Nigeria held that Nigerian courts will recognise a foreign jurisdiction clause where the chosen forum has a connection with the contract. Essentially, while parties may include a foreign jurisdiction clause in their agreement, Nigerian courts will not automatically enforce it. If one party challenges the clause, arguing that litigating abroad would cause undue hardship or injustice, the court may retain jurisdiction. This ensures that even in cross-border derivatives contracts, access to justice and fairness can override strict adherence to party autonomy**.** However, in situations where a dispute involves Nigerian public policy, courts may assume jurisdiction notwithstanding the contractual choice. This is particularly true in cases involving regulatory violations, insolvency, or consumer protection. Derivatives contracts that are deemed contrary to public policy may be unenforceable in Nigeria. While speculative trading is not illegal *per se*, courts may scrutinise transactions that resemble wagering or gambling,[222] particularly if they involve synthetic or highly leveraged positions with no intent to take delivery of the underlying asset.[223]

Also, where the structure of a derivatives transaction is used to circumvent foreign exchange controls, tax laws, or prudential limits, courts may invalidate such contracts on grounds of illegality or fraud.[224] The Supreme Court in *Awojugbagbe Light Industries Ltd vs PN Chinukwe & Ors47, Alhaji Ayotunde Seriki vs Sefiu Olukorade*[225] it was held that no person involved in any immoral or illegal act or transaction should be allowed to come to court to seek redress. Such a contract invokes the common law maxim *ex turpi causa non oritur actio*, meaning that no action arises from a dishonourable or illegal cause.

While significant progress has been made in regulating derivatives in Nigeria, the legal framework is still developing. For instance, there is no derivatives-specific legislation akin to the United States' Dodd-Frank Act.[226] or the EMIR.[227] Existing laws are mostly fragmented across

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[221] (1987) 4 NWLR (Pt. 66) 520

[222] Nigerian courts have traditionally struck down contracts that amount to wagering, as seen in *Okagbue vs Okagbue (1966) NMLR 197*, where a contract deemed purely speculative and lacking an underlying commercial purpose was invalidated. This principle could influence the treatment of derivative contracts that resemble speculative bets.

[223] Akatugba, A. M. (2021). "Contemporary Judicial Attitudes of the Nigerian Courts Toward Contracts Tainted with Illegality*." Madonna University Nigeria Faculty of Law Journal*, p.7

[224] Central Bank of Nigeria. (2020). "CBN Rule Book Volume I: A Compendium of Policies and Regulations." Retrieved from: https://www.cbn.gov.ng/out/2020/fmd/cbn%20rule%20book%20volume%201.pdf on 2/6/2025

[225] (1999) 3 NWLR (Pt 595) 469 at 480 – 481

[226] United States Congress. (2010). "Dodd-Frank Wall Street Reform and Consumer Protection Act," Pub. L. No. 111–203, 124 Stat. 1376. Retrieved from https://www.congress.gov/111/plaws/publ203/PLAW-111publ203.pdf on2/6/2025

[227] European Securities and Markets Authority, The European Market Infrastructure Regulation (EMIR). Retrieved from" https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-52_qa_on_emir_implementation.pdf on 4/7/2025

multiple regulatory bodies, and there is a lack of judicial precedent specifically addressing derivatives disputes. Even in the United States, lawsuits often follow major losses in derivative investments, with investors claiming they were misled about the risks or profit potential. Fund managers may face allegations of breaching their fiduciary duty by using complex or risky derivatives, especially in the opaque over-the-counter market. The lack of transparent pricing and the novelty of some products can lead to fraud, misunderstandings, or poorly anticipated risks. Some investors are exploited due to unfamiliarity with these instruments, while others try to escape losses by exploiting contract loopholes. These disputes often end up in court when the financial stakes are high.[228]

Courts often struggle to balance the legal acceptance of derivatives with public concerns about speculation. While the markets and regulators support derivatives, many people still see them as risky or unfair. Judges must follow legal rules but also consider changing social views. If the law is too strict, it can cause problems; if it's flexible, it can adapt more easily. Courts also help the public understand which fears about speculation are reasonable under the law.[229]

Moreover, legal uncertainty persists around corporate authority to enter into derivatives, especially for public sector entities or corporations with restrictive constitutional documents. The issue of *ultra vires* contracts remains a legal risk if board or shareholder approval is not properly secured.

1.6 Institutional Regulation and Market Operators for Derivatives Trading

The regulation and supervision of derivatives contracts in Nigeria involve a combination of governmental and private sector institutions. These bodies are charged with oversight, licensing, rule-making, clearing, and settlement responsibilities. Together, they shape the operational and legal environment for both exchange-traded and over-the-counter derivatives. There is a strong element of private ordering. The private ordering of derivatives has achieved greater certainty through the widespread use of standard documentation, primarily based on the ISDA model.[230] The lead regulator is the SEC, with the CBN playing a limited role in banks and other financial institutions. Self-regulatory organisations, such as securities exchanges, also play a crucial role in the regulation of the Nigerian derivatives markets. There is a nagging concern pertaining to the risk of potential conflicts and inefficiencies caused by fragmented regulatory structures, and the benefits of consolidating regulatory authority where practical.[231] The regulation of swaps and related derivatives involves multiple regulatory bodies, each with distinct mandates, making coordination necessary to address potential overlap and regulatory ambiguity within the financial system.

(a) Securities and Exchange Commission (SEC)

The SEC is the apex regulatory body for Nigeria's capital market under the Investments and Securities Act (ISA), 2007. The SEC is empowered to license market participants, approve trading

[228] Finnerty, J. D., and Pathak, K. Op. Cit., p. 122
[229] Ramos-Munoz, D. Op. Cit., p.12
[230] Ramos-Munoz, D. Op. Cit., p.2
[231] Emerging Markets Committee of the International Organization of Securities Commissions, Op. Cit.

platforms, and issue binding rules. The SEC Rules on Derivatives Trading and the Rules on Central Counterparties are core regulatory instruments through which the SEC governs derivatives activities.

The SEC ensures that derivatives contracts offered to the public or traded on exchanges meet disclosure, margining, and governance standards. It also reviews applications for new derivative products and monitors systemic risks arising from speculative activity.[232]

The Derivatives Trading Rules require that a Derivatives Contract be registered with the SEC in the prescribed manner, and its approval granted before such contract is introduced on any exchange.[233]

However, the Commission is not without its constraints, such as limited technical capacity, fragmented oversight with other financial regulators, and an underdeveloped market infrastructure. These weaknesses hinder effective enforcement, real-time monitoring, and the growth of a transparent and resilient derivatives market.[234]

(b) Central Bank of Nigeria (CBN)

The Central Bank of Nigeria (CBN) plays a critical role in regulating derivatives involving commercial and merchant banks, especially in the foreign exchange and fixed income markets. It issues prudential guidelines, risk management frameworks, and policy directives on acceptable instruments.[235] The CBN also serves as a liquidity provider in the interbank derivatives market and enforces monetary and macro-prudential policy through structured derivative instruments.[236]

The CBN faces legal and jurisdictional constraints in regulating derivatives, as existing laws such as the CBN Act 2007 and BOFIA 2020 do not expressly define or provide a comprehensive framework for derivative instruments, creating overlaps with the SEC.[237] And since Nigeria's derivative market is developing, and the CBN's regulatory efforts are hampered by limited technical capacity and a shortage of specialised expertise, as well.[238]

(c) Nigerian Exchange Limited (NGX)

The Nigerian Exchange (NGX), formerly the Nigerian Stock Exchange (NSE), operates Nigeria's premier exchange for equity and derivatives trading. In 2021, the NGX launched its derivatives market with products such as equity index futures and single stock futures. It oversees the

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[232] Rule 6(3) of the Derivatives Trading Rules.

[233] Rule 3(1) and (2) of the Derivatives Trading Rules.

[234]International Monetary Fund, (2019) "Financial Sector Stability Assessment (FSSA)". Retrieved from: https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Nigeria-Financial-Sector-Stability-Assessment-40576 on 2/7/2025

[235] For example, the CBN Guidelines for FX Derivatives (2011) and the Revised Foreign Exchange Manual (2018) regulate Naira-settled forwards and futures, a major innovation in Nigeria's risk management regime, as discussed under the previous section.

[236] Central Bank of Nigeria, Understanding Monetary Policy Series 4, Liquidity Management, 2021. Retrieved from: https://www.cbn.gov.ng/Out/2022/MPD/Series%204.pdf on 2/7/2025

[237] Sections 2-6, CBN Act, Rule 96, SEC Rules 2013.

[238] CBN, Financial Stability Report, June 2023, pp. 56–58. Retrieved from: https://www.cbn.gov.ng/Out/2024/FPRD/JUNE%202023%20FSR%20-%20FINAL.pdf on 17/5/2025

operations of trading members, enforces market conduct rules, and provides a platform for price discovery and trade matching.[239]

The NGX operates through a regulatory subsidiary, NGX Regulation Limited (NGX RegCo),[240] which reviews applications for derivative licenses and conducts compliance audits. It works closely with the SEC to ensure the integrity of the trading environment. In August 2019, the SEC approved the Nigerian Exchange Limited (NGX) Rulebook on Derivatives Market,[241] which became effective on 14 April 2022. It applies to all the members and users of the NGX derivatives platform, setting out membership requirements (clearing and non-clearing), procedures for conducting trades, and general guidelines for the listing of derivative products on the NGX.

(d) FMDQ Securities Exchange

The FMDQ Group, through its subsidiary FMDQ Securities Exchange Limited,[242] facilitates OTC trading in fixed income and currency derivatives. It has been instrumental in the development of Naira-settled FX Futures, providing real-time quotes, post-trade reporting, and market data. FMDQ also provides central clearing services and has pioneered efforts to deepen the OTC derivatives space. Further, FMDQ collaborates with the CBN and market participants to issue operational standards and product frameworks, such as the FMDQ Derivatives Market Framework.[243]

FMDQ introduced rules for the trading of derivatives on its platform in 2021, which were approved by the SEC, and its exchange-traded derivatives platform went live in July 2023.[244] Recent amendments to FMDQ's Derivatives Market Rules were approved by the SEC on 7 May 2024.[245] FMDQ Exchange is actively developing its exchange-traded derivatives (ETD) market**,** with a focus on capacity building through the training of market participants ahead of its formal

[239] Nigerian Exchange Group (NGX Group) (2021). "Strengthening the Competitiveness of African Economies". Retrieved from: https://ngxgroup.com/launch-of-west-africas-first-exchange-traded-derivatives-receives-further-boost-as-sec-approves-7-ngxs-derivatives-contracts/#:~:text=Nigerian%20Exchange%20Limited%20(NGX%20or,in%20accessing%20and%20using%20capital on 3/7/2025

[240] Nigerian Exchange Group. (2025). "Protecting Investors and Supporting Healthy Capital Markets." Retrieved from https://ngxgroup.com/regulation/#:~:text=NGX%20Regulation%20Limited%20(NGX%20REGCO, Market%20Development

[241] Called the "Rule Book". See the Nigerian Stock Exchange. (n.d.). *"Rulebook of the Nigerian Stock Exchange: Derivatives Market."* Retrieved from: https://ngxgroup.com/ngx-download/rulebook-of-the-nigerian-stock-exchange-derivatives-market-sec-approved-august-2019/?wpdmdl=28452&refresh=623db5788cbd81648211320 on 5/7/2025

[242] FMDQ Group. (n.d.). "Who We Are." Retrieved from https://fmdqgroup.com/#:~:text=WHO%20WE%20ARE,an%20Information%20Technology%20Services%20Company

[243] FMDQ Group. (2020). "FMDQ Derivatives Market Framework (Version 8).". See: https://fmdqgroup.com/

[244] http: www//efaidnbmnnnibpcajpcglclefindmkaj/https://fmdqgroup.com/wp-content/uploads/2021/03/SEC-Approved-FMDQ-Exchange-Derivatives-Market-Rules.pdf

[245] FMDQ Group. (2025, May 9). "Sundry Amendments to FMDQ Exchange Derivatives Market Rules." Market Bulletin MB-47. Retrieved from: https://fmdqgroup.com/exchange/market-bulletin/sundry-amendments-to-fmdq-exchange-derivatives-market-rules/ on 3/5/2025

launch. The upcoming FMDQ ETD market will offer a range of derivative products, fixed income, currency, equity, and commodity ETDs, each tied to relevant underlying assets.

(e) NG Clearing Limited

NG Clearing Limited[246] acts as the central counterparty clearing house (CCP) for derivatives traded on NGX and other exchanges. Its function is to mitigate counterparty risk by guaranteeing contract performance, managing margin calls, and ensuring settlement finality. By standing between counterparties in a transaction, NG Clearing ensures financial system stability and builds market confidence in derivatives contracts. It operates under the SEC's CCP Rules and must meet strict governance, capital, and risk management standards.

(f) International Swaps and Derivatives Association (ISDA)

The ISDA is a professional association that has been operating since 1985 as a global trade organisation that plays a central role in promoting the safe and efficient functioning of derivatives markets, and promotes and improves the trading of swaps and derivatives.[247] The ISDA is a private trade organisation whose members, mainly banks, transact in the OTC derivatives market. This association helps to improve the market for privately negotiated OTC derivatives by identifying and reducing risks in that market. Its core mission is to reduce counterparty risk, enhance market transparency, and strengthen the legal and operational infrastructure of global derivatives markets. Although not a Nigerian entity, the International Swaps and Derivatives Association (ISDA) plays a foundational role in the legal framework for OTC derivatives in Nigeria. Most Nigerian banks and institutional counterparties adopt the ISDA Master Agreement for swaps, forwards, and other non-standardized contracts. ISDA documentation introduces legal certainty, standardization, and netting provisions critical for risk mitigation.

The acceptance and oversight of speculation and derivatives, whether by self-regulatory or regulatory bodies, constitute a complex and evolving framework. Rather than offering a fixed solution, this framework reflects a network of interrelated and continually adapting ideas.[248] As such, regulatory authorities must be explicitly empowered by law to establish, monitor, and enforce comprehensive rules governing derivatives markets. [249]

Regulatory oversight of derivatives markets should focus on sound contract design, alignment with the cash market, safeguards against manipulation, effective clearing systems, and adequate capital and margin standards.[250] To keep markets stable and fair, it's important to carefully check how contracts are written, how margins are managed, and how trades are cleared. These steps help reduce the risk of default and system failures.

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[246] NG Clearing. (n.d.). *"Clearing Services."* Retrieved from: https://www.ngclearing.com/services/clearing-services/ on 3/5/2025

[247] International Swaps and Derivatives Association (ISDA). (n.d.). *"About ISDA."* Retrieved from: https://www.isda.org/about-isda/ on 5/5/2025

[248] Ramos-Munoz, D. Op. Cit., p.7

[249] Emerging Markets Committee of the International Organization of Securities Commissions, Op. Cit.,, p.4

[250] Ibid., pp. 8-9

1.7 Evolving Corporate Authority in Derivatives

Legal challenges may arise where one party lacks the corporate authority to enter into derivatives contracts. The English case *Hazell vs Hammersmith and Fulham London Borough Council*[251] underscores the critical importance of a counterparty's legal capacity in financial transactions. In this landmark decision, the UK House of Lords ruled that local London councils lacked statutory authority to engage in interest rate swaps, rendering such contracts void. This highlighted that even widely used financial instruments like derivatives are unenforceable if one party lacks legal power to enter the agreement, especially in the case of public bodies bound by enabling legislation.[252]
Nigerian law requires that companies act within the scope of their memorandum and articles of association. If a contract is entered into *ultra vires*, that is, beyond corporate powers, it may be declared void. Transactions outside a company's constitutional objects are invalid, even if entered in good faith.

However, the 2020 CAMA has significantly relaxed the *ultra vires* doctrine. While the doctrine aimed to protect investors and creditors, it also hindered corporate growth and third-party transactions. It validates *ultra vires* acts once executed and allows companies to engage in any business unless explicitly restricted by their Articles of Association.[253] This shift provides greater flexibility for companies but introduces potential complexities when interpreting the interplay between the Memorandum and Articles of Association regarding business objects.[254] In derivatives contracts, this may enhance legal certainty for counterparties but still requires due diligence to ensure compliance with internal corporate limits and sector-specific regulations.

1.8 Comparative Insights for Nigeria's Derivatives Reform

Examining the regulatory frameworks of developed financial markets provides useful insights for Nigeria's derivatives market development. Key lessons can be drawn from the United States, European Union, and South Africa, each of which has established comprehensive and sophisticated regimes for derivatives trading.

1.8.1 United States of America

Recent concerns highlight the systemic risks posed by derivatives, especially credit default swaps, which some blame for triggering the global financial crisis. Warren Buffett famously called

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[251] *Hazell v. Hammersmith & Fulham London Borough Council, [1992] 2 A.C. 1 (H.L.).* Retrieved from: https://www.ato.gov.au/law/view/…/JUD/*1992*2AC1/00004 on 6/7/2025

[252] Raisler, K. (1997). "The Risks of Financial Derivatives," p. 477, Chapter 23B. International Monetary Fund. Retrieved from IMF eLibrary: https://www.elibrary.imf.org/display/book/9781557755032/ch043.xml#:~:text=Related%20Publications-,Abstract,bank%20lending%20fixed%2Drate%20mortgages on 23/6/2025

[253] Sections 35 and 39(3) CAMA, 2020

[254] Abiona, A. D. (2020). "Ultra Vires Doctrine under the Nigerian Company Law: An Appraisal of the Companies and Allied Matters Act (CAMA)." Retrieved from: https://www.academia.edu/64788226/ULTRA_VIRES_DOCTRINE_UNDER_THE_NIGERIAN_COMPANY_LAW_AN_APPRAISAL_OF_THE_COMPANIES_AND_ALLIED_MATTERS_ACT_CAMA_2020

derivatives "financial weapons of mass destruction," warning of their potential danger when misused.[255] In response to these risks, the United States Treasury enacted a regulatory regime aimed at increasing transparency, limiting speculative trading, and tightening oversight of derivatives market participants. They also amended the Commodity Exchange Act[256] and securities laws. These changes sought to curb market manipulation, fraud, and other abuses that threaten financial stability.[257]

Similarly, the Dodd-Frank Act[258] reformed the U.S. derivatives market by imposing stringent regulatory requirements. Key provisions include mandatory central clearing of standardised OTC derivatives, comprehensive trade reporting to regulators, and increased capital and margin requirements for market participants. The Act also enhanced the powers of the Commodity Futures Trading Commission (CFTC) and the United States Securities and Exchange Commission (SEC)[259] to oversee derivatives markets. This regulatory overhaul improved market transparency, reduced systemic risk, and strengthened investor protections. Nigeria can benefit from adopting similar mandates for central clearing and trade reporting to mitigate counterparty risks and enhance market integrity.

1.8.2 The European Market Infrastructure Regulation (EMIR)

EMIR requires that certain OTC derivatives be centrally cleared and reported to trade repositories to increase transparency and reduce counterparty credit risk. EMIR also mandates risk mitigation techniques for non-centrally cleared derivatives, including timely confirmation, portfolio reconciliation, and dispute resolution mechanisms.[260] The EU's approach highlights the importance of a comprehensive regulatory infrastructure and robust supervisory coordination. Despite broad regulatory and contractual acceptance, European courts frequently face challenges to the validity and enforceability of derivatives. As David Ramos-Muñoz observes, regulation and market norms have not fully addressed deeper legal and societal concerns about speculation,

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[255] Annual Letter to Shareholders from Warren Buffett, Chairman, Berkshire Hathaway, Inc., Feb. 21, 2003, at 15, available at:
http://www.berkshirehathaway.com/letters/2002pdf.pdf. See also Paletta, D. (2010, April 27). *"Democrats Deny Buffett on a Key Provision." The Wall Street Journal.* Retrieved from: https://www.wsj.com/articles/SB10001424052748703465204575208030785525128 on 3/7/2025

[256]United States. Commodity Futures Trading Commission. (n.d.). *Commodity Exchange Act.* U.S. Government. Retrieved from https://www.cftc.gov/PressRoom/MediaAdvisories/Pages/files/commodityexchangeact.pdf 10/5/2025

[257] U.S. Department of the Treasury. (2009, May 13). "Regulatory Reform: Over-the-Counter (OTC) Derivatives." [Press release]. Retrieved from http://www.ustreas.gov/press/releases/tg129.htm and Lynch, S. N., and Ng, S. (2009, May 14). "U.S. Moves to Regulate Derivatives Trade." *The Wall Street Journal*, pp. C1, C3.

[258] Dodd-Frank Wall Street Reform and Consumer Protection Act (2010). Retrieved from: https://www.congress.gov/111/plaws/publ203/PLAW-111publ203.pdf on 15/6/2025

[259] The United States Securities and Exchange Commission is an independent agency of the United States federal government, created in the aftermath of the Wall Street crash of 1929. Its primary purpose is to enforce laws against market manipulation. USA.gov. (n.d.). *"Securities and Exchange Commission."* https://www.usa.gov/agencies/securities-and-exchange-commission

[260] European Securities and Markets Authority, The European Market Infrastructure Regulation (EMIR), Op. Cit.

leaving courts without clear guidelines to distinguish between legitimate and illegitimate transactions.[261]

Nevertheless, the EMIR provides valuable lessons for Nigeria's developing derivatives market by emphasising transparency, risk mitigation, and regulatory oversight. Its key features, such as mandatory central clearing of standardised OTC contracts, trade reporting to repositories, collateral and risk management requirements for non-cleared trades, and tiered obligations for different categories of counterparties,[262]offer a framework that Nigeria can adapt. By adopting similar mechanisms through institutions like SEC Nigeria and FMDQ, the country can strengthen market infrastructure, reduce systemic risk, and align with global best practices to foster a secure and efficient derivatives ecosystem.

1.9 Findings

The paper specifically finds that, first, Nigeria currently lacks a consolidated, comprehensive statutory framework specifically tailored to derivatives. The existing legal regime is fragmented across the Investments and Securities Act (ISA), CBN Guidelines, SEC Rules, and foreign-governed ISDA contracts, creating regulatory uncertainty and limiting enforceability, especially for OTC contracts.

Secondly, there is a notable absence of Nigerian judicial precedent directly addressing derivatives disputes. Courts typically apply general contract law principles without tailored guidance. Simultaneously, many regulators, legal practitioners, and market operators lack the specialised expertise required to interpret, supervise, or litigate complex derivatives transactions.

Thirdly, oversight of Nigeria's derivatives market is divided among several institutions, the SEC, the CBN, and private ordering institutions such as NGX and FMDQ, with overlapping roles and uncoordinated rulemaking. This fragmentation fosters gaps, conflicting regulations, and inefficiencies in market supervision.

Fourthly, despite regulatory progress, Nigeria still lacks critical infrastructure such as widespread central clearing, real-time trade repositories, margining systems, and strong post-trade risk controls. The absence of these market-supporting systems exposes participants to heightened counterparty and systemic risk.

Consequently, the following recommendations are put forward:

1. Harmonisation of existing legal instruments to clarify enforceability standards, define the legal status of derivatives, and consolidate oversight mandates. This legislation should incorporate elements of the ISA, SEC Rules, and international best practices such as Dodd-Frank and EMIR, ensuring legal certainty and uniformity across the market.
2. Implement targeted legal capacity-building programmes for judges, regulators, and other practitioners. These should include CLE-certified courses, judicial colloquia, and collaborations with international organisations such as ISDA. Additionally, establish a

[261] Ramos-Munoz, D. Op. Cit., p.2
[262] European Securities and Markets Authority, The European Market Infrastructure Regulation (EMIR), Op. Cit.

financial markets division within key commercial courts to handle derivatives-related matters.

3. Establish a coordination office through statutory or executive action. This inter-agency body should include representatives from all relevant regulators and be tasked with harmonising rulemaking, streamlining supervision, and issuing joint guidance. The office should be supported by a permanent secretariat and empowered to facilitate periodic reviews of derivatives market practices and reforms.
4. Mandate the expansion of central clearing infrastructure (e.g., NG Clearing Ltd and FMDQ Clear) and trade repositories for both OTC and exchange-traded derivatives. Regulators should require real-time transaction reporting, daily margining, and stress testing for market participants. Incentives should be introduced to encourage migration from bilateral to centrally cleared platforms.

1.10 Conclusion

The paper examined the complex legal and regulatory architecture governing derivatives, emphasising the interplay between statutory enactments, regulatory oversight by institutions such as the SEC and CBN, and the adoption of international contractual frameworks like the ISDA Master Agreement. Unlike traditional investments like stocks, derivatives are mainly used to manage risk, not to grow wealth over time. They help businesses and investors protect themselves from losses by locking in prices for things like interest rates, currencies, or commodities, making them especially useful in uncertain markets. Nigeria's derivatives market holds immense potential for hedging and investment diversification. However, realising this potential requires strengthening the legal and institutional framework. With appropriate reforms and regulatory coordination, Nigeria can position itself as a hub for derivatives trading in Africa.

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THE ROLE OF SHARI'AH-BASED GOVERNANCE PRINCIPLES IN ENHANCING PUBLIC SECTOR ACCOUNTABILITY: LESSONS FOR ADMINISTRATIVE REFORM IN NIGERIA

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ABSTRACT

This paper critically examined the potential of Sharia-based governance principles to strengthen public sector accountability within the context of Nigeria's ethically fragile and institutionally weak administrative system. Drawing on foundational Islamic values—such as ʿadl (justice), amānah (trust), shūrā (consultation), and maṣlaḥah (public interest)—the study engaged in a doctrinal and comparative analysis of ethical governance models in Malaysia, Indonesia, and Sudan, evaluating their applicability to Nigeria's pluralistic legal and political landscape. The analysis revealed that while Sharia offers a rich normative framework for just and accountable governance, its effective implementation in modern states requires contextual adaptation, legal compatibility with constitutional democracy, and institutional integrity. The paper found that the Nigerian public sector suffers from a moral deficit that cannot be addressed by procedural reforms alone. Instead, it advocates for the integration of Islamic governance principles through legislative reform, institutional innovation, value-driven civil service restructuring, and inclusive interfaith platforms.

Keywords: *Sharia, Governance, Public Sector Accountability, Siyāsah Sharʿiyyah, Nigerian Civil Service Reform, Interfaith Governance*

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1. Introduction

The quest for accountable, transparent, and ethically guided public administration remains a critical priority for many developing nations, including Nigeria. In the face of persistent governance challenges—ranging from bureaucratic inefficiency to institutional corruption and regulatory capture—calls for administrative reform have intensified in both academic and policy circles.[264] While global governance discourses often emphasize liberal-democratic norms, this paper argues that indigenous epistemologies, particularly Sharia-based governance principles, offer valuable ethical foundations for enhancing public sector accountability in Nigeria.

Sharia (Islamic law), beyond its juridical dimensions, represents a holistic framework of moral and institutional order rooted in divine accountability (*taqwā*), public interest (*maṣlaḥah*), and trusteeship (*amānah*). Classical Islamic governance—exemplified during the Rāshidūn Caliphate and codified in works such as al-Māwardī's *Al-Aḥkām al-Sulṭāniyyah* and Ibn Taymiyyah's *Al-Siyāsah al-Sharʿiyyah*—prioritized justice (*ʿadl*), responsibility (*masʾūliyyah*), consultation (*shūrā*), and stewardship of public wealth (*ḥifẓ al-māl al-ʿāmm*).[265] These values not only inform ethical leadership but also prescribe mechanisms for citizen participation, judicial independence, and executive restraint.[266] In contexts such as Nigeria, where a substantial Muslim population coexists with a pluralistic legal system, these principles provide culturally resonant and theologically grounded tools for reforming governance practices.

Moreover, the adoption of Sharia-compliant governance ethics does not imply theocratic rule or religious absolutism. Rather, it entails incorporating normative Islamic principles of accountability into secular bureaucratic structures to promote ethical restraint, institutional transparency, and responsiveness to public needs.[267] As Sachedina notes, while some interpretations of Islamic governance traditions might appear distinct from modern democratic values, they often contain embedded forms of participatory deliberation and accountability that predate modern constitutionalism.[268] Thus, integrating Sharia-based insights into Nigeria's

[264] Ribadu, N. (2006). *Capital Loss and Corruption: The Example of Nigeria*. Nigeria: Economic and Financial Crimes Commission (EFCC), p. 4
[265] Al-Māwardī, A. H. (1996). *Al-Aḥkām al-Sulṭāniyyah*. Cairo: Dār al-Ḥadīth, pp. 23–35
[266] Ibn Taymiyyah, A. (2000). *Al-Siyāsah al-Sharʿiyyah fī Iṣlāḥ al-Rāʿī wa al-Raʿiyyah*. Riyadh: Dār ʿĀlam al-Kutub, pp. 11–13
[267] Kamali, M. H. (2008). *Shariʿah Law: An Introduction*. Oxford: Oneworld, pp. 88–95
[268] Sachedina, A. (2001). *The Islamic Roots of Democratic Pluralism*. Oxford University Press, pp. 73–78

administrative framework may strengthen ongoing reform efforts while enhancing the moral legitimacy of public institutions.

This paper seeks to explore the theoretical and practical contributions of Sharia-based governance principles to public sector accountability. It critically examines how Islamic ethical and legal doctrines conceptualize accountability, transparency, and leadership responsibility. It further analyzes how these principles may be contextualized and operationalized within the Nigerian administrative environment, especially in light of recurring governance failures, regional disparities, and legal pluralism. Drawing lessons from classical jurisprudence and contemporary Islamic governance literature, the study makes a case for incorporating Sharia ethics into reform-oriented policies and public management education in Northern Nigeria and beyond.

2. Literature Review

The intersection of Islamic governance principles and contemporary public administration has attracted growing scholarly interest in recent decades. However, much of the existing literature on governance and accountability remains dominated by Western liberal paradigms—emphasizing transparency, the rule of law, and democratic oversight—as universal benchmarks.[269] While these values are undeniably significant, their effectiveness in pluralistic and religiously rooted contexts such as Nigeria often depends on how well they resonate with indigenous normative systems and ethical traditions. In this regard, Sharia-based governance literature offers a complementary—yet underutilized—lens through which public accountability can be re-theorized and practically enhanced.

2.1 Islamic Governance and Accountability

Classical Islamic political thought is replete with normative principles designed to ensure the ethical conduct of rulers and the protection of public interest (*maṣlaḥah ʿāmmah*). Works such as al-Māwardī's *Al-Aḥkām al-Sulṭāniyyah*, al-Ghazālī's *Naṣīḥat al-Mulūk*, and Ibn Taymiyyah's *Al-Siyāsah al-Sharʿiyyah* emphasize *ʿadl* (justice), *shūrā* (consultation), *amānah* (trust), and *hisbah* (moral accountability) as essential pillars of governance.[270] These scholars conceptualized political

[269] Fukuyama, F. (2013). *What is Governance?* Governance, 26(3), 347–368
[270] Al-Māwardī, A. H. (1996). *Al-Aḥkām al-Sulṭāniyyah*. Cairo: Dār al-Ḥadīth, pp. 23–56

authority as a divine trust (*amānah ilāhiyyah*) held temporarily by human stewards (*khulafāʾ*), who are ultimately answerable to both the governed and God.[271]

Contemporary Islamic governance theorists such as Kamali,[272] Siddiqi,[273] and Chapra[274] have expanded on these foundations by linking classical principles to modern accountability mechanisms. Kamali, for instance, argues that the *maqāṣid al-Sharia* (higher objectives of Islamic law) provide a morally coherent and legally adaptable framework for governance reforms, especially in Muslim-majority or legally pluralistic societies. Chapra, on the other hand, posits that the ethical roots of Islamic public finance—especially in the management of public wealth (*bayt al-māl*)—can inform anticorruption measures, budgetary transparency, and distributive justice.[275]

These contributions underscore a central thesis: that Islamic law is not merely a private or ritualistic legal system but a comprehensive normative order capable of guiding ethical governance. The Qur'ānic command "Verily, Allah commands justice, excellence and giving to relatives…"[276] and the ḥadīth *"*Each of you is a shepherd and each of you is responsible for his flock." This reflect how Islam is deeply embedded emphasis on accountability and stewardship.[277]

2.2 Public Sector Accountability in Nigeria

Nigeria's public sector has long been criticized for endemic corruption, weak institutions, lack of transparency, and low bureaucratic responsiveness. Reports by the Economic and Financial Crimes Commission (EFCC), Transparency International, and scholarly evaluations such as Omotola[278] and Ribadu[279] point to a persistent accountability crisis that undermines developmental efforts and public trust. Despite multiple reform attempts—including the establishment of the Code of Conduct Bureau, the Bureau of Public Procurement, and anti-corruption commissions—

[271] Ibn Taymiyyah, A. (2000). *Al-Siyāsah al-Sharʿiyyah fī Iṣlāḥ al-Rāʿī wa al-Raʿiyyah*. Riyadh: Dār ʿĀlam al-Kutub, pp. 11–13
[272] Kamali, M. H. (2011). *The Middle Path of Moderation in Islam: The Qur'ānic Principle of Wasaṭiyyah*. Oxford University Press, pp. 172–183
[273] Siddiqi, M. N. (2004). *Role of the state in the economy: An Islamic perspective*. Leicester: The Islamic Foundation
[274] Chapra, M. U. (1992). *Islam and the Economic Challenge*. Leicester: Islamic Foundation, pp. 79–95
[275] Ibid, 80
[276] Qur'ān 16:90
[277] Qur'ān 16:90; al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Aḥkām, ḥadīth no. 893
[278] Ribadu, N. (2006). *Capital Loss and Corruption: The Example of Nigeria*. EFCC, pp. 5–8;
[279] Omotola, J. S. (2014). *The Anti-Corruption Campaign in Nigeria: A Critical Appraisal*. *Journal of Political Science and Public Affairs*, 2(1), 1–6

governance outcomes remain largely suboptimal, especially in regions where moral authority is undermined by political dysfunction.

In Northern Nigeria, where Islamic values shape public consciousness and communal norms, the disjunction between secular administrative models and Islamic ethical expectations is particularly stark. As noted by Salihu and Ahmad,[280] there exists a latent tension between imported public management paradigms and the cultural-religious values of accountability grounded in Islamic thought. This disconnect creates a vacuum in legitimacy and makes public sector reforms susceptible to public apathy or resistance. It is within this context that a Sharia-based accountability model offers potential normative alignment and moral resonance.

2.3 Integrating Islamic Ethical Models into Modern Administrative Reform

There is a growing body of interdisciplinary literature advocating for the integration of faith-based ethical systems into public governance reform, especially in culturally embedded societies. For instance, scholars such as Deneulin and Rakodi,[281] Malik,[282] and Ismail and Osman[283] argue that governance interventions that ignore religious ethics often fail to engage the deeper moral sensibilities of the population. In Muslim-majority areas, governance frameworks aligned with Islamic moral philosophy—such as *taqwā*-inspired leadership, *ḥisbah*-based public accountability, and *ʿuqūd*-based contractual governance—are more likely to succeed due to their ethical familiarity and institutional congruence.

However, the application of Sharia principles in governance must also be context-sensitive. As Kelsay[284] and Hefner[285] caution, uncritical transplantation of classical governance structures into modern bureaucratic systems may lead to legal incoherence or political friction. Thus, integrating Sharia-based accountability must be seen not as a wholesale Islamization of public

[280] Salihu, H. A., & Ahmad, M. (2017). *Public Sector Ethics and the Role of Islam in Northern Nigeria*. *Ilorin Journal of Religious Studies*, 7(1), 89–104
[281] Deneulin, S., & Rakodi, C. (2011). *Revisiting religion: Development studies thirty years on*. *World Development*, 39(1), 45–54. https://doi.org/10.1016/j.worlddev.2010.05.007
[282] Malik, A. (2014). *Public sector reforms and the role of Islamic ethics in promoting accountability: The case of Muslim-majority countries*. *Journal of Islamic Governance and Public Policy*, 2(1), 25–38
[283] Ismail, M. B., & Osman, M. M. (2016). *Good governance and accountability from the Islamic perspective: A conceptual analysis*. *International Journal of Economics and Financial Issues*, 6(Special Issue), 117–123
[284] Kelsay, J. (2009). *Arguing the Just War in Islam*. Harvard University Press, pp. 113–121
[285] Hefner, R. (2011). *Shariʿa Politics: Islamic Law and Society in the Modern World*. Indiana University Press, pp. 37–52

administration, but as a reformist effort to ethically enrich Nigeria's administrative institutions with values such as justice, integrity, consultation, and stewardship.

3. Conceptual and Theoretical Framework

A robust conceptual and theoretical framework is essential for any rigorous inquiry into governance, particularly when the subject intersects diverse epistemological traditions such as Islamic legal thought and Western public administration. This section provides both conceptual clarity and theoretical grounding for analyzing how Sharia-based governance principles can be applied to strengthen public sector accountability and inform administrative reform in Nigeria.

3.1 Conceptual Clarifications

3.1.1 Sharia-Based Governance

Sharia-based governance refers to a normative model of public administration grounded in the ethical, legal, and spiritual principles of Islamic law (Sharia). It transcends a narrow legalistic conception and encompasses a holistic framework of political authority, moral accountability, and administrative justice.[286] In the Islamic tradition, governance is understood not merely as a political function but as a sacred trust (*amānah*) bestowed by God upon human beings to fulfill the objectives of justice (*ʿadl*), consultation (*shūrā*), public welfare (*maṣlaḥah*), and preservation of the five higher objectives of Sharia (*maqāṣid al-Sharia*)—namely life, intellect, religion, property, and progeny.[287]

Classical jurists such as al-Māwardī, al-Ghazālī, and Ibn Taymiyyah articulated models of governance in which the state plays a custodial role over moral order, public resources, and institutional justice.[288] In this model, the ruler is not sovereign in the modern sense but a vicegerent (*khalīfah*)—entrusted to uphold the rights of the governed and ensure justice in accordance with divine will.[289] Some contemporary scholars such as Chapra[290] advocate for the contextual

[286] Al-Ghazālī, A. H. M. (2005). *Naṣīḥat al-Mulūk*. Beirut: Dār al-Kutub al-ʿIlmiyyah, pp. 38–40
[287] Kamali, M. H. (2008). *Shariʿah Law: An Introduction*. Oxford: Oneworld Publications, pp. 89–92
[288] Ibn Taymiyyah, A. (2000). *Al-Siyāsah al-Sharʿiyyah*. Riyadh: Dār ʿĀlam al-Kutub, pp. 19–22
[289] Chapra, M. U. (1992). *Islam and the Economic Challenge*. Leicester: Islamic Foundation, pp. 71–95
[290] Ibid, 74

application of these classical principles to modern statecraft, ensuring compatibility with democratic legitimacy and institutional pluralism.

3.1.2 Public Sector Accountability

Accountability in public administration refers to the obligation of public officials and institutions to justify their actions, decisions, and use of resources to multiple stakeholders, including the general public, oversight institutions, and, in democratic contexts, the electorate.[291] According to Bovens,[292] public accountability is relational, involving an actor (officeholder), a forum (oversight body or public), and an obligation of justification, explanation, or sanction. It may be legal (through judicial processes), political (through electoral processes), administrative (through performance evaluation), or social (through public pressure).

In the Islamic worldview, accountability (*masʾūliyyah*) possesses both vertical and horizontal dimensions. Vertically, rulers and public servants are ultimately accountable to God (*al-ḥisāb*) for how they discharge their duties. Horizontally, they are accountable to the people through mechanisms such as *shūrā* (consultation), *hisbah* (moral supervision), and institutional oversight. The Qur'ān declares: "And stop them; verily, they are to be questioned"[293] and the Prophet Muhammad (peace be upon him) stated: "Every one of you is a shepherd and every one of you is accountable for his flock."[294] These foundational texts embed the ethos of public accountability within the very fabric of Islamic governance.

3.1.3 Administrative Reform

Administrative reform denotes systematic and deliberate efforts to restructure state institutions, regulatory frameworks, and bureaucratic practices to improve governance outcomes, service delivery, and public confidence.[295] It often includes measures such as decentralization, public sector digitization, transparency initiatives, civil service training, and anti-corruption mechanisms. In African postcolonial contexts, however, administrative reforms have often been shaped by

[291] Mulgan, R. (2000). *Accountability: An Ever-Expanding Concept? Public Administration*, 78(3), 555–573
[292] Bovens, M. (2007). *Analysing and Assessing Accountability: A Conceptual Framework*. *European Law Journal*, 13(4), 447–468
[293] Qur'ān 37:24
[294] Ṣaḥīḥ al-Bukhārī, 893
[295] Hope, K. R. (2001). *The New Public Management: Context and Practice in Africa*. *International Public Management Journal*, 4(2), 119–134

donor-driven models, particularly New Public Management (NPM) paradigms, which prioritize efficiency, market discipline, and privatization.[296] These approaches, while successful in some areas, often fail to resonate with indigenous moral orders, especially in culturally and religiously plural societies like Nigeria.

3.2 Theoretical Framework

To analyze the role of Sharia-based principles in promoting public sector accountability and informing administrative reform in Nigeria, this study adopts a dual theoretical framework:

3.2.1 The Maqāṣid al-Sharia Theory

Maqāṣid al-Sharia refers to the higher objectives or purposes behind Islamic law. Developed by scholars such as al-Juwaynī, al-Ghazālī, al-Shāṭibī, and later modern jurists like Ibn ʿĀshūr and Kamali, this theory provides a moral-philosophical foundation for interpreting and applying Sharia in diverse contexts.[297] The five primary maqāṣid—protection of religion (*dīn*), life (*nafs*), intellect (*ʿaql*), lineage (*nasl*), and property (*māl*)—represent the essential goods that governance must preserve.[298]

In governance contexts, the *maqāṣid* approach enables a balance between textual fidelity and contextual adaptability, permitting state institutions to pursue ethical policy goals aligned with Islamic values while engaging with the complexities of modern public administration. As a framework for accountability, *maqāṣid* provides normative indicators—such as justice, transparency, and equity—by which public performance can be assessed.[299]

3.2.2 The Ethical Governance Theory

Ethical Governance Theory, drawn from political philosophy and public ethics, emphasizes that good governance is not merely about structural efficiency or policy outcomes but also about moral integrity, value-based leadership, and normative legitimacy.[300] This theory holds that

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[296] Ekeh, P. P. (1975). *Colonialism and the Two Publics in Africa: A Theoretical Statement*. *Comparative Studies in Society and History*, 17(1), 91–112

[297] Al-Shāṭibī, I. (2004). *Al-Muwāfaqāt fī Uṣūl al-Sharīʿah*. Beirut: Dār al-Maʿrifah, Vol. 1, pp. 31–45

[298] Kamali, M. H. (2011). *The Middle Path of Moderation in Islam: The Qur'ānic Principle of Wasaṭiyyah*. Oxford University Press, pp. 172–183

[299] El-Gamal, M. A. (2006). *Islamic Finance: Law, Economics, and Practice*. Cambridge University Press, pp. 81–84

[300] Uhr, J. (1999). *Public Ethics and Accountability in Australia*. *Australian Journal of Public Administration*, 58(1), 85–98

accountability thrives when public officials act in accordance with ethical standards that transcend legal compulsion—standards often grounded in religious or philosophical systems.

In the Nigerian context, where widespread corruption, weak institutions, and declining trust plague governance systems, ethical governance offers a path to restoring public confidence.[301] When combined with Islamic ethical teachings such as *amānah* (trust), *taqwā* (consciousness of God), and *ʿadl* (justice), this theory provides a powerful tool for reshaping governance culture. It further supports the idea that sustainable reform requires more than bureaucratic redesign—it necessitates ethical renewal.

3.3 Synthesis of Theories and Application to Nigeria

Through Integrating *maqāṣid al-Sharia* with Ethical Governance Theory, this paper adopts a normative-functional approach: it evaluates governance structures not only by their procedural efficiency but also by their alignment with ethical goals rooted in Islamic tradition. This dual framework facilitates a culturally sensitive and spiritually grounded analysis of Nigeria's governance challenges. It also allows for the operationalization of Islamic governance values through administrative tools, such as public audits, community consultation, and regulatory oversight. Furthermore, this synthesis acknowledges the necessity of contextual reform rather than doctrinal idealism. The aim is not to Islamize governance in a formal sense, but to ethically enrich public administration with principles that resonate with the values and expectations of Nigeria's Muslim populations, particularly in the northern regions where Islamic moral discourse already shapes communal norms.

4 Methodology of the Research

This study employed a doctrinal and comparative research methodology to critically examine the potential of Sharia-based governance principles in enhancing public sector accountability in Nigeria. The doctrinal analysis involved a thorough review and interpretation of foundational Islamic texts, classical Islamic jurisprudence (*fiqh*), and contemporary Islamic scholarship to delineate core governance values such as ʿadl (justice), *amānah* (trust), shūrā (consultation), and *maṣlaḥah* (public interest). This was complemented by a comparative analysis of ethical governance models and administrative reforms in selected Muslim-majority countries, specifically Malaysia, Indonesia, and Sudan. Data sources included primary Islamic texts, academic journals,

[301] Adebanwi, W., & Obadare, E. (2011). *The Abrogation of the Electorate: An Emergent African Phenomenon*. *Democratization,* 18(2), 311–335

policy reports from relevant international and national bodies, and legal statutes. The analytical approach focused on thematic analysis, guided by a theoretical framework derived from Siyāsah Sharʿiyyah and *Maqāṣid* al-Sharia, to evaluate the applicability, challenges, and lessons from these diverse contexts for Nigeria's pluralistic legal and political landscape.

4. Core Sharia-Based Governance Principles and Their Relevance to Public Sector Accountability

This section presents a comprehensive exploration of foundational governance principles embedded in Islamic legal and ethical traditions, demonstrating how they can be mobilized to promote transparency, accountability, and justice in contemporary public administration. These principles—*ʿadl* (justice), *amānah* (trust), *shūrā* (consultation), *ḥisbah* (moral oversight), and *maqāṣid al-Sharia* (higher objectives of Islamic law)—are not abstract ideals. Rather, they are normative guidelines with historical precedent and institutional applicability, especially in reforming governance systems plagued by corruption, inefficiency, and public distrust, such as in Nigeria.

4.1 ʿAdl (Justice) as the Foundation of Governance

Justice (ʿadl) in Islamic thought is both a legal and moral imperative. The Qur'ān repeatedly calls for justice in all spheres of life: "Verily, Allah commands justice (ʿadl), excellence (iḥsān), and giving to relatives…"[302] It is not simply the dispensation of legal rights, but a comprehensive ethical principle that underpins governance, economics, judiciary, and administration. Justice is giving each rightful person their due, without excess or negligence.[303] It is placing things in the position that Allah – the Exalted – has commanded them to be placed in, for He – Glorified be He – knows what is suitable for the universe and what fits each individual within it.[304] Due to the importance of justice, Allah – the Exalted – sent the messengers to establish fairness (justice) among people. Allah – Blessed and Exalted – said: "Indeed, We sent Our messengers with clear proofs and revealed with them the Scripture and the balance so that the people may maintain justice."

[302] Qur'ān 16:90
[303] Ministry of Islamic Affairs. (n.d.). *Al-qiyam al-Islāmiyyah* [Islamic values]. Saudi Arabia: Ministry of Islamic Affairs, p. 2
[304] Majmūʿah min al-mu'allifīn. (n.d.). *Fatāwā al-Shabakah al-Islāmiyyah* [Islamic network fatwas]. Doha, Qatar: IslamWeb.net, Ministry of Awqaf and Islamic Affairs, Vol. 9, p. 3,419

Consequently, in classical Islamic governance, justice was central to the legitimacy of rulers. Al-Māwardī argued that a just ruler (*imām ʿādil*) is a precondition for lawful governance and societal cohesion.[305] Similarly, Ibn Taymiyyah maintained that justice ensures divine blessings, even for non-Muslim nations, while injustice invites ruin even for believing societies.[306]

In public administration, justice entails equitable resource distribution, fair recruitment practices, merit-based promotions, non-discriminatory service delivery, and access to legal redress. In Nigeria, where patronage networks, ethnic favoritism, and political clientelism often distort public appointments and resource allocation, adopting *ʿadl* as a guiding norm would require substantial institutional reform and value reorientation. It suggests policies that prioritize social equity, fight exclusion, and uphold procedural fairness across federal, state, and local governments.

4.2 Amānah (Trust and Stewardship) in the Public Office

Amānah signifies the moral trust and fiduciary duty inherent in holding public office. The Qur'ān warns: *"*Verily, We offered the trust (al-amānah) to the heavens and the earth and the mountains, but they declined to bear it and feared it; but man [undertook it]—indeed, he was unjust and ignorant.*"*[307] This verse, interpreted by scholars such as al-Rāzī and Ibn Kathīr, reflects the profound weight of leadership and public responsibility.[308]

The Prophet Muhammad (peace be upon him) emphasized amānah as a sign of faith and warned that its loss signifies the approach of the Last Day: "If amānah is lost, then wait for the Hour,"[309] Public servants, therefore, are morally and spiritually accountable for their stewardship, and the misuse of public office is a breach of both civil law and religious trust.

In Nigeria, rampant public corruption and embezzlement of state funds highlight the absence of *amānah* in bureaucratic culture. Despite the existence of anti-corruption laws and agencies, ethical failures persist. Institutionalizing *amānah* requires incorporating Islamic ethics into civil service training, embedding transparency mechanisms into procurement and budgeting processes, and adopting zero-tolerance policies against conflict of interest and abuse of power. It

[305] Al-Māwardī, A. H. (1996). *Al-Aḥkām al-Sulṭāniyyah*. Cairo: Dār al-Ḥadīth, pp. 21–44
[306] Ibn Taymiyyah, A. (2000). *Al-Siyāsah al-Sharʿiyyah*. Riyadh: Dār ʿĀlam al-Kutub, pp. 18–27
[307] Qur'ān 33:72
[308] See Ibn Kathīr, I. (2000). *Tafsīr al-Qurʾān al-ʿAẓīm*, Vol. 3, pp. 485–486
[309] Ṣaḥīḥ al-Bukhārī, 6496

also requires religious and civic education campaigns to reframe leadership as a divine trust, not a means of personal enrichment.

4.3 Shūrā (Consultation) as Participatory Governance

Shūrā reflects the Islamic obligation of mutual consultation in public decision-making. Qur'ān 42:38 praises the believers as those *"...*who respond to their Lord, establish prayer, and conduct their affairs by consultation *(shūrā baynahum)."* Historically, shūrā councils advised rulers on legal, political, and economic matters, thereby ensuring checks on executive power and fostering participatory legitimacy.

Al-Ghazālī linked *shūrā* to the avoidance of tyranny and arbitrary rule, warning that decisions made without counsel are susceptible to error and injustice.[310] In contemporary governance, *shūrā* is conceptually akin to participatory democracy and stakeholder inclusion. It supports the establishment of deliberative platforms where citizens, civil society, and marginalized communities can influence policies.

In Nigeria, policy decisions are frequently centralized, opaque, and top-down—particularly at the federal level. The result is disconnection between the state and citizens, leading to distrust and disengagement. Operationalizing *shūrā* in Nigeria could involve reforms such as: decentralizing governance to empower local governments, institutionalizing town hall meetings and citizen advisory panels, and requiring stakeholder consultation in legislative and budgetary processes. Not only would this enhance transparency, but it would also deepen policy legitimacy.

4.4 Ḥisbah (Moral Oversight and Accountability Mechanism)

The principle of *ḥisbah*—derived from the Qur'ānic command to enjoin good and forbid evil—represents a proactive form of societal oversight. The Qur'ān states: "Let there arise among you a group who invite to all that is good, enjoin what is right, and forbid what is wrong…."[311] In classical Islamic governance, *ḥisbah* institutions—headed by the *muḥtasib*—monitored markets, adjudicated minor disputes, and acted as ombudsmen for moral conduct and administrative fairness.[312]

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[310] Al-Ghazālī, A. H. M. (2005). *Naṣīḥat al-Mulūk*. Beirut: Dār al-Kutub al-ʿIlmiyyah, pp. 61–65
[311] Qur'ān 3:104
[312] Ibn Khaldūn, A. (1980). *Muqaddimah Ibn Khaldūn*. Beirut: Dār al-Fikr, pp. 298–302

Modern analogues include public complaints commissions, anti-corruption agencies, consumer protection boards, and internal audit departments. In states such as Kano and Zamfara, *ḥisbah* institutions have been revived, although their mandates remain focused largely on social morality rather than administrative ethics.[313]

To align *ḥisbah* with public accountability goals, its institutional framework must be expanded to include oversight of procurement, contract implementation, budget performance, and public service ethics. A reformed *ḥisbah* could serve as a hybrid institution—bridging civic ombudsman roles with religious legitimacy—and empower citizens to monitor governance more effectively.

4.5 Maqāṣid al-Sharia (Higher Objectives of Law) as Evaluative Framework

The doctrine of *maqāṣid al-Sharia*, developed extensively by al-Ghazālī and al-Shāṭibī, seeks to identify the ends behind the rules of Islamic law. These include the preservation of religion (*dīn*), life (*nafs*), intellect (*ʿaql*), progeny (*nasl*), and property (*māl*).[314] Any policy or governance act is deemed valid if it protects or promotes these objectives and invalid if it undermines them.

Applying *maqāṣid* to governance means shifting evaluation from procedural legality to substantive justice. For instance, a budget that is legally passed but systematically excludes vulnerable groups would fail the *maqāṣid* test, as it violates the principle of equity and social welfare. Kamali emphasizes that *maqāṣid*-based reasoning allows for policy innovation while maintaining Islamic ethical coherence.[315]

In the Nigerian context, *maqāṣid* can serve as an evaluative tool for measuring whether public policy advances social protection, education, health, justice, and economic empowerment. It enables a moral audit of government performance and provides Islamic legitimacy for reform initiatives—particularly in Muslim-majority regions.

Taken together, these five principles present a holistic and internally coherent framework for enhancing accountability, legitimacy, and ethical governance. Unlike purely secular models,

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[313] Sule, I. (2020). *Evaluating the Role of Ḥisbah Corps in Contemporary Northern Nigeria: Challenges and Prospects*. *Journal of Islamic Studies and Culture*, 8(1), 25–40

[314] Al-Shāṭibī, I. (2004). *Al-Muwāfaqāt fī Uṣūl al-Sharīʿah*, Vol. 2, pp. 11–18

[315] Kamali, M. H. (2006). *Maqāṣid al-Sharīʿah Made Simple*. London: International Institute of Islamic Thought, pp. 23–31

Sharia-based principles combine legal, moral, and spiritual dimensions of leadership—making them particularly effective in contexts where religion continues to inform public consciousness and legitimacy claims. As Nigeria confronts persistent governance failures, revisiting these principles not only honors the cultural-religious fabric of its northern Muslim communities but also offers universally applicable governance ethics rooted in justice, trust, and stewardship.

5. Application of Sharia-Based Governance Principles in Nigerian Public Sector Reform

The imperative for reforming Nigeria's public sector governance structure is underscored by persistent institutional inefficiencies, endemic corruption, and a pervasive culture of unaccountability. These structural pathologies are not merely administrative anomalies; they reflect deep-rooted failures in leadership ethics, bureaucratic culture, and value orientation.[316] Conventional reform strategies—often externally imposed or technocratically driven—have produced uneven outcomes because they neglect the normative foundations and cultural legitimacy required to sustain public sector transformation.[317]

Against this backdrop, Sharia-based governance principles offer a culturally embedded, ethically coherent, and normatively robust framework for public sector accountability. Far from being antithetical to modern governance, these principles, when operationalized through constitutional means, can complement existing structures while promoting endogenous accountability norms rooted in justice, trust, and collective responsibility. This section articulates five critical areas where Islamic legal and ethical values can inform public administration reform in Nigeria.

5.1 Reconstructing Ethical Leadership through Amānah-Based Recruitment and Promotion Systems

The doctrine of *amānah* (trust) in Islamic political theory transcends conventional notions of public ethics by framing governance as a divine trust (*amānah ilāhiyyah*) that imposes fiduciary and

[316] Adejumobi, S. (2010). *Governance and the Crisis of Rule in Contemporary Africa: A Critical Reflection*. In K. Omeje (Ed.), *State–Society Relations in Nigeria* (pp. 3–20). London: Adonis & Abbey

[317] Mkandawire, T. (2001). *Thinking about Developmental States in Africa*. *Cambridge Journal of Economics*, 25(3), 289–314

spiritual obligations on office holders.[318] The Qur'ānic verse, *"*Indeed, Allah commands you to render trusts (amānāt) to whom they are due…*"*[319] imposes a normative imperative for meritocracy, transparency, and accountability in leadership selection and public service recruitment.

Historically, Islamic governance systems emphasized character (*akhlaq*) and trustworthiness (*ṣidq wa amānah*) alongside competence (*kifāʾah*) in appointments to public office, as evidenced in the caliphal practices of the Rashidun era.[320] Contemporary civil service frameworks in Nigeria—dominated by patronage and quota politics—neglect these ethical standards. Studies by Adebayo[321] and Ezeani[322] confirm that politicized appointments and lack of moral scrutiny in recruitment are key drivers of inefficiency and corruption.

Reforming recruitment systems to reflect *amānah* requires instituting character-based screening, ethical vetting, and community-level validations akin to *tazkiyah*. Civil service training curricula must integrate Islamic ethical instruction, while performance appraisals should include ethical compliance metrics. Establishing Public Ethics Commissions with religious and civic oversight could provide a structural mechanism for enforcing this standard.

5.2 Justice-Driven Resource Allocation through the Maqāṣid al-Sharia Framework

Islamic governance, as articulated by scholars like al-Shāṭibī and al-Māwardī, regards *ʿadl* (justice) not merely as a procedural rule but as a substantive ideal that governs all acts of public administration.[323] The failure to allocate public resources equitably and transparently has fueled regional inequality, economic disempowerment, and social unrest in Nigeria, particularly in the North-East and South-South zones.[324]

Applying *maqāṣid al-Sharia*—the higher objectives of Islamic law—as a framework for public expenditure and policy formulation entails a paradigm shift from procedural legality to

[318] Kamali, M. H. (2008). *Principles of Islamic Governance*. Kuala Lumpur: Ilmiah Publishers
[319] Qur'ān 4:58
[320] Al-Māwardī, A. H. (1996). *Al-Aḥkām al-Sulṭāniyyah*. Cairo: Dār al-Ḥadīth, pp. 26–40
[321] Adebayo, S. O. (2018). *The Politics of Recruitment and Bureaucratic Inefficiency in Nigeria*. *African Administrative Studies*, 89(2), 55–74
[322] Ezeani, E. O. (2021). *Public Administration in Nigeria: A Developmental Approach* (2nd ed.). Enugu: Zik-Chuks Publishers
[323] Al-Shāṭibī, I. (2004). *Al-Muwāfaqāt fī Uṣūl al-Sharīʿah*, Vol. 2, pp. 11–25
[324] World Bank. (2022). *Nigeria Public Expenditure Review*. Washington, DC: World Bank, p.23

teleological governance. According to al-Shāṭibī, the purpose of law is to preserve five universals: religion (*dīn*), life (*nafs*), intellect (*ʿaql*), progeny (*nasl*), and property (*māl*).[325] Governance is legitimate only to the extent it advances these goals. Thus, budgets skewed towards elite rent-seeking projects (e.g., unnecessary infrastructure) while neglecting health, education, and welfare violate *maqāṣid*-based justice.

Operationalizing this requires the institutionalization of Equity and Maqāṣid Impact Assessments (EMIAs) for all government policies, projects, and budgetary allocations. These assessments could be conducted by independent *maqāṣid audit units* comprising Religious scholars, economists, and civil society actors. Additionally, national development plans should be harmonized with *maṣlaḥah ʿāmmah* (public interest) principles.

5.3 Institutionalizing Shūrā (Consultation) as a Mechanism for Participatory Governance

Shūrā, a cardinal Islamic governance principle, implies collective deliberation, participatory inclusiveness, and pluralistic engagement in decision-making. The Prophet Muhammad (PBUH) practiced *shūrā* in both military and civil affairs, including his consultation with companions during the battles of Badr and Uhud, despite having divine revelation at his disposal.[326]

This participatory ethic, when translated into contemporary governance systems, mandates inclusive policy formulation, bottom-up planning, and stakeholder consultation. In Nigeria, the highly centralized governance structure and elite-driven policy processes have alienated citizens, especially in marginalized and rural communities.[327] Embedding *shūrā* in public administration requires structural reforms such as:

a) Legislative amendments to mandate Local Government Advisory Councils (LGACs) comprising community leaders, religious scholars, youth, and women;

b) Participatory Budgeting Platforms at the state and LGA level;

c) Legal mandates requiring pre-legislative public consultations before passage of bills or major policies.

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[325] Kamali, M. H. (2011). *The Middle Path of Moderation in Islam*. Oxford: Oxford University Press, pp. 143–158
[326] Al-Qaradāwī, Y. (2001). *Min Fiqh al-Dawlah fī al-Islām*. Cairo: Dār al-Shurūq, pp. 85–92
[327] Olowu, D., & Wunsch, J. (2004). *Local Governance in Africa: The Challenges of Democratic Decentralization*. Boulder, CO: Lynne Rienner

Such institutional innovations can bridge the gap between state and society, deepen democratic accountability, and restore legitimacy to governance structures.

5.4 Reinvigorating Ḥisbah Institutions as Ethical Oversight Mechanisms

The classical institution of *ḥisbah*—mandated by the Qur'anic imperative to enjoin good and forbid wrong[328]—played a critical role in market regulation, public ethics enforcement, and administrative oversight in pre-modern Islamic societies. The *muḥtasib*, as a public moral regulator, ensured transparency in transactions, adherence to ethical norms, and redress of citizen complaints.[329]

Although several Northern Nigerian states have *ḥisbah* corps, their functions are often confined to moral policing and limited community surveillance, lacking legal authority and professional capacity.[330] To harness the full potential of *ḥisbah*, a comprehensive reform agenda is required. This includes:

a) Rewriting *ḥisbah* legislation to extend jurisdiction to public procurement, fiscal management, and service delivery monitoring;

b) Establishing Independent Ḥisbah Oversight Commissions (IHOCs) to interface with anti-corruption agencies (e.g., EFCC and ICPC);

c) Training *ḥisbah* officers in ethics, public administration, finance, and legal procedures;

d) Embedding *ḥisbah* units within local government councils for continuous moral and performance evaluation.

Such integration will create an organic, culturally legitimate accountability mechanism grounded in Islamic moral traditions and responsive to modern governance challenges.

5.5 Civic Reorientation and Institutional Islamization without Theocratic Drift

A critical component of governance reform lies in reshaping public attitudes toward civic duty, leadership, and ethical conduct. In Islamic political thought, governance is a form of *ʿibādah*

[328] Qur'ān 3:104
[329] Ibn Taymiyyah, A. (2000). *Al-Ḥisbah fī al-Islām*. Riyadh: Dār al-ʿĀṣimah, pp. 18–26
[330] Sule, I. (2020). "Evaluating the Role of Ḥisbah Corps in Contemporary Northern Nigeria: Challenges and Prospects." *Journal of Islamic Studies and Culture*, 8(1), 25–40

(worship), and the ruler is a *khalīfah* (vicegerent), accountable both to the people and to God.[331] This dual accountability system fosters internalized responsibility and deters impunity.

Thus, Sharia-based governance requires civic reorientation that embeds ethical values such as *taqwā* (God-consciousness), *ikhlāṣ* (sincerity), and *ḥayāʾ* (moral shame) into political culture and administrative behavior. Civic education campaigns, public sermons (*khutbahs*), university curricula, and professional training must be restructured to reflect these values.

Importantly, institutional Islamization must respect Nigeria's constitutional secularity and pluralism. The aim is not to impose Islamic law wholesale, but to ethically infuse governance with universally beneficial Islamic values, especially in Muslim-majority regions where such principles have social legitimacy.

6. Comparative Insights and Critical Evaluation

While Sharia-based governance principles present a compelling ethical and normative framework for enhancing public accountability, their practical implementation within modern, pluralistic states like Nigeria presents both opportunities and challenges. To advance the discussion beyond theoretical abstraction, this section undertakes a comparative evaluation of selected jurisdictions—particularly Malaysia, Indonesia, and Sudan—that have attempted, to varying degrees, to institutionalize Islamic governance values within public administration. These case studies offer valuable insights into the contextual dynamics, institutional arrangements, and potential pitfalls that Nigeria must navigate in aligning administrative reform with Islamic ethical principles.

6.1 Malaysia

Malaysia's experience presents a hybrid model where Islamic governance principles are harmonized with a secular constitutional framework. With Islam as the religion of the federation (Article 3 of the Malaysian Constitution), Islamic values enjoy a level of normative legitimacy in shaping public policy, particularly in the administration of Muslim-majority states like Kelantan and Terengganu. The *Islam Hadhari* (Civilizational Islam) initiative launched under Prime

[331] Ibn Khaldūn, A. (1980). *Muqaddimah*. Beirut: Dār al-Fikr, pp. 341–352

Minister Abdullah Badawi was a landmark attempt to institutionalize Islamic governance values in public administration while upholding democratic norms and minority rights.[332]

Public institutions such as the Jabatan Kemajuan Islam Malaysia (JAKIM) and the Institute of Islamic Understanding Malaysia (IKIM) serve as think tanks and regulatory bodies guiding Islamic compliance and public ethics. Moreover, civil service training modules have incorporated Islamic moral instruction, emphasizing *ikhlāṣ* (sincerity), *taqwā* (God-consciousness), and *mas'ūliyyah* (accountability).

Despite these advances, critiques have emerged concerning the selective and politicized application of Islamic ethics, with concerns that the state may instrumentalize religion for political legitimacy rather than genuine moral governance.[333] Additionally, ethnic and religious pluralism in Malaysia has complicated the universal application of Islamic norms across federal institutions. Nonetheless, the Malaysian model shows that Sharia-based governance can be contextually embedded, pluralism-sensitive, and pragmatically implemented, provided there are robust legal safeguards and a commitment to inclusivity.

6.2 Indonesia

Indonesia offers another instructive example of a Muslim-majority country that attempts to reconcile Islamic moral values with a secular and pluralistic governance structure. Under its state ideology of Pancasila, Indonesia recognizes belief in one God (*Ketuhanan yang Maha Esa*) as a foundational principle, yet retains a secular legal system that emphasizes religious harmony and civic nationalism.[334]

In provinces like Aceh, which enjoy special autonomy under the Law of Aceh Governance,[335] Sharia law has been formally adopted and extended to areas of public morality, dress codes, and even criminal sanctions.[336] While this move has generated controversy—

[332] Kamali, M. H. (2009). *Civilizational Islam and Good Governance in Malaysia*. Kuala Lumpur: IAIS Publications
[333] Noor, F. A. (2005). *The Limits of Civilizational Islam: The Malaysian Case*. *The Muslim World*, 95(2), 247–274
[334] Salim, A. (2008). *Challenging the Secular State: The Islamization of Law in Modern Indonesia*. Honolulu: University of Hawai'i Press
[335] Law No. 11 of 2006
[336] Salim, A. (2015). *Shari'a in Aceh: The Implementation of Islamic Law in a Conflict-Ridden Region*. *ISEAS Working Paper Series*, No. 3

especially among human rights groups—it has also institutionalized *ḥisbah*-like moral oversight units and *shūrā*-based consultative mechanisms within provincial governance.

More relevant to Nigerian reforms is Indonesia's incorporation of Islamic ethics into bureaucratic capacity-building, particularly through partnerships between civil service training bodies and Islamic institutions (*pesantren*, Islamic universities). This has helped foster a "moral bureaucracy" discourse where public officials are expected to align their administrative conduct with ethical ideals derived from both Islamic and civic sources.[337]

However, Buehler[338] notes that the integration of Islamic values into Indonesian governance has been uneven, often susceptible to political manipulation, and at times conflating religious orthodoxy with administrative professionalism.[339] This highlights the importance of normative clarity, legal boundaries, and interfaith consensus when operationalizing Sharia principles in a democratic and diverse polity.

6.3 Sudan

In stark contrast, Sudan's experience under the rule of Omar al-Bashir (1989–2019) represents a deeply cautionary example of state-led Islamization without ethical substance. The regime adopted Sharia law as the constitutional foundation for governance, with sweeping changes in legislation and judicial authority.[340] However, the implementation was largely symbolic and authoritarian, serving more as a tool of political repression than a mechanism for moral accountability.

Despite institutional reforms such as Islamic courts, Islamic banking, and morality patrols, the Sudanese state was plagued by kleptocracy, ethnic violence, and bureaucratic inefficiency. As El-Affendi observed, the contradiction between religious formalism and moral collapse

[337] Zainuddin, A. (2017). Moral Bureaucracy in Indonesia: Intersections of Islam and Civil Service. *Asian Journal of Comparative Politics*, 2(4), 411–426
[338] Buehler, M. (2016). *The Politics of Shariʿa Law: Islamist Activists and the State in Democratizing Indonesia*. Cambridge: Cambridge University Press
[339] Ibid, 23
[340] El-Affendi, A. (2001). *The Impasse of the Islamic Movement in Sudan*. *African Affairs*, 100(401), 37–53

undermined the credibility of Islamic governance, eroding public trust and leading ultimately to social unrest and revolution.[341]

The Sudanese case underscores that Sharia cannot be imposed through legalistic fiat or ideological coercion. When Islamic principles are decoupled from ethical governance, justice, and participatory consultation, the outcome is neither Islamic nor accountable. Nigeria must therefore avoid instrumentalizing Sharia for political or sectarian advantage, and instead focus on substantive ethical reform grounded in transparency, moral leadership, and institutional legitimacy.

6.4 Nigeria's Internal Realities: Challenges and Strategic Considerations

While global experiences offer meaningful parallels, the applicability of Sharia-based governance to Nigeria must be carefully contextualized. Several endogenous factors present both opportunities and constraints:

6.4.1 Legal Pluralism and Constitutional Federalism

Nigeria's tripartite legal system—comprising English common law, Islamic law, and customary law—creates a fertile but complex ground for integrating Sharia values. The 1999 Constitution (as amended) guarantees freedom of religion[342] and prohibits state religion,[343] yet also recognizes Sharia Courts of Appeal in Northern states.[344] This duality necessitates creative constitutional engagement, whereby Islamic ethics are introduced as administrative values rather than judicial impositions.

6.4.2 Religious and Ethnic Diversity

The religious pluralism of Nigeria, particularly the Christian-Muslim divide, requires that Sharia principles be framed not as exclusive religious rules but as ethical contributions to good governance. The universality of principles such as *ʿadl*, *amānah*, and *shūrā* makes them adaptable across faith traditions. Thus, Nigeria could benefit from interfaith ethical governance charters that draw from shared moral values to promote accountability, inclusiveness, and justice.

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[341] Ibrahim, J. (2012). *Religion and Political Reform in Sudan*. In E. Adebanwi & E. Obadare (Eds.), *Democracy and Prebendalism in Nigeria*. London: Palgrave Macmillan
[342] Section 38
[343] Section 10
[344] Sections 275–279

6.4.3 Bureaucratic Corruption and Ethical Incoherence

As Ekeh[345] famously argued, Nigeria suffers from a dual moral code: loyalty and honesty in the "primordial public" (e.g., kinship, religion), but corruption and impunity in the "civic public" (e.g., government institutions). This ethical bifurcation frustrates anti-corruption efforts. Bridging this gap requires not only institutional reform but also value reorientation programs that recast public service as a trust (*amānah*) and moral duty.

6.4.4 Weak Institutions and Political Capture

Integrating Sharia principles into a governance system with weak rule of law, politicized anti-corruption agencies, and fragmented civil service structures demands more than normative idealism. It requires the professionalization of Islamic oversight bodies, statutory empowerment of *ḥisbah* institutions, and robust legislative support for ethical audits, consultative governance, and public interest budgeting.

6.5 Synthesizing Lessons: A Normative and Institutional Pathway

From the comparative and domestic analysis, several key lessons emerge for Nigeria:

1. Sharia-based governance must prioritize substance over symbolism. Legalistic declarations of Islamization without ethical enforcement, as seen in Sudan, risk undermining both religion and governance.
2. Ethical pluralism must guide implementation. Malaysia and Indonesia demonstrate that Islamic principles can be harmonized with national ideologies and plural societies when framed as universal values rather than exclusive dogma.
3. Constitutionalism and rule of law are non-negotiable. Any reform inspired by Sharia values must be pursued within Nigeria's constitutional framework, respecting human rights, federalism, and democratic procedures.

[345] Ekeh, P. P. (1975). "Colonialism and the Two Publics in Africa: A Theoretical Statement." *Comparative Studies in Society and History*, 17(1), 91–112

4. Civic education and moral leadership are central. Reforms must be underpinned by consistent moral messaging from religious scholars, civic actors, and public servants who embody the values of *amānah*, *ʿadl*, and *taqwā*.

5. Institutional design matters. Dedicated ethical governance bodies—such as *maqāṣid audit units*, *ḥisbah ombudsmen*, and *shūrā councils*—must be created, funded, and staffed with professionals capable of translating normative ideals into administrative practice.

7. Conclusion, Findings, and Recommendations

7.1 Conclusion

This paper has critically examined the potential of Sharia-based governance principles to serve as a normative and practical framework for enhancing public sector accountability in Nigeria. Against the backdrop of endemic corruption, institutional decay, and leadership failure, the paper argues that a return to ethical foundations grounded in justice (*ʿadl*), trust (*amānah*), public interest (*maṣlaḥah*), and consultative deliberation (*shūrā*) can renew the moral purpose and operational integrity of the Nigerian public service. Drawing from classical Islamic jurisprudence, contemporary administrative theory, and comparative experiences in Malaysia, Indonesia, and Sudan, the paper provides an in-depth discussion of both the promises and limitations of integrating Islamic ethical principles in modern state governance.

The analysis reveals that Sharia is not merely a legal code but a comprehensive ethical and institutional worldview that, if judiciously applied, can address the moral crisis of governance in Nigeria. However, the application must be context-sensitive, constitutionally grounded, and inclusive to ensure that Sharia-based reforms do not compromise the pluralistic and federal nature of the Nigerian state. This conclusion is not a call for the theocratic transformation of governance, but rather for the ethical reorientation of administration using values and institutions that resonate with Nigeria's social and cultural realities.

7.2 Findings

From the extensive analysis presented across the previous sections, the following key findings are discerned:

1. The persistent crisis in Nigeria's public sector governance stems not merely from structural inefficiencies but from a profound ethical deficit. Core values such as *amānah* (trust), *ʿadl* (justice), and *shūrā* (consultative governance) are absent from both policy formulation and administrative conduct. The result is systemic corruption, impunity, and public distrust in government institutions.

2. Although Sharia-inspired values are recognized in some state legal systems, there is a lack of institutionalized mechanisms—such as *ḥisbah* bodies or Islamic ombudsman institutions—to monitor and enforce public accountability in a structured, transparent, and rights-based manner.

3. Many governance reforms in Nigeria are externally imposed or rooted in Western administrative paradigms, often lacking resonance with local religious and moral worldviews. This creates an implementation gap between policy and practice, particularly in Northern Nigeria where Islamic legal culture remains influential.

4. Though scholars, politicians, and faith leaders often endorse Sharia-based governance rhetorically, there is a disconnect between ideological commitment and actionable implementation. Islamic governance remains more symbolic than operational within Nigeria's public sector.

5. Efforts to integrate Sharia principles into governance often generate resistance due to fears of religious domination, especially in a country marked by deep Christian-Muslim divides. This limits the prospects for ethical reform grounded in religious traditions.

7.3 Recommendations

Based on the above findings, the following recommendations are proposed to scholars, policymakers, Islamic jurists, and civil society actors interested in leveraging Sharia-based governance principles for administrative reform in Nigeria:

1. The government should adopt value-based administrative codes that explicitly integrate Islamic governance principles—especially in Muslim-majority states—through civil service regulations, ethics training, and performance evaluation mechanisms. These codes

should define *amānah*, *ʿadl*, and *shūrā* as core performance standards, thus bridging normative commitments and administrative practice.

2. States with Sharia recognition should reform existing ḥisbah institutions or establish new Sharia-compliant accountability councils, legally empowered to investigate maladministration, promote civic engagement, and oversee ethical compliance within the civil service. These should be professionally staffed, guided by *maqāṣid al-Sharia* (higher objectives of Islamic law), and operate under public scrutiny.
3. Policy reforms should be contextualized through the lens of Islamic public law (siyāsah sharʿiyyah) to ensure normative legitimacy and popular acceptance. Collaborations between Islamic legal scholars (*ʿulamāʾ*), legal academics, and public administrators can generate policy frameworks that reflect Nigeria's plural traditions while promoting universal accountability standards.
4. To close the implementation gap, governments should translate Sharia-based governance principles into sectoral policy instruments, such as ethical procurement guidelines, Islamic audit protocols, and community consultation frameworks. These tools should be codified in legislation or administrative rules and applied uniformly through monitoring and evaluation systems.
5. To reduce resistance and promote inclusivity, the government and civil society should establish interfaith ethical governance platforms involving Muslim and Christian leaders, academics, and policy experts. These platforms can build shared codes of public ethics, drawing on overlapping values such as justice, transparency, and service to the public good.

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TRANSPARENCY AND ACCOUNTABILITY: A CORNERSTONE FOR GOOD GOVERNANCE IN NIGERIA

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ABSTRACT

This paper critically examined the role of transparency and accountability as foundational elements for achieving good governance in Nigeria. It contextualized good governance as a process that entails participatory decision-making, rule of law, responsiveness, inclusiveness, effectiveness, efficiency, and consensus orientation. Drawing on national and international perspectives, the paper explored how corruption, leadership deficiencies, and weak legal frameworks have hindered the realization of good governance in Nigeria. The research further analyzed the significance of transparency and accountability mechanisms, such as the Fiscal Responsibility Act, the Freedom of Information Act, and the activities of anti-corruption agencies such as the EFCC and ICPC, in fostering responsible public administration and citizen trust. Despite the presence of relevant legal and institutional frameworks, the study found that implementation gaps, political discretion, and lack of access to vital information continued to undermine their efficacy. The paper concluded that unless transparency and accountability are internalized as values, and the legal framework for governance is restructured to impose binding obligations on leaders, the prospects for sustainable development and democratic consolidation in Nigeria will remain elusive. It recommended systemic reforms, inclusive governance, and stronger civil society engagement as critical steps towards institutionalizing accountability and transparency in the country's political economy.

KEYWORDS: *Transparency, Accountability, Good Governance, Anti-corruption, Public Administration, Sustainable Development, Democratic Consolidation*

1. Introduction

The quest for good governance has become a dominant theme in contemporary discourse on democratic development, particularly in the Global South where institutional fragility, endemic corruption, and democratic deficits remain pervasive. In the case of Nigeria—Africa's most populous country and one of its largest economies—good governance is not merely an ideal but a pressing necessity. The continued absence of effective governance structures has translated into deep-seated poverty, insecurity, social discontent, and economic inequality. These governance failures are often traced to the lack of transparency and accountability, which together form the bedrock of democratic legitimacy and sustainable development.

According to the United Nations Development Programme (UNDP), governance encompasses the mechanisms, processes, and institutions through which citizens and groups articulate their interests, exercise their rights, meet their obligations, and mediate their differences.[346] Good governance, within this context, is defined by the principles of participation, inclusion, rule of law, transparency, accountability, responsiveness, and effectiveness.[347] These principles are not abstract ideals but actionable standards that determine whether a society's institutions function for the benefit of all or are manipulated for elite interests.

In Nigeria, the persistent erosion of public confidence in state institutions is largely attributable to the failure to entrench accountability and openness in the exercise of public power. This is evidenced by successive governance assessments, including Nigeria's continued poor performance in the Transparency International Corruption Perceptions Index, where it ranked 145th out of 180 countries in 2024.[348] Similarly, the Mo Ibrahim Index of African Governance highlights a sustained decline in Nigeria's governance performance, particularly in the areas of public accountability and anti-corruption.[349] Despite the adoption of key legislative frameworks such as the Fiscal Responsibility Act 2007, Freedom of Information Act 2011, and the

[346] UNDP, *Responsive and Accountable Institutions for Sustainable Development* (UNDP Governance Report, 2024) https://www.undp.org/eurasia/our-focus/governance accessed 4 July 2025

[347] UNDP, *Governance for Sustainable Human Development: A UNDP Policy Paper* (1997) https://www.undp.org/publications/governance-sustainable-human-development accessed 4 July 2025

[348] Transparency International, *Corruption Perceptions Index 2024* (TI, 2025) https://www.transparency.org/en/cpi/2024/index/nzl accessed 4 July 2025

[349] Mo Ibrahim Foundation, *2024 Ibrahim Index of African Governance (IIAG) Summary Report* (Mo Ibrahim Foundation, 2025) https://iiag.online accessed 4 July 2025

establishment of anti-graft institutions such as the Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices Commission (ICPC), the country continues to grapple with opaque budgetary processes, selective prosecution, weak enforcement, and politicization of oversight bodies.

These challenges raise important questions regarding the efficacy of existing governance frameworks in promoting transparency and accountability. This paper critically examines these issues within the context of Nigeria's evolving democratic landscape, with particular attention to the role of legal and institutional reforms, civic participation, and leadership accountability. It argues that the sustainability of Nigeria's democratic project is contingent upon transforming transparency and accountability from policy slogans into enforceable norms embedded within the structure of governance itself.

The objectives of this study are threefold: first, to explore the conceptual link between transparency, accountability, and good governance; second, to assess the effectiveness of Nigeria's legal and institutional architecture for promoting these principles using current data; and third, to propose reform-oriented strategies to institutionalize a culture of openness, answerability, and public trust in government.

2. Literature Review and Theoretical Framework

Transparency and accountability are two interrelated governance values that have become fundamental benchmarks for evaluating institutional integrity, democratic legitimacy, and public trust. While frequently used in policy discourse, these concepts derive their normative and functional relevance from distinct legal, political, and ethical traditions.

Transparency generally refers to the accessibility, clarity, and reliability of information provided by public institutions to enable citizens to understand and scrutinize government actions.[350] It entails open decision-making processes, budget disclosures, proactive publication of official records, and institutional openness to public scrutiny.[351]

Accountability, on the other hand, is the institutional obligation of government actors to justify their decisions and be subjected to sanctions or corrective mechanisms when misconduct

[350] Anwar Shah (ed), *Performance Accountability and Combating Corruption* (World Bank 2007) 40–42
[351] Organisation for Economic Co-operation and Development (OECD), *Government at a Glance 2023* (OECD 2023) https://www.oecd.org/gov/govataglance.htm accessed 4 July 2025

occurs.[352] It operates on two axes: horizontal accountability (inter-institutional checks, e.g., between the executive and judiciary) and vertical accountability (citizen oversight through elections, media, and civil society).[353]

Together, transparency and accountability provide the normative infrastructure for curbing corruption, promoting participatory governance, and fostering institutional performance. Their conceptual underpinnings are best understood through key theoretical models.

2.1. Principal–Agent Theory

Rooted in institutional economics and political science, Principal–Agent Theory conceptualizes governance as a relationship in which citizens (principals) delegate authority to elected or appointed officials (agents) to act on their behalf.[354] Given the asymmetry of information and the potential for self-interest, mechanisms of accountability and transparency are necessary to monitor and constrain agent behavior.[355] In Nigeria's context, the inability of citizens to access information or hold officeholders accountable has led to widespread principal-agent failure manifesting in unresponsiveness, corruption, and public distrust.

2.2. Social Contract Theory

As advanced by political philosophers such as Locke and Rousseau, Social Contract Theory situates governance in a normative agreement where the authority of the state is justified by its obligation to serve the common good.[356] When government officials breach this social pact by acting in secrecy or abusing power, the legitimacy of their rule is called into question. Nigeria's recurrent governance crises—including electoral fraud, opacity in public finance, and rights violations—reflect a breakdown in the foundational contract between the state and its citizens.

2.3. Democratic Governance Theory

[352] Mark Bovens, *The Quest for Responsibility: Accountability and Citizenship in Complex Organisations* (Cambridge University Press 1998) 25–29
[353] Guillermo O'Donnell, 'Horizontal Accountability in New Democracies' (1998) 9(3) *Journal of Democracy* 112–126
[354] Robert Klitgaard, *Controlling Corruption* (University of California Press 1988) 65–67
[355] Arvind Subramanian, *Institutional Reforms in Governance: Principal-Agent Challenges* (IMF Working Paper 2022) https://www.imf.org/en/Publications/WP accessed 4 July 2025
[356] John Locke, *Two Treatises of Government* (Peter Laslett ed, Cambridge University Press 1988) 265–288

Democratic governance emphasizes inclusive decision-making, rule of law, and responsiveness. It conceptualizes accountability not merely as legal compliance but as responsiveness to citizen needs and alignment with democratic values.[357] Transparency, in this framework, is not only about information availability but about ensuring that institutions are participatory, answerable, and accessible to diverse stakeholders. This theory underlines the need for institutional mechanisms—such as freedom of information laws, anti-corruption commissions, and citizen budget platforms—to operationalize democratic values in governance processes.[358]

Thus, looking at these conceptual and theoretical lenses, we can argue that transparency and accountability are not abstract ideals but as measurable, enforceable, and indispensable elements of democratic consolidation and effective governance in Nigeria.

3. Methodology of the Research

This paper adopts a doctrinal legal research methodology to critically examine the role of transparency and accountability in achieving good governance in Nigeria. Doctrinal research, also known as 'library-based' or 'black-letter' research, involves a systematic analysis of legal principles, statutes, case law, and scholarly literature to provide a comprehensive understanding of a legal subject. The primary data sources for this research include relevant Nigerian statutes such as the Fiscal Responsibility Act and the Freedom of Information Act, alongside international conventions and legal instruments pertaining to governance, anti-corruption, and human rights. Secondary sources comprise academic textbooks, journal articles, government reports, policy documents, and commentaries from legal scholars and institutions. The analytical approach involved a critical interpretation and synthesis of these legal and scholarly materials to identify existing legal frameworks, evaluate their effectiveness, uncover implementation gaps, and propose reforms. This method was chosen as it is particularly suited for in-depth analysis of the 'law as it is' and 'law as it ought to be' concerning governance mechanisms in Nigeria. This allows for a robust theoretical and practical examination of transparency and accountability.

4. Legal and Institutional Framework in Nigeria

[357] UNDP, *Democratic Governance and Sustainable Development: Challenges and Opportunities* (UNDP 2024) https://www.undp.org accessed 4 July 2025

[358] Global Integrity, *Africa Integrity Indicators 2024 Report: Nigeria* (Global Integrity 2025) https://www.globalintegrity.org accessed 4 July 2025

Nigeria's governance architecture comprises a mixture of legal instruments and institutional bodies charged with promoting transparency and accountability. While the formal frameworks are well-established, their real-world efficacy has varied significantly.

4.1 Legal Framework for Transparency and Accountability in Nigeria

The statutory framework for promoting transparency and accountability in Nigeria is anchored on several legislative instruments, chief among them being the Fiscal Responsibility Act 2007, the Freedom of Information Act 2011, and the Public Procurement Act 2007. These laws were enacted in response to the growing public demand for institutional openness and democratic control over executive discretion, particularly in light of Nigeria's history of opaque governance, corruption, and financial mismanagement.

4.1.1 Fiscal Responsibility Act 2007

The Fiscal Responsibility Act 2007 (FRA) was promulgated to institutionalize fiscal discipline, enhance macroeconomic stability, and entrench a culture of transparency in public finance management. It imposes a legal obligation on all tiers of government to conduct fiscal operations in a transparent and sustainable manner. Section 48 of the Act explicitly mandates the Federal Government to ensure that its fiscal and financial affairs are conducted transparently, and to guarantee full and timely disclosure of all transactions involving public revenue and expenditure. This obligation includes, but is not limited to, the publication of detailed fiscal information accessible to citizens and oversight bodies.

Furthermore, Section 49 requires that audited accounts of the federal government be published not later than six months after the end of each financial year, thereby enabling retrospective scrutiny of public expenditure. Complementing this, Section 50 obligates the government to prepare and publish quarterly budget execution reports within 30 days of the end of each quarter. These provisions aim to provide real-time and retrospective accountability of budget implementation. However, empirical analysis reveals chronic non-compliance with these mandates.

Thus, for instance, Reports by civil society organisations such as BudgIT and the Centre for Social Justice show that many MDAs either fail to publish timely financial reports or submit

incomplete data, thus undermining the spirit of fiscal transparency that the Act seeks to entrench.[359] Notably, Section 3 of the Act establishes the Fiscal Responsibility Commission, endowed with powers to enforce compliance, conduct investigations, and refer erring public officials to the Attorney-General for prosecution. Despite this enforcement mechanism, the Commission has often been criticised for lacking prosecutorial autonomy and for being underfunded, which limits its effectiveness in compelling compliance, especially among politically influential actors.[360]

4.1.2 Freedom of Information Act 2011

The Freedom of Information Act 2011 (FOIA) marked a significant milestone in Nigeria's democratic trajectory by codifying the right of every citizen to access public records and information. Section 1(1) of the Act provides that any person has a legal right to request, receive, and inspect information or records in the custody of any public institution, without the need to demonstrate a specific legal interest or purpose. This provision effectively lowers the threshold for citizen participation and institutional oversight, and is in line with international best practices on the right to information. In furtherance of this objective, Section 2(3) of the Act mandates all public institutions to proactively publish key information such as organisational structures, personnel listings, budget allocations, expenditure plans, procurement records, and performance reports. The Act thus envisages both passive (on-demand) and active (proactive) transparency regimes.

In terms of procedural safeguards, Sections 4 to 6 prescribe a statutory period of seven days for institutions to respond to information requests, subject to reasonable extension in cases involving voluminous or archived materials. Sections 7 and 10 introduce sanctions for non-compliance: wrongful denial of access attracts a fine of ₦500,000, while wilful destruction or alteration of records may attract criminal penalties, including imprisonment. The judicial enforcement mechanism provided under Sections 20 to 26 allows aggrieved persons to seek redress through the courts, placing the burden of proof on the public institution to justify any denial or exemption claimed. While Nigerian courts have generally upheld liberal standing in FOIA litigation, as seen in *Dada v Sikuade*,[361] enforcement remains inconsistent due to judicial delays and bureaucratic resistance.

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[359] BudgIT, *State of States Report 2024* (BudgIT 2024) https://yourbudgit.com/state-of-states accessed 4 July 2025

[360] Centre for Social Justice, *Annual Compliance Audit of Fiscal Responsibility in Nigeria 2024* (CSJ 2025) https://csj-ng.org accessed 4 July 2025

[361] [2014] 17 NWLR (Pt. 1435) 72

Moreover, many public officials are either unaware of their obligations under the Act or deliberately conceal information under broad and vaguely defined exemptions provided under Sections 11 to 16, especially relating to national security and commercial confidentiality. Despite these challenges, the FOIA remains an essential tool for civil society organisations, investigative journalists, and citizens committed to holding public officials accountable.

4.1.3 Public Procurement Act 2007

The Public Procurement Act 2007 (PPA) was enacted to regulate the process of public contracting, promote transparency, and prevent the abuse of procurement processes—a sector historically riddled with corruption in Nigeria. The Act establishes the Bureau of Public Procurement (BPP) as the central regulatory authority tasked with the oversight and enforcement of procurement standards across federal ministries, departments, and agencies. The BPP is empowered to issue guidelines, monitor procurement processes, and investigate violations. Although the PPA does not explicitly adopt the language of transparency or accountability in every provision, its core objective is aligned with those values. The Act mandates open competitive bidding as the default mode for contract award, requires the public advertisement of procurement opportunities, and insists on the publication of contract awards and performance reports. Furthermore, it provides for administrative and criminal sanctions against procurement officials who violate the principles of transparency, value-for-money, and non-discrimination. In practice, however, the BPP's regulatory reach has been uneven. Reports indicate that procurement records are frequently withheld from public view, and agencies often invoke confidentiality to justify the absence of disclosure. Additionally, the BPP's debarment powers, while theoretically potent, have rarely been exercised due to political interference or institutional inertia. Nevertheless, some progress has been made, particularly through digital procurement platforms and open contracting initiatives, which have increased public access to procurement data in select MDAs.

In sum, these three statutes form a formidable legal triad for promoting institutional transparency and accountability in Nigeria. While their substantive provisions are commendably comprehensive and align with global standards, their enforcement remains weak and inconsistent. The subsequent section will examine how institutional and political dynamics have undermined the effective realisation of these legal obligations, despite their robust textual commitments.

4.2 Institutional Framework for Transparency and Accountability in Nigeria

In Nigeria, the architecture of transparency and accountability is sustained by a constellation of public institutions—constitutional, statutory, and regulatory bodies—each bearing unique mandates to ensure good governance, curtail corruption, and enhance integrity in public and private sectors. These institutions function in a dynamic legal-political environment that often influences their operational effectiveness. The following sub-sections critically examine the roles, legal foundations, and practical challenges of key institutions within Nigeria's anti-corruption and accountability framework.

4.2.1 Economic and Financial Crimes Commission (EFCC)

The EFCC was established under the Economic and Financial Crimes Commission (Establishment) Act 2004 as Nigeria's apex anti-graft agency mandated to combat economic and financial crimes. Section 6 of the Act entrusts the EFCC with the investigation, enforcement, and prosecution of offences related to financial crimes, including money laundering, advance fee fraud, terrorism financing, and public sector corruption.[362]

The EFCC has played a central role in high-profile corruption trials involving public office holders. In *FRN v Joshua Dariye*, the Supreme Court upheld the conviction of a former state governor for the misappropriation of public funds, thereby reinforcing the EFCC's prosecutorial legitimacy.[363] Nonetheless, the Commission's credibility has often been questioned due to selective enforcement and its susceptibility to political manipulation.[364] Despite institutional independence on paper, the EFCC's operational autonomy is frequently curtailed by the executive's dominance in appointing its leadership, as provided under Section 2 of the enabling Act.[365] This paradox reflects the tension between legal design and political reality in Nigeria's accountability regime.

4.2.2 Independent Corrupt Practices and Other Related Offences Commission (ICPC)

The ICPC was created pursuant to the Corrupt Practices and Other Related Offences Act 2000 to prevent and punish corrupt practices, particularly within the public sector. Unlike the EFCC, which

[362] Economic and Financial Crimes Commission (Establishment) Act 2004, s 6
[363] *FRN v Joshua Dariye* (2018) 13 NWLR (Pt 1637) 311
[364] Ayo Obe, 'The Rule of Law and the EFCC in Nigeria's Anti-Corruption Crusade' (2017) 21(2) African Journal of Legal Studies 143
[365] EFCC Act 2004, s 2(3)

has a broader scope encompassing financial and economic crimes, the ICPC's statutory focus is narrower, centering on unethical conduct and abuse of office.[366]

Under Section 6 of the Act, the ICPC is mandated to receive and investigate reports of corruption, prosecute offenders, review corruption-prone systems, and educate the public on anti-corruption ethics. The preventive framework of the ICPC is reflected in its institutionalisation of Anti-Corruption and Transparency Units (ACTUs) within Ministries, Departments and Agencies (MDAs), aimed at fostering internal compliance mechanisms.[367]

In *Ameh Ebute v ICPC*, [368] the appellate court affirmed the Commission's authority to investigate allegations of misconduct even without a formal complaint, thus bolstering its proactive stance. Yet, operational limitations—particularly poor funding, limited prosecutorial success, and institutional overlap with the EFCC—have weakened the ICPC's visibility and deterrent capability.[369]

4.2.3 Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT)

The CCB and CCT derive their mandates from the Fifth Schedule (Part I and II) of the 1999 Constitution (as amended). The CCB enforces the Code of Conduct for Public Officers, which includes asset declaration, avoidance of conflicts of interest, and prohibition of foreign accounts.[370] The CCT, in turn, adjudicates breaches of the Code and may impose sanctions ranging from suspension to disqualification from holding public office.[371]

In *Saraki v Federal Republic of Nigeria*,[372] the Senate President, Dr. Bukola Saraki, was charged before the Code of Conduct Tribunal (CCT) for false asset declaration and maintenance of foreign accounts, in violation of the Code of Conduct under the 1999 Constitution. He challenged the charges, arguing that the Code of Conduct Bureau (CCB) failed to follow due process by not affording him the constitutional opportunity to respond to the allegations before prosecution. Although the Supreme Court ultimately upheld the jurisdiction of the Tribunal and

[366] Corrupt Practices and Other Related Offences Act 2000, s 6
[367] ICPC, 'Anti-Corruption and Transparency Units' https://icpc.gov.ng accessed 2 July 2025
[368] *Ameh Ebute v ICPC* (2008) 6 NWLR (Pt 1083) 271
[369] Chidi Odinkalu, 'Why Anti-Corruption Commissions Fail' (2016) 45 Nigerian Journal of Policy and Strategy 29
[370] Constitution of the Federal Republic of Nigeria 1999 (as amended), Fifth Schedule, Part I
[371] Code of Conduct Bureau and Tribunal Act, Cap C15 LFN 2004, s 23
[372] 3 NWLR (Pt 1496) 471

validated the charges, it stressed the importance of procedural safeguards and fair hearing. The case highlighted the constitutional legitimacy and accountability potential of the CCB/CCT framework, but also exposed institutional weaknesses, including executive interference, poor investigatory procedures, and public perceptions of political bias, which continue to limit its effectiveness in enforcing ethical governance.

4.2.4 Office of the Auditor-General for the Federation (OAuGF)

The OAuGF, established under Section 85 of the 1999 Constitution, is responsible for auditing the public accounts of the Federation and reporting to the National Assembly.[373] The Auditor-General's independence is constitutionally guaranteed, and his reports are instrumental in uncovering financial irregularities, misappropriation, and budgetary violations by MDAs.

Despite its constitutional stature, the Auditor-General's office is operationally handicapped by underfunding, lack of enforcement powers, and executive dominance over budgetary processes.[374] Audit reports are often delayed, and recommendations are rarely implemented by the legislature.[375] As such, the OAuGF remains an important but underutilised instrument of financial accountability.

4.2.5 Public Complaints Commission (PCC)

Established under the Public Complaints Commission Act,[376] the PCC serves as Nigeria's ombudsman institution, charged with addressing administrative grievances and injustices suffered by citizens due to bureaucratic misconduct.[377] It investigates maladministration, delay, discrimination, and abuse of power within public and private bodies.

While the PCC is legally empowered to investigate and report on any administrative wrongs, its recommendations are non-binding and lack legal enforceability.[378] Furthermore, public awareness of its mandate remains low, and its interventions are often ignored by public institutions.

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[373] CFRN 1999, s 85(2)
[374] International Budget Partnership, 'Open Budget Survey: Nigeria 2021' https://internationalbudget.org accessed 1 July 2025
[375] Civil Society Legislative Advocacy Centre (CISLAC), 'Audit Report Review 2023' https://cislacnigeria.net accessed 1 July 2025
[376] Cap P37 LFN 2004
[377] Public Complaints Commission Act, Cap P37 LFN 2004, s 5
[378] Ibrahim A Aliyu, 'Administrative Justice in Nigeria: The Role of the Ombudsman' (2020) 11(1) UNIMAID Law Journal 101

Nonetheless, the Commission plays an essential role in bridging the accountability gap between citizens and government agencies.

4.2.6 National Human Rights Commission (NHRC)

The NHRC was established under the National Human Rights Commission Act[379] to promote and protect human rights in Nigeria. The 2010 amendment to the Act grants the NHRC quasi-judicial powers to summon witnesses, conduct public hearings, and award remedies for human rights violations.[380]

Although its primary focus is human rights, the NHRC contributes to transparency and accountability by scrutinising state abuses of power, particularly in law enforcement and military operations. The Commission's investigative role during the #EndSARS protests of 2020—where it compiled and reviewed complaints of police brutality—illustrates its importance in democratic accountability.[381] However, like other institutions, its independence is sometimes compromised by inadequate funding and executive interference.

4.2.7 Nigerian Financial Intelligence Unit (NFIU)

The NFIU, formerly a department within the EFCC, gained autonomy under the Nigerian Financial Intelligence Unit Act 2018 following Nigeria's temporary suspension from the Egmont Group in 2017.[382] As the country's financial intelligence agency, the NFIU is responsible for receiving, analysing, and disseminating financial intelligence to combat money laundering, terrorism financing, and illicit financial flows.

The NFIU has introduced several regulatory innovations aimed at enhancing financial transparency, including the mandatory implementation of the Treasury Single Account (TSA) and enhanced surveillance of local government allocations.[383] It also collaborates with international bodies such as the Financial Action Task Force (FATF) and INTERPOL, thus reinforcing Nigeria's anti-corruption regime within the global framework. Despite these achievements, the effectiveness

[379] Cap N46 LFN 2004
[380] National Human Rights Commission (Amendment) Act 2010, s 6
[381] NHRC, '#EndSARS Investigative Panel Report' (2021) https://nhrc.gov.ng accessed 2 July 2025
[382] Nigerian Financial Intelligence Unit Act 2018, s 1
[383] NFIU, 'Guidelines on Local Government Financial Autonomy 2019' https://nfiu.gov.ng accessed 2 July 2025

of the NFIU is still contingent on cooperation from enforcement bodies and the political will of the government.

5. Challenges to Transparency and Accountability in Nigeria

While Nigeria has developed a complex legal and institutional framework to support transparency and accountability, the system continues to be undermined by deep-rooted challenges. These impediments are not merely structural or administrative but reflect systemic dysfunctions rooted in political culture, legal inertia, and public disengagement.

5.1 Corruption and Political Impunity

Corruption remains the most persistent obstacle to transparency in Nigeria. Despite decades of anti-corruption reforms, empirical data from the Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices and Other Related Offences Commission (ICPC) reveal an alarming increase in public sector corruption. In its 2024 report, the EFCC disclosed that over ₦450 billion in public funds was either misappropriated or fraudulently diverted by senior public officials, with less than 40% recovered.[384] Similarly, the ICPC recorded 1,678 corruption-related petitions in 2024 alone, with only a fraction resulting in prosecution or conviction.[385]

Transparency International's 2024 Corruption Perceptions Index ranked Nigeria 146 out of 180 countries, scoring 25 out of 100, indicating widespread perception of official corruption.[386] Political impunity significantly exacerbates the problem. High-ranking officials implicated in financial crimes are rarely prosecuted to conclusion, often benefiting from plea bargains, judicial delays, or political interference. This culture of impunity undermines the rule of law and renders anti-corruption institutions ineffective, particularly when enforcement is perceived as selective or politically motivated.[387]

5.2 Weak Enforcement and Institutional Capture

A major barrier to accountability in Nigeria is the chronic weakness in enforcement mechanisms. While laws and regulations exist to sanction unethical conduct, enforcement is often ineffective or

[384] Economic and Financial Crimes Commission, *Annual Report 2024* (EFCC 2025) 34–36
[385] Independent Corrupt Practices and Other Related Offences Commission, *Annual Report 2024* (ICPC 2025) 21
[386] Transparency International, 'Corruption Perceptions Index 2024: Nigeria Country Report' https://www.transparency.org/en/cpi/2024/index/nga accessed 3 July 2025
[387] Ayo Obe, 'The Rule of Law and Political Impunity in Nigeria' (2023) 10(1) *African Journal of Legal Theory* 122

deliberately undermined. Regulatory agencies frequently lack the political backing, operational autonomy, and resources to carry out their mandates.[388] Many of these bodies operate under severe budgetary constraints, and their leadership is often appointed by the executive, raising concerns of political subservience.

Institutional capture—the process by which powerful interests exert undue influence over public bodies—has become a recurrent problem.[389] Agencies such as the EFCC and ICPC, though legally independent, have at various times been accused of being tools in the hands of ruling elites. The 2023 controversy involving the suspension of the EFCC Chairman over politically sensitive investigations exemplifies how institutional integrity can be compromised by partisan interests.[390] Such developments create a climate of uncertainty and further erode public confidence in oversight mechanisms.

5.3 Bureaucratic Secrecy and Poor Access to Information

The pervasive culture of bureaucratic secrecy significantly impedes transparency in Nigeria's public administration. Government Ministries, Departments, and Agencies (MDAs) routinely withhold information from the public under vague notions of "official confidentiality." This practice persists despite the enactment of the Freedom of Information Act 2011, which grants citizens the legal right to access public records.[391]

According to BudgIT's 2024 report on public financial disclosure, only 28% of MDAs fully complied with FOI requests, with over 60% either ignoring or denying such requests without lawful justification.[392] The refusal to provide budgetary and procurement information restricts citizens' ability to scrutinise public spending and limits investigative journalism and civil society

[388] Ukoha Ukiwo, 'Institutional Autonomy and Regulatory Capture in Nigeria's Anti-Corruption Regime' (2021) 5(2) *Journal of Public Integrity and Governance* 68
[389] Ibrahim A Aliyu, 'Anti-Corruption Bodies and the Problem of Institutional Capture in Nigeria' (2022) 17(4) *Nigerian Journal of Administrative Law* 101
[390] Daily Trust, 'Presidency Suspends EFCC Chairman Amid Investigation into High-Level Corruption Cases' (2023) https://dailytrust.com accessed 2 July 2025
[391] Freedom of Information Act 2011, s 1
[392] BudgIT, *Access to Public Information and Budget Transparency in Nigeria: 2024 Survey Report* https://yourbudgit.com accessed 2 July 2025

activism. Furthermore, the absence of centralised and digitised databases hinders transparency in sectors such as oil and gas, public contracts, and revenue allocation.[393]

5.4 Citizens' Apathy and Limited Civic Engagement

Transparency and accountability also depend on active civic engagement. However, widespread political apathy and disillusionment have created a passive citizenry. Public participation in governance is minimal, and the sense of ownership over democratic institutions is weak.[394] Although mechanisms such as town hall meetings, public hearings, and participatory budgeting exist in theory, they are often manipulated or rendered ineffective by tokenism.

Surveys by the Social and Economic Rights Accountability Project (SERAP) in 2024 show that only 16% of respondents had ever engaged a public institution through petitions, FOI requests, or community advocacy, citing fear of reprisal, lack of trust, and bureaucratic inefficiency as disincentives.[395] Whistleblower protection mechanisms, though statutorily established, remain largely ineffective in protecting informants from retaliation, further discouraging public accountability efforts.[396] Civic education remains poor, and digital literacy gaps continue to hinder youth and rural populations from engaging governance platforms.

6.1 Comparative Perspectives: Lessons from African Transparency Leaders

While Nigeria continues to struggle with entrenched corruption and institutional inefficiency, several African countries—particularly Rwanda, Botswana, and Ghana—have recorded notable progress in strengthening transparency and accountability through innovative legal, institutional, and political reforms. Comparing Nigeria's framework with these countries offers critical insights into what works within similar socio-political and economic contexts.

Rwanda

[393] Niyi Akinsiju, 'Open Data and the Fight for Transparency in Nigeria' (2024) 6(3) *West African Journal of Policy Analysis* 53

[394] Ibrahim Bello, 'Political Apathy and the Crisis of Accountability in Nigeria' (2023) 4(2) Civic Studies Quarterly 87

[395] SERAP, *Whistleblowing, Civic Engagement, and Accountability in Nigeria: National Survey Report 2024* https://serap-nigeria.org accessed 2 July 2025

[396] Olufemi Akinbami, 'Whistleblower Protection in Nigeria: Legal Challenges and Policy Gaps' (2022) 11(1) *Nigerian Law Review* 35

Rwanda's anti-corruption architecture is characterised by strong political will, rigorous institutional oversight, and a zero-tolerance policy against graft. According to Transparency International's 2024 Corruption Perceptions Index, Rwanda ranked 49th globally with a score of 53/100—the highest in Sub-Saharan Africa after Seychelles and Botswana.[397]

The Rwandan Office of the Ombudsman plays a central role in investigating public complaints, verifying asset declarations, and coordinating anti-corruption efforts across ministries.[398] Moreover, Rwanda's decentralised governance structure is supported by performance-based contracts (*Imihigo*), which link public officials' accountability to measurable deliverables.[399] Unlike Nigeria, where asset declaration is often treated as a routine formality, in Rwanda it is regularly audited and subject to public scrutiny.

Strengthening oversight bodies such as the Code of Conduct Bureau and ensuring effective monitoring of asset declarations, coupled with measurable performance targets, could significantly improve public sector accountability in Nigeria. Therefore, Nigeria should learn from the Rwanda in this aspect.

Botswana

Botswana is frequently cited as one of Africa's least corrupt nations, ranking 35th globally in the 2024 CPI with a score of 60/100.[400] Its success rests largely on the independence and professionalism of its anti-corruption agency—the Directorate on Corruption and Economic Crime (DCEC)—established in 1994. The DCEC operates free from executive interference, with statutory guarantees of autonomy and operational transparency.[401]

In addition to legal reforms, Botswana's judicial system enjoys relative independence and public confidence, which reinforces the enforcement of accountability measures. Civil servants are

[397] Transparency International, *Corruption Perceptions Index 2024: Global Ranking* https://transparency.org accessed 4 July 2025
[398] Office of the Ombudsman Rwanda, *Annual Report 2023* https://ombudsman.gov.rw accessed 4 July 2025
[399] The World Bank, *Public Sector Reform and Imihigo Performance Contracts in Rwanda* (2023) https://worldbank.org accessed 4 July 2025
[400] Directorate on Corruption and Economic Crime, *Strategic Plan 2022–2025* https://dcec.gov.bw accessed 4 July 2025
[401] Transparency International (n 52)

also subject to regular audits by the Office of the Auditor-General, and budgetary transparency is enhanced through public expenditure tracking.

Nigeria can learn from Bostwana experience. Botswana's experience shows the importance of granting full operational and financial independence to accountability institutions and depoliticising the judiciary and civil service.

Ghana

Ghana ranked 70th in the 2024 CPI with a score of 43/100, demonstrating steady, if modest, improvements.[402] The success of Ghana's accountability efforts lies in multi-agency collaboration and strong civil society engagement. The Commission on Human Rights and Administrative Justice (CHRAJ), the Economic and Organised Crime Office (EOCO), and the Auditor-General operate in tandem, with clear jurisdictional boundaries and inter-agency reporting mechanisms.

Ghana's Public Financial Management Act 2016 has also improved fiscal accountability by mandating timely budget reporting, independent audit reviews, and sanctions for financial misconduct. Civil society organisations such as IMANI and OccupyGhana play a critical role in demanding government transparency, often litigating to compel compliance with anti-corruption laws.[403] Nigeria can draw from Ghana's coordinated institutional framework and vibrant civic ecosystem to promote inclusive governance and strengthen public accountability mechanisms at all levels.

7. Findings

This paper has made the following findings;

1. Institutional Autonomy Remains Weak and Politically Vulnerable: Despite being constitutionally or statutorily established, most anti-corruption agencies in Nigeria remain structurally dependent on the executive for appointment, funding, and administrative decisions. This dependency undermines impartiality and fuels public perceptions of politically motivated prosecutions. The absence of a merit-based, transparent, and independent appointment process has

[402] Ghana Integrity Initiative, *Coordination in Ghana's Anti-Corruption Institutions* (2024) https://tighana.org accessed 4 July 2025

[403] OccupyGhana v Attorney-General (2021) Suit No. J1/13/2021 (Supreme Court of Ghana); see also IMANI Africa, *Civic Accountability Index 2023* https://imanighana.org accessed 4 July 2025

rendered oversight institutions vulnerable to capture and manipulation, particularly during election cycles and political transitions.

2. Transparency Laws Exist in Form, but Lack Enforcement in Practice: Although Nigeria has adopted landmark transparency legislation—including the Freedom of Information Act 2011, the Fiscal Responsibility Act 2007, and the Public Procurement Act 2007—implementation remains weak due to poor compliance monitoring, lack of sanctions for non-disclosure, and the absence of automated disclosure systems. Many public institutions routinely ignore FOI requests, refuse to publish audit reports, and operate in secrecy, despite legal obligations to the contrary.

3. Fragmented Institutional Mandates Have Led to Duplication and Weak Outcomes: The overlapping jurisdictions of the EFCC, ICPC, and CCB have created institutional rivalry and inefficiency. Instead of promoting synergy, this fragmentation has resulted in duplicated investigations, forum shopping, and inconsistent prosecutorial strategies. The absence of a harmonised national anti-corruption strategy has compounded these issues, allowing powerful actors to exploit jurisdictional loopholes and evade accountability.

4. Public Engagement in Accountability Processes Remains Limited and Unequal: Low levels of civic education, limited internet access, and fear of reprisal have restricted citizens' participation in oversight mechanisms. Whistleblower policies remain weakly institutionalised, and grassroots monitoring initiatives often lack the legal recognition and infrastructural support needed for sustained impact. Furthermore, urban-rural disparities in access to digital tools and data have reinforced governance inequalities and reduced the effectiveness of community-based accountability.

8. Conclusion

Transparency and accountability are essential pillars of democratic governance and sustainable development. In the Nigerian context, a range of legal and institutional mechanisms has been established to entrench these values, including constitutional provisions, anti-corruption laws, and specialised agencies such as the EFCC, ICPC, and Code of Conduct Bureau. However, the mere existence of legal frameworks and institutions has not translated into a culture of accountability or the systematic elimination of corruption.

The findings of this paper reveal that institutional performance is constrained by executive overreach, selective enforcement, weak civic oversight, and low digital capacity. Furthermore, bureaucratic opacity and non-compliance with disclosure laws continue to limit public access to essential information on budgetary processes and asset management. While international comparisons—especially with Rwanda, Botswana, and Ghana—highlight pathways for reform, they also underscore the necessity of strong political will, civic engagement, and operational independence for success.

Therefore, for Nigeria to transition from normative commitments to effective implementation, it must pursue a multi-pronged strategy. Legal frameworks must be updated and enforced; institutions must be structurally empowered; civic awareness must be increased; and digital governance tools must be expanded. Only through this integrated approach can Nigeria hope to foster a governance culture rooted in openness, ethics, and the rule of law.

9. Recommendations

The paper has made the following recommendations;

1. Reform Legal Frameworks to Guarantee Institutional Independence and Merit-Based Appointments: To strengthen institutional integrity, existing laws should be amended to shield key oversight agencies from political interference. This includes establishing independent appointment panels for heads of the EFCC, ICPC, and CCB, guaranteeing fixed tenures, and securing operational budgets through first-line charges on the Consolidated Revenue Fund. Legal safeguards against arbitrary dismissal must also be codified to insulate institutions from partisan pressure and ensure professionalism.

2. Enforce and Digitise Transparency Laws to Ensure Public Access to Information: The implementation of the Freedom of Information Act and related legislation should be backed by the creation of a national Compliance and Enforcement Agency empowered to monitor compliance and impose administrative sanctions for non-disclosure. All MDAs should be mandated to digitise their budgets, procurement records, and audit reports on centralised portals accessible to the public. Legal reforms should also make public access to such information a constitutional right enforceable by litigation.

3. Harmonise Anti-Corruption Mandates Under a Unified Coordination Framework: To resolve the problem of institutional overlap, Nigeria should adopt a National Anti-Corruption Coordination Law that assigns distinct and complementary mandates to existing agencies. A national anti-corruption coordination council, chaired by an independent official and composed of heads of relevant agencies, should be established to align investigative efforts, track prosecutions, and monitor institutional performance. This framework should be supported by an integrated case management database to promote accountability and reduce duplication.

4. Expand Civic and Digital Engagement Through Education, Inclusion, and Technology: Government, in partnership with civil society, should invest in large-scale civic education initiatives focusing on transparency, anti-corruption, and citizens' rights. Educational curricula at primary, secondary, and tertiary levels should integrate modules on governance and ethics. Additionally, digital inclusion strategies—such as community internet centres and mobile civic apps—should be expanded, especially in rural areas. E-governance tools should be linked to real-time reporting dashboards accessible to citizens for tracking public projects, budgets, and official performance.

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ASSESSMENT OF NIGERIA'S CAPACITY IN DEALING WITH ENVIRONMENTAL PROBLEMS THROUGH ENVIRONMENTAL POLICY

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ABSTRACT

The value of sustainable development is fundamental because it embodies a range of ideals and principles whose realisation is necessary to a green future. This is in view of the fact that, for more than six decades now, environmental issues such as the pollution of land, air and water have continue to endanger the ecosystems and public health. The called for swift global political commitment and actions especially at the level of individual national government in tackling the problems that have invariably led to water scarcity and depletion of other critical natural resources, such as forest and agricultural land among others have continued unabated. This study is primarily concerned with the examination of Nigeria's commitment in tackling the environmental issues facing Nigeria. In this study, the Institutional theory was employed in order to provide explanation and understanding of the issue under study. This study relied on the collection and utilization of secondary data. The study found out among others that corruption and lack of transparency at the higher levels of government as well as the centralised nature of Nigerian Federal system which is devoid of genuine decentralisation of power through devolution to the subnational units and nongovernmental bodies are largely responsible to the inability of the Nigerian government to tackle the perennial environmental problems. Thus, the study recommends among others that the higher levels of government particularly the Federal Government should try to understand that the solution to the perennial environmental problems bedeviling the country can mostly coming from collaborative governance rather from the perceived notion of government alone.

Key Terms: *Policy; Capacity; Environmental policy; Sustainable Development*

1.1 Introduction

The increasing human activities on the physical and biological systems of planet Earth have correspondingly increase carbon emissions which are linked to Earth warming and the impacts of which include rising oceans, flooded coastlines, changes to where and how we grow our crops, and changes in the ecology/ecosystem of the planet among others (Okechukwu, et.al, 2010). In view of the aforementioned issues, policy makers are being forced to focus on how to reduce or regulate human activities within their various jurisdictions. Thus, the responsibility of solving environmental problems is principally bestowed on those responsible for policy-making at every level of governance. The increasing attention being given to the environment is as a result of increased scientific evidences that presented and projected patterns of economic activities causing such severe environmental damage. It is important to note that, climate change is considered one of the most pressing dangers to the environment compare to other threats to biodiversity, food production from land and oceans as well as resource depletion that are also growing in significance (Stephen, 2010).

In the 1970s and 1980s, governments especially those of the economically developed countries (EDCs) created new institutions, such as Environmental Protection Bureaus, to resolve environmental problems. By the late 1980s, such institutions were nearly universal. Around the same time environmental movements were becoming more active and articulate in their pursuit of policy goals, and political parties devoted to environmental issues and environmentalist perspectives were forming and beginning to contest elections.

In Nigeria, the first National Policy on the environment was formulated in 1991. It was revised in 1999, and seventeen years down the lane, it is due for another revision in order to capture emerging environmental issues and concerns. Thus, the purpose of this National Policy on the Environment is to define a new holistic framework to guide the management of the environment and natural resources of the country. As a framework document, it prescribes sectoral and cross-sectoral strategic policy statements and actions for the management of the country's environment for sustainable development.

In addition to the existing 1991 and 1999 draft policy documents, this Policy derives its strength from the fundamental obligation for the protection of the environment as stated in Section 20 of the Constitution of the Federal Republic of Nigeria 1999 as amended, which provides that

the “State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria”. Also, Nigeria is party to several international treaties and conventions governing environmental issues. It is on the combined thrust of these instruments that the National Policy on the Environment rests.

However, despite the various policy frameworks been put in place in Nigeria, key environmental issues such as land degradation, deforestation as well as land, water and air pollution have continued to affect Land, being the most important resource necessary for subsistence and upon which the Nigerian economy partly rest on. Taken cognisance of the above, what are the issues affecting national policy frameworks from materializing in Nigeria? Thus, this study is geared towards examining the obstacles affecting genuine national policy formulation and implementation in Nigeria.

1.2 Conceptual Clarification

1.2.1 Conceptualizing Policy and Public Policy

As an approach to understanding political actions, public policy has many definitions as there are many policy issues. First and foremost, term ‘policy’ can be broadly defined as a proposed course of action of an individual, a group (an institution or government), to realize a specific objective or purpose; within a given environment. However, Presthus (1975) defined policy as a choice made by an individual or group of individuals that explains; justifies, guides, or outlines a certain course of action.

Nevertheless, Anderson (1975) defined public policy as a purposive course of action followed by an actor or set of actors in dealing with a problem or matter of concern. On the contrary, Dror (1974) defined public policy making as a dynamic process which decides major guidelines for action directed at the future, mainly by governmental organs. These guidelines (policies) are formally aim at achieving what is in the public interest by the best possible means.

The special characteristics of public policies stem from the fact that they are formulated by what David Easton has called the ‘authorities’ in a political system, ‘elders, chiefs, executives, legislators, judges, administrators, counselors, monarchs, and the like’. These are, according to David Easton (1965), the persons who engage in the daily affairs of a political system and are recognized by most members of the system as having responsibility for these matters and take

actions that are accepted as binding by most of the members so long as they act within the limits of their roles.

However, in this study, policy refers to set of principles and intentions used to guide decision-making. This definition can be meaningfully applied to each level of policy making, right from the individual state actor down to the United Nations. That is to say, it could be the intentions of any government to decrease environmental impact of waste disposal, where it is cost-effective to do so. Actions and targets resulting from this policy making might aim at minimising the amount of waste produced and/or to increase the recycling of certain materials in the domestic waste stream by a given amount over a specific time period (Jane, 2011).

1.2.2 Conceptualising Capacity

The term capacity is relatively new in the study of comparative politics; however, the concept is technically seen as power. In its most general sense, capacity is the power to effect outcomes. Thus, capacity is the power to cause or bring about actions or results. In the context of environmental policy and management, capacity refers to the power of a nation-state to bring about results such as to lower the rate of carbon dioxide emissions. Additionally, OECD defined capacity for environmental protection more broadly as a society's ability to identify and solve environmental problems (OECD, 1994). National capacity therefore means the ability to determine or influence the decisions, actions, or behavior of state officials as well as none state-officials who can influence environmental results.

1.2.3 Conceptualizing Environment

Before understanding the concept of environmental policy and the dire need for state actors or policy-makers to adhere to the principles of sustainability, it is important to know what they want to sustain and why they want to sustain it. First and foremost, the term ‘environment’ broadly refers to the whole of the natural world, from ecosystem to biosphere within which human beings and all other parts of the plant and animal world have their being (James & Graham, 2001). It is important to note that the human race or humanity is utterly dependent on the natural environment. All the things that they can see, touch, need or desire are either part of the environment or have been produced from resources that were extracted from the environment. People therefore use the environment to procure shelter, safety and artistic pleasure.

Conceptualising the environment in terms of its ability to service the humankind is an approach increasingly used by environmental policy makers. Attributes of the environment can be thought of as environmental capital, capable of providing the services that people can use. For instance, a river is environmental capital to the extent that it provides environmental services, such as water for irrigation and fish to be eaten. Without an environment capable of providing air, water and food, human beings could not even have evolved. Our evolution has therefore been greatly shaped by the environment and environmental change (Jane, 2011). Thus, the change in the environment is to a very large extent as a result of human activities on the physical and biological systems of planet Earth (Stephen, 2010).

1.2.4 Conceptualizing Environmental policy

First and foremost, before the 1960s, environmental policy making was primarily geared toward protecting human health from pollution and establishing designated areas of green space for leisure activities. These ends were mainly achieved by limiting pollution from sources such as factories and, establishing protected areas and national parks. But, the above old ways of thinking (such as pollution control) duly gave way to new ones (ecological modernization and sustainable development).

It is important to note that, for as long as humans have existed on planet Earth, they have sought to alter it to suit their purposes. In its most basic sense, environmental policy seeks to govern the relationship between humans and their natural environment. A relatively new area of state activity which has grown enormously, particularly since the 1960s. Indeed, its percentage and extent of growth has been such that it is no longer a small and fairly discrete or isolated area of policy but one that increasingly intrudes or encroaches into virtually all other policy areas.

Thus, the definition of environmental policy used in the course of this study is as follows - environmental policy is a set of principles and intentions used to guide decision making about human management of environmental capital and environmental services (Jane, 2011). Environmental policy can therefore be seen as the key to avoiding, solving or ameliorating environmental problems. By environmental problems, it can be seen as the environmental conditions that the public widely perceives to be unacceptable and therefore require government intervention.

Hence, an environmental problem can therefore be said to have arisen when the provision of environmental services is insufficient, either in quantity or in quality, to meet human needs (Jane, 2011). So, the purpose of environmental policy is to change human behaviour in order to make people act in the ways that do not generate environmental problems, or which generate problems of lesser significance than was previously the case. It is of course, far easier to describe the general aims of environmental policy than it is to design and implement a successful policy to solve a particular environmental problem (Jane, 2011).

1.2.5 Conceptualizing Sustainable development

The concept of Sustainable development has been conceived in different ways by scholars and policy-makers as well as United Nations Agency, depending on their outlook and experiences. First and foremost, it is important to note that the concept of sustainable development is fundamental because it embodies a range of ideals and principles whose realisation is necessary to a green future. Hence, the Brundtland Report, drew worldwide attention to the concept of sustainable development; by defining it as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (WCED, 1987). This has become a key defining objective of many environmental policies. Furthermore, Muschett (2009) considered sustainable development to mean economic development and a standard of living which do not impair the future ability of the environment to provide sustenance and life support for the population.

Sustainable development also means basing developmental and environmental policies on a comparison of costs and benefits and on careful economic analysis that will strengthen environmental protection and lead to rising and sustainable levels of welfare (World Bank, 2004). Thus, Sustainable development is an approach that will permit continuing improvements in the quality of life with a lower intensity of resource use, thereby leaving behind for future generations an undiminished or even enhanced stock of natural resources and other assets (Mohan & Ernst, 1991). Sustainable development involves a process of deep and profound change in the political, social, economic, institutional, and technological order, including redefinition of relations between developing and more developed countries (Maurice, 1992).

1.3 Theoretical Framework

1.3.1 Institutional Theory

Traditionally, this approach has been the basic analytical tool for studying the political activities of the government in political science. According to this view, public policies have their origin in governmental institutions such as legislatures, executives, courts, and political parties. A policy becomes a public policy, only when it is authoritatively determined by government institutions. Government gives legitimacy and universalistic character to a policy. Public policy is authoritatively determined, implemented, and enforced by government institutions. Thus, the relationship between public policy and government institutions is very close. Institutional approach is criticized for ignoring the living linkages between institutions and other stakeholders in the process of public policy formulation and implementation.

1.4 Research Methodology

First and foremost, comprehensive statistical data on the state of the Nigerian environment especially on implementation are not available because of a lack of coordination between the agencies responsible for information collection. Therefore, scholarly or academic research books and periodicals (journals) have proven to be very important sources of information for this study. This section therefore contains sources and method of data analysis. The secondary data for this study were collected through published sources.

The published sources of data are from various governments' gazettes or publications, reports and publications from international and regional organisations such as United Nation Organisation (UNO) and more fundamentally, academic research books, journals and, conference proceedings. In view of the aforementioned secondary sources of data, this study therefore relied and greatly use publish scholarly/academic research books, journals and, conference proceedings.

It is important to note that purposive sampling method was used in the course of selecting the aforementioned secondary sources of data for this study. This is because the idea is to pick out the sample literature in relation to some criteria such as Policy, Capacity, Environmental policy, Sustainable Development which are considered important for this particular study. The purposive sampling method is appropriate because this study places special emphasis upon certain specific variables such as Environmental policy as well as sourcing the best available sample group data or knowledge concerning the subject-matters of this research.

Accordingly, the reason why the study relied and utilised the published secondary sources of data was because of the fact that they were well research and thoroughly scrutinized by editorial

board or committee. Thus, data through the aforementioned sources were mostly gathered from the libraries, governments achieves as well as from online websites. Thus, the data collected from the aforementioned secondary sources were analysed through the use of content or thematic analysis.

1.4.1 Discussion

1.4.1.1 Nigerian National Capacity to Protect the Environment

Differences in values, organizations, and institutions help explain why some nation-states have stringent environmental protection regimes, which are effectively implemented, and others do not. In this Section, attempt was made to examine the "protective capacity" of the Nigerian government to deliver good environmental outcomes to the citizenry. This Section therefore begins with a question of who influences environmental outcomes in a nation like Nigeria. It also considers the pre-requisites for capacity-building and in particular, economic, human, and political resources. It also considers the way in which these resources influence the national administration.

1.4.1.2 Who Governs Environmental Outcomes in Nigeria?

A leading question in environmental politics and indeed in any policy sector, is *who* has the capacity to affect environmental policy? Political capacity is usually wielded by those who hold official positions in government. Government officials possess legal powers or authority to take certain actions and make decisions, but the extent of this official legal power differs from one political system to another. In democratic state like Nigeria, the President which is the chief executive enjoy statewide authority and can set the agenda for action on national environmental issues such as mining activities standards and, the President do not share his executive authority with legislative leadership, including chairs of environmental, budget-writing, and taxation committees. Also in Nigeria, judiciaries at both Federal and State levels do not have the independent powers to resolve environmental controversies. Unfortunately, in Nigerian federal system, State governors cannot take more antagonistic stance on environmental issues due to the nature of the constitutional provision which defined the federal government as the custodian of land in Nigeria.

In actual sense of it, the capacity to determine or influence governmental actions is confined to political office-holders only, with the business class (industrial sectors such as the

energy and chemical industries or the private sector as a whole), environmental organizations, the media, and other groups that are formally separated from the state-institutions may not have an extraordinary amount of control or influence over what the government at the Federal and State level does (or declines to do) regarding the environment. Despite the fact that environmental problems tend to have complex origins, which are not easily understood by lay persons, groups possessing specialized knowledge may have a great deal of influence over state policy, especially in drawing public attention to problems and in crafting both national and international mitigation/control or reduction strategies (Jerry & Jonathan, 2006).

1.4.1.3 Government Political Capacities

A number of political factors usually influence capacity-building in nations and chiefly among which is transparency. It is important to note that the extent or prevalence of corruption in Nigeria is at least partly a product of lack in transparency of its political processes and institutions. Today, corruption has already penetrated deeply into the bureaucracy, especially where there is a lack of a strong legal system and other institutions to keep government employees in check. Environmental protection policies typically affect business interests because they are particularly subject to the influence of corrupt dealings.

In addition, successive administrations are mostly left with both empty treasuries and high levels of external debt. They experience intense pressures to stimulate economic growth and return to creditworthiness as soon as possible. In line with the above claims, Fagbadebo (2007) argued that, at Federal, State, and Local Government levels, the people have as leaders that are uncommitted, selfish, money minded individuals who wage political and economic war against the exploited and oppressed masses while basic infrastructure in many parts of the country remains dilapidated.

The democracy embraced by Nigerians in 1999 has produced leaders who have blighted the lives of Nigerians. Corruption continues to grow and the abuse of public office for private gain, coupled with nepotism and bribery, has killed good governance. These corruption- enhancing factors vary from one culture to the other and from one political system to the other. One key point to note, however, is that it is possible to identify an act of corruption when it is perpetrated irrespective of cultural or political background. In the 1980s International Monetary Fund and World Bank structural adjustment programs encouraged highly indebted Less Developing

Countries (LDCs) particularly Nigeria to concentrate on resource extraction with little regard for the environmental consequences. Corruption and lack of transparency have not allowed subsequent policies and programs to be positively felt by the most vulnerable Nigerians (Jerry & Jonathan, 2006).

In Nigeria, intensive agricultural practices and industrialization have worsened the environment. For example, chemical and cement industry pollution coat the countryside with dust. Petroleum production —the motor of the economy since the 1970s —has devastated oil field areas. Wood is the dominant domestic fuel source, and indoor pollution is severe. Excessive wood cutting, infrastructure development, and industrial siting have nearly deforested the country. Heavy use of mineral fertilizers pollutes rural waters; garbage covers urban areas. Since independence from Britain in 1960, most Nigerian rulers have been of the military. Although Nigeria is a federal state, legislative powers of the State have been usurped by the center. Although Nigeria's oil wealth has quickened economic change, it also has corrupted political institutions and processes.

Environmental policy responds to internal pressures as well as to the ambition of leaders who seek to play a leading role in the African continent. The 1989 National Policy on the Environment was Africa's first, and Nigeria has signed more than 30 international environmental conventions (yet few have been ratified and even fewer implemented). Although the government published national development plans soon after independence, it did not establish a Federal Environmental Protection Agency (FEPA) until 1988 and did so then only because of the Koko episode (Italy's illegal dumping of 4,000 tons of industrial wastes). Prior to this, the only regularly implemented program was an environmental sanitation drill, which compelled citizens to clean their homes and working environments on the last Saturday of every month, from 7am to 10am (Jerry & Jonathan, 2006).

Legislation enacted after 1989 regulated sectors such as atmospheric pollution and hazardous wastes. The most comprehensive law is the Environmental Impact Assessment Decree of 1992. In general, policy is fragmented and uncoordinated; prevention, regulatory, and penal functions of States and Federal Governments are scattered among many different agencies. A new policy paradigm, developed with World Bank assistance, promoted an "anticipate-and-prevent strategy" for sustainable development; it emphasized strong support for incentives and other fiscal tools.

However, successive governments enact stringent environmental laws with no expectation that they will be enforced effectively, due to limited human and material resource capacities. Thus, a "persuasion through dialogue" policy was introduced in the early 1990s; it asks industries to report regularly on voluntary industrial pollution abatement measures. The government claims that its "polluter pays" principle is its underlying environmental policy, but this policy is ignored with respect to oil multinationals and domestic conglomerates.

Environmental NGOs can be said to have some influence, but Nigeria lacks a robust civil society that are able to monitor the governments and curb powerful economic interests. One emerging environmental pressure group is the occasionally violent Movement for the Survival of the Ogoni People, formed to seek compensation for oil exploitation of this region. Nigeria has more than two dozen urban-based environmental NGOs, partly penetrated by the elite and industry or influenced by multilateral donor agencies. Nigeria does have a long tradition of media involvement in environmental issues, notwithstanding strict press laws (Jerry & Jonathan, 2006).

Capacity-building activities in Nigeria include some efforts in training of environmental managers. The World Bank estimates that environmental deterioration causes health risks to 50 million Nigerians and expenditures of 3-20 percent of GDP. The governments allocate not up-to 20 percent of the federal budget to ameliorate environmental degradation caused by natural disasters unlike what is expended on the defense sector. Most funding for Federal and State environmental activities comes from international donor organizations.

Thus, at this juncture, it can be said with little or no doubt that Nigeria's capacity for environmental policy is limited by limited economic growth and political corruption, lack of transparency due to lack of freedom of information, dependency on international donor agencies, and the overly centralized and politicized bureaucracy. Furthermore, to a very large extent, Nigeria has been relying on imported technological expertise for industrial development and, Nigeria is highly porous to multinational corporations. Although global financial institutions have provided significant support to Nigerian development, this support (especially structural adjustment programs of the World Bank and IMF) has eroded the administrative basis for environmental policy (Jerry & Jonathan, 2006).

Nevertheless, a number of factors/issues that are external to the country can be said to be affecting national environmental policy making or national attempts to respond to the environment

and sustainable development agendas as well as the direction of environmental policy at a national level in Nigeria. These range from the nature of international agreements, regimes and organisations through to the activities of local NGOs.

However, national approaches still differ markedly in scope, effectiveness and approach. These differences can be explained by a number of factors, in particular the political culture of different nations – for instance, institutional arrangements, traditional approaches to policy formulation and implementation, party systems, the strength of different interest groups, and their access to policy networks. It is therefore worthy to reflect on some of these pressures as they are fundamental to understanding the development of pollution control policy and sustainability planning (James & Graham, 2001).

The growing number of international environmental agreements creates a framework within which national environmental policy is formulated. Some of these agreements are legally binding, forcing a national response on issues such as carbon dioxide emission reductions or endangered species protection. Of equal importance, the very existence of international environmental regimes structures the way that nations approach environmental policy. In a positive sense, such regimes can be understood as creating the conditions for social learning –they provide an opportunity for states to gather information about environmental problems and possible solutions. On a more negative note, this learning is often done within a limited understanding of the nature of environmental problems and sustainable development.

Typically, the prevailing economic orthodoxy is left unchallenged. Obviously not all international agreements and regimes result in positive environmental and developmental actions. Particularly for many Southern nations, attempts at developing effective environmental policies have often been overridden by the requirements of structural adjustment policies imposed by the IMF or the more immediate demands of widespread poverty and, in the extreme, famine and war. The new World Trade Organisation may also act against any unilateral national imposition of high environmental standards in the name of free market international competition (James & Graham, 2001).

Also of great importance is the status of the environment ministry itself. In many democracies particularly from the southern pole of the world, this ministry is not one of the more powerful departments, often lacking the economic power base which most politicians covet.

Where the ministry is weak, it is unlikely that the cross-departmental working relationships and decision-making processes, so necessary for sustainable development, will be in place. Also, many environment ministries are not solely environment-focused (James & Graham, 2001).

Additionally, a large number of central environmental institutions are responsible for policy development and implementation. This appears to be the product of elite preference for technical solutions to political problems (a practice dating from the colonial era), and secondly, elite inclinations to create institutions to satisfy material ambitions of egoistic individuals. The Nigeria government lacks sufficient power to hold strong and errant industrial enterprises accountable for environmental pollution as well as not allowing the public when it comes to environmental decision-making (Salau, 1997).

Additionally, according to Salau (1997), three factors can be said to have limit the capacity for environmental policy, and these are economic instability and dependency, the over-centralisation and the over-politicisation of the State's bureaucracy. The dependence of the Nigerian economy on oil has made it vulnerable to international market demand and prices. At the same time, about fifty percent (50%) of raw materials used in Nigerian industries have to be imported. The economic crisis has reduced the capacity to act. The overreliance of Nigeria on imported technological expertise for its industrial development has exacerbated the environmental problems and still stands in the way of effective environmental solutions.

Many exemptions from established regulations are possible. For instance, section 15 of the Environmental Impact Assessment Decree provides that projects could be exempted from EIA on the order of the President or the FEPA council when the environmental effects of the proposed projects are deemed to be minimal or the projects are to be executed during national emergency situations or when they are in the interests of public health and safety. This gives wide political discretionary powers that can be misused by executives to protect certain industrial polluters (Salau, 1997).

The Structural Adjustment Programme prescribed for Nigeria by the World Bank and the International Monetary Fund has done a great deal to erode the administrative basis of environmental policy. Nigeria (along with Guinea) has one of the highest percentages of retrenchment in West Africa. According to a report of the Economic Community of West African

States (ECOWAS), 156,550 or a retrenchment of 20% of the civil service work force has been registered for Nigeria between 1980 and 1990.

The government is using the instrument of in-service training which, as indicated, is being complemented by the NGOs to enhance the capacity of the civil service. The above-mentioned restrictions could thwart any advantage for the building up of an efficient administrative capacity by way of training. Lastly, the high level of politicisation and centralisation in the political system are other restrictions. The legacy of the past (Le. a centralist, overblown administrative structure) is being perpetuated (Salau, 1997).

It is also important to note that Local government reforms since 1976 have led to a change in the self-perception of government officials at local levels. Many local officials no more see their main functions as restricted to the maintenance of law and order but increasingly in the provision of local amenities. Lack of autonomy for governments at the grassroots level has destroyed the image of local institutions and strengthened the proneness of Nigeria's educated and economic elites to direct their demands to central government. It should be stressed that the local governments have not been able to satisfy the increasing political aspirations of the people. In fact, the local government actors are also not involved in the international discussion on the implementation of Agenda 21 agreed upon at the Rio Conference, as it is the case in the industrialised countries (Salau, 1997).

At this juncture, it is important to also note that a number of factors also influence the direction of environmental policy at a national level. These range from the nature of international agreements, regimes and organisations through to the activities of local NGOs. It is worth reflecting on some of these pressures as they are fundamental to understanding the development of pollution control policy and sustainability planning

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Obviously not all international agreements and regimes result in positive environmental and developmental actions. Particularly for many Southern nations, attempts at developing effective environmental policies have often been overridden by the requirements of structural adjustment policies imposed by the IMF or the more immediate demands of widespread poverty and, in the extreme famine and war. The new World Trade Organisation may also act against any unilateral national imposition of high environmental standards in the name of free-market international competition (James & Graham, 2001).

1.5 Policy Evaluation

A large number of central environmental institutions and regulations has sprung up in the last two decades. But Nigeria has yet to use exhaustively the opportunity given by its federal state structure to build an effective legal and administrative capacity for environmental protection. The absence of decentralisation and participation is a consequence of the political uncertainties and instability that have accompanied a long period of rule by the military which only sometimes played a modernising role. This has created a built-in limit on the capacity of the environmental institutions and has given rise to a situation where the involvement of affected citizens is no longer considered a prerequisite for viable environmental policy planning (Salau, 1997).

The dependence of state and local governments on federal government funding for the implementation of environmental measures has mounted, while the federal government's financial commitment to environmental issues has diminished as a result of the country's economic crisis. All efforts to build a viable environmental capacity in Nigeria will be fruitless unless emphasis is placed on the democratisation and deconcentration of the political and administrative institutions (Salau, 1997).

1.6 Findings

In view of the above examinations, the study found out among others that corruption and

lack of transparency at the higher levels of government as well as the centralised nature of Nigerian Federal system which is devoid of genuine decentralisation of power through devolution to the subnational units and nongovernmental bodies are largely responsible to the inability of the Nigerian State to tackle the perennial environmental problems bedeviling the country's pathway to sustainable development.

1.7 Conclusion

It can be said with little or no doubt that the subject-matter of sustainable development cannot really materialize due to the fact that it is obstacle to countries economic development and prosperity and, a common underlying feature of the political difficulty in achieving a global workable solution is the problem of collective action. This is because, paradoxically, it often seems that cooperation is least likely where those involved stand to lose most.

Down to the individual country, the capacity to protect their individual environment through national policy is invariably been overridden by the requirements of structural adjustment policies imposed by the IMF or the more immediate demands of widespread poverty and, in the extreme, famine and war. The new World Trade Organisation may also act against any unilateral national imposition of high environmental standards in the name of free market international competition as well as corruption and lack of transparency and, this is the case of Nigeria.

1.8 Recommendations

The study therefore recommends among others that the higher levels of government particularly the Federal Government should try to see the solution to the perennial environmental problems bedeviling the country coming from collaborative governance rather from the perceived notion of government alone. Also, achieving integrated pollution control is but one aspect of policy for sustainable development. Similarly, at a more strategic level, it is necessary to develop a coordinated strategy or plan that integrates national environmental, social and economic policy. Furthermore, the Nigeria's atmosphere needs to be protected from intensifying, widespread and multifarious agents of pollution.

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