

## NIGERIA LEGAL COUNTRY PROFILE

### LEGAL SYSTEM OVERVIEW

Nigeria has a mixed legal system comprising of English common law, Sharia and customary law. The 1999 Constitution, is the supreme law of Nigeria, prevailing over all other sources; Laws that are inconsistent with the Constitution are void as to the extent of the inconsistency.<sup>1</sup> Legislation is widely seen as being the secondary source of Nigerian Law, primarily at the federal level through the National Assembly, but also through state legislation. Alongside English common law, judicial precedents, predominantly from the Supreme Court, also form a key part of the legal system. Nevertheless, certain rulings and legislation are not universally and rigidly applied. Customary law is often applied for members of ethnic groups particularly concerning personal and family matters, whilst twelve northern states have introduced a Sharia legal system. The principal feature of this is the introduction of religious based criminal offences as well as punishments sanctioned by the Qur'an; the Supreme Court has yet to rule upon the constitutionality of these punishments.<sup>2</sup>

The independence of the judiciary is guaranteed by Chapter 2, 17.2e of the Nigerian Constitution.<sup>3</sup> The Nigerian court system consists of the Supreme Court, Court of Appeal, High Courts and Customary-Sharia courts of appeal and district courts, both state and customary. Appointments to the highest courts must be confirmed by the National Assembly. Nevertheless, branches of the government frequently interfere with the judiciary and the system is widely perceived to be understaffed, underfunded and inefficient. Judges have also appeared to be highly susceptible to bribery. However, few companies see Nigerian courts as a constraint to business and Nigeria is a member of the International Centre for Settlement of Investment Disputes, as well as a signatory of the 1958 New York Convention. Nigeria's Criminal Code criminalizes a wide range of corruption offences, but it is loosely enforced whilst the Independent Corrupt Practices Commission has been ineffective and has a severe lack of political support.

There are a number of major acts in Nigeria which relate to commercial life. Central is the Companies and Allied Matters Act 1990 which regulates the creation of companies and the Nigerian Investment Promotion Commission Act 2004 which permits foreign ownership in all industries except for a few particular sectors, such as oil, gas and private security.<sup>4</sup> A number of labours laws also exist, such as the Labour Act 1990, some of which apply to both foreign and Nigerian employees, whilst the Foreign Judgements Act makes conditional-based provisions for enforcing judgements in Nigeria which were given abroad. The Criminal Code 1990 and the Corrupt Practices and other Related Offences Act 2000 both provide a strong legal framework against corruption, but as previously mentioned anti-corruption measures are weakly enforced.<sup>5</sup>

Nigeria is a signatory of a number of international treaties. These include the Geneva Conventions, the United Nations Convention Against Corruption and the UN Framework Convention on Climate Change. Nigeria is also a member of a number of international organisations, including the Economic Community of West African States, African Union, World Trade Organisation, World Health Organisation and Organisation of Petroleum Exporting Countries. Nigeria's constitution enshrines

<sup>1</sup> [https://www.constituteproject.org/constitution/Nigeria\\_1999.pdf?lang=en](https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en).

<sup>2</sup> <http://www.nyulawglobal.org/globalex/Nigeria1.html#EnglishLaw>.

<sup>3</sup> [https://www.constituteproject.org/constitution/Nigeria\\_1999.pdf?lang=en](https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en).

<sup>4</sup> [https://uk.practicallaw.thomsonreuters.com/Document/I2ef129c11ed511e38578f7ccc38dcbee/View/FullText.html?transitionType=CategoryPageItem&contextData=\(sc.Default\)&navId=65AB59CDC2A5809E8650F7E9AC51B3C1&comp=pluk](https://uk.practicallaw.thomsonreuters.com/Document/I2ef129c11ed511e38578f7ccc38dcbee/View/FullText.html?transitionType=CategoryPageItem&contextData=(sc.Default)&navId=65AB59CDC2A5809E8650F7E9AC51B3C1&comp=pluk).

<sup>5</sup> <http://www.nigeria-law.org/Criminal%20Code%20Act-Tables.htm>; <http://www.nigeria-law.org/Corrupt%20Practices%20and%20Other%20Related%20Offences%20Act%202000.htm>.

Nigeria's 'respect for international law and treaty obligations', but also states that no treaty has the force of law unless enacted into domestic law.<sup>6</sup>

## BUSINESS SECTOR

The Nigerian economy is in severe need of reform. Mineral products, predominantly petroleum and petroleum gas, account for 94% of its exports, more than 70% of government revenue and 90% of its foreign exchange.<sup>7</sup> As such, the strength of Nigeria's economy is closely linked to the prices of its oil and gas on the world market. Corruption is also a serious problem within the economy, permeating through all sectors and particularly those relating to mineral extraction and transport. Neopatrimonialism, or prebendalism, is rife and officials regularly take payments or use their powers to enrich themselves and their clients. It has been estimated that without immediate action, corruption will cost Nigeria up to 37% of its GDP by 2030.<sup>8</sup>

Indeed, Nigeria is ranked 145 of 190 in the World Bank's Ease of Doing Business Index and 130 of 190 in the World Bank's Starting a Business Index.<sup>9</sup> Major obstacles to doing business in Nigeria include endemic corruption, the security situation, poor infrastructure, a lack of training schemes, foreign exchange restrictions and protectionist regulations, such as Nigerian Oil and Gas Industry Content Development Act 2010, which requires preference be given to Nigerian goods and services for all projects in Nigeria's oil and gas industries.<sup>10</sup>

Nevertheless, as Nigeria seeks to reform its economy, opportunities will open up, and numerous opportunities already exist. Nigeria has the world's tenth largest proven oil reserves, ninth largest proven gas reserves, numerous precious metal deposits, vast areas of arable land and a large, growing middle class.<sup>11</sup> As such, substantive opportunities exist in a number of sectors. Significant infrastructure developments have been planned in order to help develop public services, tourism and ease housing shortages, but Nigeria requires experienced project developers and construction equipment; improvements to the hydrocarbon sector are needed in order to make up production shortfalls in both oil and gas, and large-scale energy infrastructure projects such as the trans-Sahara pipeline are planned. Meanwhile, agriculture contributes over 42% of Nigeria's GDP but is largely subsistence farming, using manual labour, thus particular opportunities lie in supply of equipment, food processing and commercial farming. Further opportunities also exist in aviation, healthcare, vehicle and marine sectors.<sup>12</sup>

## SECURITY OVERVIEW

The security risk in Nigeria is changeable depending on geographic location. A number of Islamist groups operate in north-eastern Nigeria, including Boko Haram, Daesh West Africa and Ansaru who have undertaken attacks against a wide range of targets. The risk of violence is also high in the Niger Delta states, where a number of militant groups have long operated in protest of the uneven distribution of mineral rents. In particular, the Niger Delta Avengers, who in 2016 significantly disrupted the Delta's oil production, announced on 3 November the resumption of their attacks on

<sup>6</sup> [https://www.constituteproject.org/constitution/Nigeria\\_1999.pdf?lang=en](https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en).

<sup>7</sup> <https://atlas.media.mit.edu/en/profile/country/nga/>; <https://www.cfr.org/blog/trouble-oil-pipelines-nigeria>.

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/544604/PWC\\_REPORT\\_TRADE\\_AND\\_INVESTMENT\\_IN\\_NIGERIA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544604/PWC_REPORT_TRADE_AND_INVESTMENT_IN_NIGERIA.pdf).

<sup>9</sup> <http://www.doingbusiness.org/Rankings>.

<sup>10</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/572979/NIGERIAGuide2116.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/572979/NIGERIAGuide2116.pdf);

<https://www.export.gov/article?id=Nigeria-Market-Challenges>.

<sup>11</sup> <https://www.gov.uk/government/publications/overseas-business-risk-nigeria/overseas-business-risk-nigeria>.

<sup>12</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/572979/NIGERIAGuide2116.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/572979/NIGERIAGuide2116.pdf);

<https://www.export.gov/article?id=Nigeria-Market-Opportunities>.

energy infrastructure.<sup>13</sup> The threat of kidnap in both these areas is also high, particularly for foreigners who are perceived as wealthier, and in some cases the victims have been killed.

There are high levels of petty crime throughout the country, as well as violent crime such as armed robbery, mugging and car-jacking. This also extends in Nigeria's territorial waters, where piracy and armed robbery have occurred on the rivers of the Niger Delta and the wider Gulf of Guinea.<sup>14</sup>

Given the number of security risks, the security and defence industry is a best prospect sector for exports and investment. Currently US firms control over 60% of the market whilst Israeli and Chinese companies also have significant market share. In particular current demand is high for products relating to ordnance detection, intelligent and surveillance, cybersecurity as well as personal protection products and services.<sup>15</sup>

## COUNTRY OVERVIEW

The Federal Republic of Nigeria is situated in Western Africa, bordering Benin, Niger, Chad and Cameroon. Nigeria has a population of 190.63 million people, making it the seventh most populous nation in the world. Whilst the capital, Abuja, has a population of 2.44 million, Lagos is the largest urban area with a population of over 13 million inhabitants. Kano, Ibadan, Port Harcourt and Benin City also all have over a million denizens. English is the only official language although indigenous languages are widely spoken by their respective ethnic groups; the largest and most influential of these are the Hausa, Fulani, Yoruba, Igbo and Ijaw. The state is officially secular, although over 90% of the population are either Muslim or Christian.<sup>16</sup>

In relation to the political-economic situation and the current business climate, Nigeria is classed as a high-risk country.<sup>17</sup> The security situation varies geographically but there are significant threats posed in northern Nigeria by Islamist insurgents and in the Niger Delta states by militant groups.

Corruption is rife across Nigerian society and state. Nigeria is ranked as 136 of 179 in Transparency International's 2016 Corruption Index, as corrupt practices and neopatrimonialism are the norm across Nigeria's government, economy and society.<sup>18</sup> Nigeria's GDP is currently measured at US\$394.82 billion and has begun recovering from a recession in 2016 partly caused by low oil prices. The economic forecast for Nigeria is positive with low levels of growth. The official currency is the Naira.<sup>19</sup>

Nigeria is a federal presidential republic. Executive power rests with President Buhari, who is both head of government and chief of state. The President is elected every four years by absolute majority vote and the next Presidential election is scheduled for 19 February 2019. Legislative authority is held by the bicameral National Assembly which consists of the Senate and House of Representatives. Members serve four year terms and are elected by absolute majority vote in their respective constituencies; the next National Assembly elections are also scheduled for February 2019.<sup>20</sup> The last election in 2015 was widely seen as free and fair.

<sup>13</sup> <https://worldview.stratfor.com/article/nigeria-return-niger-delta-avengers>.

<sup>14</sup> <https://www.gov.uk/foreign-travel-advice/nigeria/safety-and-security>.

<sup>15</sup> <https://www.export.gov/article?id=Nigeria-Safety-and-Security>.

<sup>16</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>.

<sup>17</sup> <https://globaledege.msu.edu/countries/nigeria/risk>.

<sup>18</sup> [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016#table](https://www.transparency.org/news/feature/corruption_perceptions_index_2016#table).

<sup>19</sup> <http://www.imf.org/external/datamapper/NGDPD@WEO/NGA>.

<sup>20</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>.