



Energy Governance, Resource Control and Environmental Justice in Nigeria: Navigating the Complexities of Petroleum Federalism

Obu Samson Ugochukwu

Lecturer, College of Law, Joseph Ayo Babalola University, Ikeji-Arakeji, Osun State, Nigeria.

Email: suobu@jabu.edu.ng

ABSTRACT: *Nigeria's petroleum wealth has generated significant revenue while simultaneously producing profound governance challenges, environmental degradation, and social inequities. This paper examines the intricate relationship between energy governance structures, resource control debates, and environmental justice concerns within Nigeria's federal framework. Through critical analysis of constitutional provisions, legislative frameworks, and socio-political dynamics, this study reveals how centralized resource control mechanisms have perpetuated environmental injustice in oil-producing communities while enriching federal and state governments. The research explores the historical evolution of petroleum governance from colonial extraction patterns through post-independence nationalization to contemporary devolution pressures. It analyzes how the derivation principle, revenue allocation formulas, and fiscal federalism intersect with environmental degradation in the Niger Delta region. Furthermore, the paper examines community resistance movements, legislative responses including the Petroleum Industry Act 2021, and ongoing struggles for environmental remediation and sustainable development. The findings demonstrate that achieving environmental justice requires fundamental restructuring of governance frameworks to ensure meaningful participation of host communities in decision-making processes, equitable benefit distribution, and accountability for environmental harm. The study concludes that sustainable energy governance in Nigeria necessitates balancing national economic interests with local environmental rights and community development imperatives.*

KEYWORDS: *Energy Regulations, Resource Control, Environment, Petroleum, Nigeria.*

INTRODUCTION

Nigeria stands as Africa's largest petroleum producer and holds the continent's most substantial proven oil reserves, yet this natural resource abundance has paradoxically become both blessing and curse.¹ The discovery of commercial quantities of crude oil in Oloibiri, Bayelsa State in 1956 fundamentally transformed Nigeria's economic trajectory, political dynamics, and federal structure.² Petroleum revenues currently constitute approximately 90% of export

¹ Michael Watts, "Petro-Violence: Community, Extraction, and Political Ecology of a Mythic Commodity" in Nancy Lee Peluso and Michael Watts (eds), *Violent Environments* (Cornell University Press 2001) 189-212.

² Jędrzej George Frynas, *Oil in Nigeria: Conflict and Litigation between Oil Companies and Village Communities* (LIT Verlag 2000) 23.

earnings and over 50% of government revenue, making hydrocarbon resources central to national development discourse.³ The governance of Nigeria's petroleum resources operates within a highly centralized federal framework that concentrates ownership, control, and regulatory authority at the federal level while distributing environmental burdens disproportionately to host communities⁴This structural arrangement has precipitated decades of conflict between the federal government, state governments, multinational oil corporations, and local communities over questions of ownership, control, environmental protection, and equitable benefit distribution. The Niger Delta region, encompassing nine states and home to approximately 31 million people, bears the environmental and social costs of oil extraction while receiving what many consider inadequate compensation or developmental benefits.⁵

Environmental justice emerges as a critical lens through which to examine Nigeria's petroleum governance, as it foregrounds issues of equity, participation, and recognition in environmental decision-making and burden distribution.⁶ Oil extraction activities have generated extensive environmental degradation including oil spills, gas flaring, water pollution, soil contamination, and ecosystem destruction, profoundly impacting the health, livelihoods, and cultural practices of Niger Delta communities.⁷ The environmental consequences of petroleum production disproportionately affect marginalized populations who possess limited political power to influence governance decisions or secure remediation for environmental harm.

This paper examines the complex intersections between energy governance structures, resource control debates, and environmental justice concerns in Nigeria. It analyzes how constitutional provisions, legislative frameworks, and political economy dynamics shape petroleum governance while perpetuating environmental injustice. The study explores historical evolution, contemporary challenges, community resistance movements, and potential pathways toward more equitable and sustainable energy governance arrangements.

CONCEPTUAL FRAMEWORK AND THEORETICAL FOUNDATIONS

Energy Governance

Energy governance encompasses the institutional arrangements, policy frameworks, regulatory mechanisms, and decision-making processes through which societies organize energy production, distribution, and consumption.⁸ In petroleum-dependent states like Nigeria, energy governance extends beyond technical regulation to encompass fundamental questions of ownership, sovereignty, fiscal arrangements, and political economy. Effective energy governance requires balancing multiple objectives including energy security, economic development, environmental sustainability, and social equity.⁹

³ Nigerian National Petroleum Corporation, Annual Statistical Bulletin (NNPC 2022) 15-18.

⁴ Kaniye Ebeku, "Constitutional Right to a Healthy Environment and Human Rights Approaches to Environmental Protection in Nigeria: Gbemre v. Shell Revisited" (2007) 16(3) Review of European Community & International Environmental Law 312-320.

⁵ United Nations Development Programme, Niger Delta Human Development Report (UNDP 2006) 9-15.

⁶ David Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature* (Oxford University Press 2007) 12-25.

⁷ Ike Okonta and Oronto Douglas, *Where Vultures Feast: Shell, Human Rights, and Oil in the Niger Delta* (Sierra Club Books 2001) 45-67

⁸ Benjamin Sovacool and Michael Dworkin, "Energy Justice: Conceptual Insights and Practical Applications" (2015) 142 Applied Energy 435-444.

⁹ Andreas Goldthau and Jan Martin Witte (eds), *Global Energy Governance: The New Rules of the Game* (Brookings Institution Press 2010) 6-12.

The concept of petroleum federalism describes governance arrangements in federal systems where subnational units possess petroleum resources but face tensions with central governments over control and revenue allocation.¹⁰ Nigeria's petroleum federalism reflects colonial legacies, post-independence centralization, and ongoing contestations between federal supremacy and regional autonomy. Understanding these dynamics requires examining constitutional provisions, revenue allocation mechanisms, and the political economy of oil extraction.

Resource Control

Resource control in the Nigerian context refers to debates surrounding ownership, management, and revenue distribution from natural resources, particularly petroleum.¹¹ These debates invoke constitutional interpretation, principles of fiscal federalism, derivation formulas, and questions of indigenous rights. Proponents of greater resource control argue that resource-producing states and communities should exercise substantial ownership rights and receive larger revenue shares, while opponents emphasize national unity and equitable distribution across Nigeria's diverse regions.¹²

The derivation principle, which allocates specified percentages of revenues from natural resources to states of origin, represents a central mechanism through which resource control debates manifest in practice.¹³ Historical fluctuations in derivation percentages from 50% in early independence to as low as 1% during military rule and the current 13% reflect shifting power dynamics and contested visions of federalism.

Environmental Justice

Environmental justice emerged as both analytical framework and social movement addressing the disproportionate distribution of environmental burdens across racial, ethnic, and socioeconomic groups.¹⁴ The concept encompasses three dimensions: distributive justice concerning fair allocation of environmental benefits and harms; procedural justice regarding participation in environmental decision-making; and recognition justice addressing respect for diverse communities, knowledge systems, and cultural practices.¹⁵

In Nigeria's Niger Delta, environmental justice concerns manifest through multiple intersecting inequities. Communities bearing extraction burdens receive minimal compensation while experiencing severe health impacts, livelihood disruption, and cultural degradation.¹⁶ Procedural exclusion from governance decisions compounds distributive inequities, as multinational corporations and government agencies make critical choices affecting local environments without meaningful community participation or consent. Recognition injustice

¹⁰ Pauline Jones Luong and Erika Weinthal, *Oil Is Not a Curse: Ownership Structure and Institutions in Soviet Successor States* (Cambridge University Press 2010) 34-56.

¹¹ Eghosa Osaghae, "The Federal Imperative and Resource Control Question in Nigeria" in Victor Adetula (ed), *African Conflicts, Development and Regional Organisations in the Post-Cold War International System* (AFSTRAG 2005) 87-102.

¹² Rotimi Suberu, "The Struggle for New States in Nigeria, 1976-1990" (1991) 90(499) *African Affairs* 499-517.

¹³ Uche Ewelukwa, "Revenue Allocation and the Derivation Principle: Analysis of Developments in Nigeria's Fiscal Federalism" (2010) 2(1) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 89-107.

¹⁴ Robert Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality* (3rd edn, Westview Press 2000) 3-18.

¹⁵ David Schlosberg, "Reconceiving Environmental Justice: Global Movements and Political Theories" (2004) 13(3) *Environmental Politics* 517-540.

¹⁶ Onyeka Osuoka, "Oil and Gas Revenues and Development Challenges for the Niger Delta and Nigeria" in Cyril Obi and Siri Aas Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-Violence* (Zed Books 2011) 84-98.

occurs through dismissal of indigenous environmental knowledge, devaluation of local livelihoods, and cultural disruption from petroleum activities.¹⁷

HISTORICAL EVOLUTION OF PETROLEUM GOVERNANCE IN NIGERIA

Colonial Foundations and Early Independence (1914-1966)

The foundations of Nigeria's contemporary petroleum governance emerged during British colonial administration when mineral rights were vested in the Crown through the Mineral Oils Ordinance of 1914.¹⁸ This colonial legal framework centralized resource control with the colonial state while denying indigenous communities ownership rights over subterranean resources beneath their lands. The ordinance established precedents for centralized petroleum governance that persisted through independence and military rule.

Following independence in 1960, the 1960 and 1963 constitutions maintained regional control over natural resources while implementing derivation-based revenue allocation that returned 50% of revenues to regions of origin.¹⁹ This arrangement supported regional autonomy and provided substantial resources to the Eastern Region following petroleum discoveries. However, petroleum production remained modest during this period, and regional control would soon face challenges from centralizing forces.

Centralization Under Military Rule (1967-1999)

The Nigerian Civil War and subsequent military governments fundamentally restructured petroleum governance toward greater centralization. The Petroleum Decree of 1969 vested ownership of petroleum resources in the federal government, establishing the legal foundation for federal supremacy over oil and gas.²⁰ This centralization accelerated through subsequent legislation including the creation of the Nigerian National Oil Corporation in 1971, later transformed into the Nigerian National Petroleum Corporation in 1977.²¹

Military governments progressively reduced derivation percentages from 50% at independence to 45% in 1970, 20% in 1975, 2% in 1982, and merely 1% by 1984, dramatically shifting revenue allocation toward the federal government and non-producing states.²² This centralization occurred alongside petroleum production increases that elevated oil revenues as the dominant source of government income, intensifying competition over resource control.

The Land Use Act of 1978 further consolidated federal control by vesting land ownership in state governors holding land in trust, effectively extinguishing indigenous land rights and facilitating petroleum extraction without robust community consent mechanisms.²³ This legal framework created structural conditions enabling environmental degradation while limiting community remedies or participation in governance decisions.

¹⁷Jedrzej George Frynas, "Political Instability and Business: Focus on Shell in Nigeria" (1998) 19(4) Third World Quarterly 457-478.

¹⁸Kaniye Ebeku, "Oil and the Niger Delta People: The Injustice of the Land Use Act" (2001) 35(2) *Verfassung und Recht in Übersee* 205-229.

¹⁹Rotimi Suberu, *Federalism and Ethnic Conflict in Nigeria* (United States Institute of Peace Press 2001) 45-52.

²⁰Petroleum Decree No 51 of 1969.

²¹Cyril Obi, "Oil as the 'Curse' of Conflict in Africa: Peering through the Smoke and Mirrors" (2010) 37(4) *Review of African Political Economy* 483-495.

²²Rotimi Suberu, "Revenue Allocation and Public Policy" in Keith Panter-Brick (ed), *Soldiers and Oil: The Political Transformation of Nigeria* (Frank Cass 1978) 315-337.

²³Land Use Act, Cap L5, Laws of the Federation of Nigeria 2004.

Democratic Transition and Constitutional Provisions (1999-Present)

Nigeria's return to democratic governance in 1999 produced constitutional provisions attempting to balance federal control with regional interests. Section 44 (3) of the 1999 Constitution vests petroleum ownership in the federal government while Section 162(2) mandates 13% derivation to states of origin.²⁴ This compromise reflected political negotiations between Niger Delta representatives demanding greater resource control and other regions supporting federal retention.

The 13% derivation represents substantial increase from 1% under military rule yet remains far below the 50% of early independence, generating continuing dissatisfaction among oil-producing states and communities.²⁵ Furthermore, derivation revenues accrue to state governments rather than directly to affected communities, creating additional layers of governance challenges regarding equitable distribution and local development.

INSTITUTIONAL ARCHITECTURE OF PETROLEUM GOVERNANCE

Federal Government Agencies and Regulatory Bodies

Nigeria's petroleum governance involves multiple federal agencies with overlapping responsibilities creating complex institutional arrangements. The Nigerian National Petroleum Corporation functions as state oil company responsible for petroleum exploration, production, and marketing while also serving regulatory functions.²⁶ This dual role as commercial entity and regulator generates conflicts of interest and accountability challenges.

The Department of Petroleum Resources within the Ministry of Petroleum Resources exercises regulatory oversight over petroleum operations, issuing licenses and monitoring compliance with technical and environmental standards.²⁷ However, regulatory capacity constraints, funding limitations, and political interference often undermine effective oversight. The National Oil Spill Detection and Response Agency manage oil spill response but faces similar resource and capacity constraints limiting its effectiveness.²⁸

The Petroleum Industry Act 2021 restructured this institutional landscape by establishing the Nigerian Upstream Petroleum Regulatory Commission and Nigerian Midstream and Downstream Petroleum Regulatory Authority to separate regulatory and commercial functions.²⁹ This reform aims to improve governance transparency and regulatory effectiveness, though implementation challenges persist.

State Governments and Derivation Revenue

State governments in oil-producing regions occupy ambiguous positions within petroleum governance structures. While constitutional provisions grant states 13% derivation revenue, states lack regulatory authority over petroleum operations occurring within their territories.

²⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended).

²⁵ Ibaba Samuel Ibaba, "Understanding the Niger Delta Crisis: Towards Poverty Reduction and Sustainable Development Paradigm" (2011) 3 (1) African Journal of Political Science and International Relations 87-98.

²⁶ Wumi Iledare and Rotimi Suberu, "Oil and Gas Resources" in Paul Collier, Chukwuma Soludo and Catherine Pattillo (eds), *Economic Policy Options for a Prosperous Nigeria* (Palgrave Macmillan 2008) 131-158.

²⁷ Augustine Ikein, Dauda Alamieyeseigha and Steve Azaiki, *Oil, Democracy, and the Promise of True Federalism in Nigeria* (University Press of America 2008) 78-92.

²⁸ National Oil Spill Detection and Response Agency Act, 2006.

²⁹ Petroleum Industry Act 2021, Sections 4-29.

This arrangement creates situations where states receive revenue from activities they cannot effectively regulate or control, limiting accountability mechanisms.³⁰

Derivation revenue management reveals significant governance challenges. Several oil-producing states demonstrate limited development outcomes despite substantial derivation revenues, raising questions about effective utilization, corruption, and elite capture.³¹ The absence of mandatory requirements for states to allocate derivation percentages to affected communities enables state governments to utilize these resources without direct local benefit.

Community Participation and Host Community Development

Community participation in petroleum governance remains fundamentally inadequate despite rhetoric emphasizing stakeholder engagement. Legal frameworks provide minimal mechanisms for community consent, participation in licensing decisions, or meaningful involvement in environmental impact assessments.³² Oil companies negotiate memoranda of understanding with communities, but these arrangements often favor corporate interests while lacking enforceability mechanisms or independent oversight.³³

The Petroleum Industry Act 2021 established the Host Community Development Trust requiring operating companies to contribute 3% of actual operating expenditure for host community development.³⁴ This provision represents significant policy innovation, though implementation faces challenges including trust governance structures, fund management transparency, and ensuring benefits reach intended beneficiaries rather than community elites.

ENVIRONMENTAL DEGRADATION AND JUSTICE DEFICITS

Scale and Nature of Environmental Impacts

Environmental degradation in the Niger Delta has reached catastrophic proportions through decades of petroleum extraction. The United Nations Environment Programme documented extensive contamination in Ogoniland requiring comprehensive cleanup estimated at USD 1 billion over 25-30 years.³⁵ Oil spills, both from operational failures and sabotage, release thousands of barrels annually, contaminating water sources, agricultural lands, and aquatic ecosystems.³⁶ Gas flaring represents another severe environmental impact, with Nigeria historically ranking among global leaders in gas flaring despite legal prohibitions. Gas flaring releases greenhouse gases contributing to climate change while generating local air pollution, acid rain, and respiratory health problems for nearby communities. The practice continues despite technological alternatives and legal requirements for gas utilization, reflecting governance failures and inadequate enforcement.³⁷

³⁰ Ukoha Ukiwo, "The Nigerian State, Oil and the Niger Delta Crisis" in Cyril Obi and Siri Aas Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-Violence* (Zed Books 2011) 17-27.

³¹ Aaron Weah, "Oil and the State in Nigeria's Third Republic" (2008) 1(1) *African Renaissance* 143-159.

³² Godwin Ojo, "Environmental Justice and the Extractive Industry in Nigeria" in Marcos Orellana, Attiya Waris and Chito Trindade (eds), *Extractive Industries and Human Rights in an Era of Global Justice* (Cambridge University Press 2021) 298-315.

³³ Uwafiokun Idemudia, "Oil Extraction and Poverty Reduction in the Niger Delta: A Critical Examination of Partnership Initiatives" (2009) 48(3) *Journal of Business Ethics* 437-464.

³⁴ Petroleum Industry Act 2021, Section 257.

³⁵ United Nations Environment Programme, *Environmental Assessment of Ogoniland* (UNEP 2011) 9-12.

³⁶ Amnesty International, *Bad Information: Oil Spill Investigations in the Niger Delta* (Amnesty International 2013) 18-34.

³⁷ Richard Steiner, "Double Standard: Shell Practices in Nigeria Compared with International Standards to Prevent and Control Pipeline Oil Spills and the Deepwater Horizon Oil Spill" (*Friends of the Earth Netherlands* 2010) 23-28.

Water and soil contamination from petroleum activities severely impacts traditional livelihoods including fishing and farming that sustain Niger Delta communities.³⁸ Ecosystem destruction undermines biodiversity, degrades mangrove forests, and disrupts ecological services upon which communities depend. Health impacts include increased cancer rates, respiratory diseases, reproductive health problems, and reduced life expectancy in heavily impacted areas.³⁹

Distributive Environmental Justice Concerns

Distributive environmental injustice manifests through the concentration of extraction burdens on Niger Delta communities while benefits flow primarily to federal government, international corporations, and non-producing regions.⁴⁰ Communities endure environmental degradation, health impacts, and livelihood disruption while infrastructure, employment, and development investments remain inadequate. This inequitable distribution reflects power imbalances wherein marginalized communities lack political influence to resist extraction or demand equitable compensation.⁴¹

Compensation mechanisms for environmental damage prove grossly inadequate. Legal frameworks establish minimal liability standards, lengthy judicial processes discourage litigation, and successful claims often yield insufficient damages to address actual harm or enable remediation.⁴² Furthermore, compensation typically goes to communities collectively rather than individuals, creating distribution challenges and potential for elite capture.

Procedural Justice and Participation Deficits

Procedural environmental injustice occurs through systematic exclusion of affected communities from decision-making processes concerning petroleum operations. Environmental impact assessment processes often constitute perfunctory exercises with minimal community input rather than genuine participatory mechanisms.⁴³ Communities learn of extraction projects after approvals rather than participating in initial decisions about whether, where, and how extraction should occur. Free, prior, and informed consent principles remain largely unimplemented in Nigeria's petroleum sector despite international standards emphasizing indigenous peoples' rights to consent to development projects affecting their territories.⁴⁴ The absence of robust consent mechanisms reflects broader governance deficits wherein community voices carry minimal weight against corporate and state interests prioritizing revenue generation.

³⁸Nenibarini Zabbey, "Persistent Petroleum Contamination in the Niger Delta: Implications for Ecosystems and Human Health" (2015) 21 *Journal of Environmental Sciences* 125-138.

³⁹Augustine Awiri and Enyeribe Alalibo, "Cancer Incidence in the Niger Delta" (2006) 19(1) *Nigerian Journal of Medicine* 94-98.

⁴⁰Terisa Turner and Leigh Brownhill, "Why Women Are at War with Chevron: Nigerian Subsistence Struggles Against the International Oil Industry" (2004) 27(1) *Journal of Asian and African Studies*, 63-93.

⁴¹Dimieari Von Kemedi, "Community Conflicts in the Niger Delta: Petro-Weapon or Policy Failure?" (2003) 18, *Berkeley Journal of African-American Law & Policy*, 86-107.

⁴²Tade Oludayo Olawoyin, "Legal and Institutional Framework for Oil Pollution in Nigeria: A Case Study of the Bonga Oil Spill" (2013) 7(3) *Journal of African Law* 413-435.

⁴³Uwem Ite, "Changing Times and Strategies: Shell's Contribution to Sustainable Community Development in the Niger Delta, Nigeria" (2007) 16(1) *Sustainable Development*, 1-14.

⁴⁴Felix Morka, "A Place at the Table: The Human Right to Water and Sanitation in Nigeria" (2007) 10(2) *Yale Human Rights and Development Law Journal* 35-68.

Recognition Justice and Cultural Dimensions

Recognition injustice manifests through dismissal of Niger Delta communities' cultural practices, indigenous knowledge systems, and spiritual connections to affected lands and waters.⁴⁵ Petroleum extraction disrupts sacred sites, traditional fishing grounds, and agricultural lands possessing deep cultural significance beyond their economic value. Environmental impact assessments and compensation schemes typically fail to account for these cultural dimensions, reflecting Western-centric valuation frameworks that privilege monetary calculations over cultural and spiritual values.

COMMUNITY RESISTANCE AND MOBILIZATION*Historical Movements and Ogoni Struggle*

Community resistance against petroleum extraction injustices possesses deep historical roots in the Niger Delta. The Movement for the Survival of the Ogoni People emerged in the 1990s under Ken Saro-Wiwa's leadership, mobilizing approximately 300,000 Ogoni people against Shell's environmental destruction and demanding political autonomy, environmental cleanup, and economic justice.⁴⁶ The Ogoni Bill of Rights articulated clear demands for resource control, environmental protection, and political participation that influenced subsequent movements.⁴⁷

The Nigerian military government's brutal suppression of Ogoni activism, culminating in Ken Saro-Wiwa's execution in 1995, internationalized Niger Delta struggles while demonstrating state willingness to employ violence defending petroleum interests.⁴⁸ The Ogoni struggle's legacy continues shaping contemporary activism and highlighting connections between environmental justice, human rights, and political autonomy.

Armed Militancy and Resource Control Struggles

The late 1990s and 2000s witnessed escalation from nonviolent protest toward armed militancy as groups like the Movement for the Emancipation of the Niger Delta engaged in violence, kidnapping, and petroleum infrastructure attacks.⁴⁹ While armed groups articulated grievances concerning resource control, environmental degradation, and marginalization, militancy also involved criminal dimensions including oil bunkering and ransom kidnapping complicating simplistic characterizations.⁵⁰

The Federal Government's amnesty program initiated in 2009 reduced violence by offering financial incentives and rehabilitation to militants surrendering weapons.⁵¹ However, the program addressed symptoms rather than underlying grievances, leaving fundamental resource

⁴⁵ Etiosa Uyigue and Matthew Agho, "Coping with Climate Change and Environmental Degradation in the Niger Delta of Southern Nigeria" (Community Research and Development Centre 2007) 15-23.

⁴⁶ Ken Saro-Wiwa, *Genocide in Nigeria: The Ogoni Tragedy* (Saros International Publishers 1992) 45-78.

⁴⁷ Movement for the Survival of the Ogoni People, *Ogoni Bill of Rights* (MOSOP 1990).

⁴⁸ Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities* (Human Rights Watch 1999) 89-112.

⁴⁹ Cyril Obi, "Enter the Dragon? Chinese Oil Companies and Resistance in the Niger Delta" (2010) 37(1) *Review of African Political Economy* 5-22.

⁵⁰ Elias Courson, "MEND: Political Marginalization, Repression, and Petro-Insurgency in the Niger Delta" (2011) 110(3) *African Security Review* 59-73.

⁵¹ Ibaba Samuel Ibaba, "Amnesty and Peace-Building in the Niger Delta: Addressing the Frustration-Aggression Trap" (2011) 13(2) *African Journal on Conflict Resolution*, 39-64.

control and environmental justice questions unresolved. Periodic violence resurgence demonstrates that without substantive governance reforms, temporary peace remains fragile.

Women's Activism and Nonviolent Resistance

Women's movements constitute vital components of Niger Delta resistance employing nonviolent tactics including occupations, demonstrations, and negotiations. The Escravos women's protest in 2002 saw hundreds of women occupy ChevronTexaco facilities demanding employment, infrastructure, and development projects.⁵² Women's activism leverages cultural practices and gender dynamics while addressing specific impacts of petroleum extraction on women including sexual violence, household disruption, and livelihood destruction.⁵³

LEGISLATIVE RESPONSES AND POLICY REFORMS

The Petroleum Industry Act 2021

The Petroleum Industry Act represents Nigeria's most comprehensive petroleum sector reform, consolidating fragmented legislation while addressing governance deficiencies.⁵⁴ Key provisions include institutional restructuring separating regulatory and commercial functions, fiscal framework reforms, and the Host Community Development Trust requiring companies to contribute 3% of operating expenditure toward community development.⁵⁵

However, the Act faces criticisms including inadequate derivation increases, insufficient community participation mechanisms, and limited environmental protection provisions.⁵⁶ Critics argue that fundamental resource control questions remain unaddressed while corporate interests receive greater consideration than community rights. Implementation challenges including regulatory capacity, political will, and enforcement resources may further limit the Act's transformative potential.

Environmental Legislation and Regulatory Frameworks

Nigeria's environmental regulatory framework includes the Federal Environmental Protection Agency Act, Environmental Impact Assessment Act, and various regulations addressing pollution control and environmental management.⁵⁷ However, enforcement remains weak due to inadequate funding, limited technical capacity, corruption, and political interference privileging petroleum production over environmental protection.⁵⁸

The National Oil Spill Contingency Plan provides frameworks for spill response and cleanup but implementation reveals significant gaps. Response times often exceed acceptable standards, cleanup quality proves inadequate, and affected communities lack meaningful participation in remediation processes.⁵⁹ Regulatory agencies frequently rely on oil company

⁵² Judith Burdin Asuni, "Understanding the Armed Groups of the Niger Delta" (Council on Foreign Relations Working Paper 2009) 8-15.

⁵³ Omotola SS, "Fighting the Niger Delta Insurgency: The United States Options" (2010) 53 Africa Today 3-22.

⁵⁴ Petroleum Industry Act 2021.

⁵⁵ Petroleum Industry Act 2021, Sections 257-264.

⁵⁶ Omolade Adunbi, "Beyond Expectations: The Limits of Nigeria's Petroleum Industry Act" (2022) 59(1) African Spectrum 88-104.

⁵⁷ Federal Environmental Protection Agency Act Cap F10, LFN 2004; Environmental Impact Assessment Act Cap E12, LFN 2004.

⁵⁸ Lanre Adewole Akintola, "Environmental Governance in Nigeria's Oil Industry: A Critical Analysis" (2014) 8(2) Environmental Policy and Law 145-159.

⁵⁹ Uwafiokun Idemudia and Uwem Ite, "Corporate-Community Relations in Nigeria's Oil Industry: Challenges and Imperatives" (2006) 13(3) Corporate Social Responsibility and Environmental Management 194-206.

self-reporting rather than independent verification, enabling underreporting of spill volumes and environmental damage.

Judicial Interventions and Litigation

Nigerian courts have occasionally advanced environmental justice through progressive judgments. The landmark case of *Gbemre v. Shell Petroleum Development Company* declared gas flaring unconstitutional as violating rights to life and dignity, though enforcement remains incomplete.⁶⁰ Other cases have established corporate liability for environmental damage, though remedies often prove inadequate and lengthy judicial processes discourage litigation.⁶¹ International litigation provides alternative forums for accountability. Cases brought against Shell in Dutch and English courts regarding Niger Delta operations demonstrate how transnational litigation can circumvent domestic accountability deficits, though jurisdictional challenges and resource requirements limit accessibility for most affected communities.⁶²

CONTEMPORARY CHALLENGES AND EMERGING ISSUES

Climate Change and Energy Transition

Global climate change imperatives and energy transition toward renewable sources present both opportunities and challenges for Nigeria's petroleum-dependent economy and environmental justice in the Niger Delta.⁶³ Declining global oil demand could reduce extraction pressures while simultaneously threatening revenue streams upon which Nigeria depends. Energy transition must address historical environmental injustices while ensuring affected communities participate in and benefit from transition processes rather than bearing additional burdens.⁶⁴

Just transition frameworks emphasize the need for equitable approaches that support workers and communities dependent on fossil fuel industries during transition periods.⁶⁵ For Nigeria, this requires investment in renewable energy infrastructure, economic diversification in oil-producing regions, and addressing legacy environmental damage before petroleum revenues decline further.

Corruption and Governance Deficits

Corruption permeates Nigeria's petroleum sector from licensing processes through revenue management to environmental regulation.⁶⁶ The Nigeria Extractive Industries Transparency Initiative documents billions of dollars in unremitted revenues, though accountability mechanisms remain weak.⁶⁷ Corruption undermines environmental protection by enabling regulatory capture where companies avoid compliance through bribery while also diverting resources that could support community development or environmental remediation.

⁶⁰ *Gbemre v. Shell Petroleum Development Company Nigeria Limited and Others* (2005) AHRLR 151 (NgHC 2005).

⁶¹ *Shell Petroleum Development Company of Nigeria Ltd v. Isaiah* (2001) 11 NWLR (Pt. 725) 168.

⁶² *Akpan v. Royal Dutch Shell Plc* [2017] EWHC 89 (TCC); *Milieudéfensie v. Royal Dutch Shell*, District Court of The Hague, 26 May 2021.

⁶³ Matthew Abutu, "Nigeria's Energy Transition: Challenges and Opportunities for Sustainable Development" (2022) 15(4) *Journal of Energy in Southern Africa* 78-92.

⁶⁴ Olufunso Somorin et al., "The Congo Basin Forests in a Changing Climate: Policy Discourses on Adaptation and Mitigation" (2012) 22(2) *Global Environmental Change* 288-298.

⁶⁵ Benjamin Sovacool and Michael Brisbois, "Elite Power in Low-Carbon Transitions: A Critical and Interdisciplinary Review" (2019) 39, *Energy Research & Social Science*, 76-89.

⁶⁶ Michael Watts, "Sweet and Sour: The Curse of Oil in the Niger Delta" (2007) 30(1) *Curse of the Black Gold: 50 Years of Oil in the Niger Delta* 37-66.

⁶⁷ Nigeria Extractive Industries Transparency Initiative, NEITI Oil and Gas Industry Audit Report 2019 (NEITI 2021) 45-78.

Elite capture operates at multiple governance levels. At federal and state levels, petroleum revenues enrich political elites while failing to generate broad-based development.⁶⁸ Within communities, traditional leaders and youth groups sometimes monopolize compensation payments or memoranda of understanding benefits, excluding marginalized populations including women and vulnerable groups.⁶⁹ Addressing corruption requires strengthening transparency mechanisms, empowering civil society oversight, and ensuring accountability for misappropriation.

Multinational Corporations and Corporate Social Responsibility

Multinational oil corporations including Shell, ExxonMobil, Chevron, Total, and others maintain dominant positions in Nigeria's petroleum sector through joint venture arrangements with the Nigerian National Petroleum Corporation.⁷⁰ Corporate practices significantly influence environmental outcomes, community relations, and governance dynamics. While companies implement corporate social responsibility programs including community development projects, critics argue these initiatives constitute inadequate responses to environmental damage while serving primarily as reputation management tools.⁷¹

Debates continue regarding appropriate standards for corporate conduct. International human rights frameworks increasingly emphasize corporate responsibilities to respect human rights and environmental standards, yet enforcement mechanisms remain weak particularly in contexts like Nigeria where state regulatory capacity proves limited.⁷² Voluntary initiatives and self-regulation have produced modest improvements but fall short of ensuring accountability or preventing environmental harm.

PATHWAYS TOWARD ENVIRONMENTAL JUSTICE AND SUSTAINABLE GOVERNANCE

Constitutional Reform and True Federalism

Fundamental governance reforms require constitutional amendments addressing resource control and fiscal federalism. Proposals for "true federalism" or restructuring emphasize devolving greater powers to states including enhanced resource control authority.⁷³ Increasing derivation percentages beyond the current 13% would provide oil-producing states with greater revenues, though this must be coupled with mechanisms ensuring funds reach affected communities rather than enriching state-level elites.

Alternative proposals suggest creating dedicated funds for environmental remediation and sustainable development in oil-producing communities financed through petroleum revenues

⁶⁸Peter Lewis, "From Prebendalism to Predation: The Political Economy of Decline in Nigeria" (1996) 34(1) *Journal of Modern African Studies* 79-103.

⁶⁹Uwafiokun Idemudia, "Corporate Social Responsibility and Developing Countries: Moving the Critical CSR Research Agenda in Africa Forward" (2011) 35(2) *Progress in Development Studies* 1-18.

⁷⁰Jedrzej George Frynas, "Corporate and State Responses to Anti-Oil Protests in the Niger Delta" (2001) 100(398) *African Affairs* 27-54.

⁷¹Uwafiokun Idemudia and Uwem Ite, "Demystifying the Niger Delta Conflict: Towards an Integrated Explanation" (2006) 34(3) *Review of African Political Economy* 391-406.

⁷²Surya Deva and David Bilchitz (eds), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013) 156-178.

⁷³The Patriots, "Restructuring Nigeria: A Citizen's Perspective" (2021) Policy Brief, Nigeria Governance Forum.

or special levies.⁷⁴ Such mechanisms should operate with transparent governance, community participation, and independent oversight preventing corruption or elite capture.

Strengthening Community Participation and Rights

Meaningful environmental justice requires transforming community roles from passive recipients of impacts to active participants in governance decisions. Implementing free, prior, and informed consent principles would empower communities to influence whether, where, and how petroleum extraction occurs within their territories.⁷⁵ This requires legal reforms recognizing community rights alongside capacity building enabling communities to engage effectively with technical information and negotiate from positions of relative strength.

Establishing community environmental monitors with legal authority and resources to conduct independent inspections would strengthen accountability while building local capacity.⁷⁶ Community-based monitoring programs have demonstrated effectiveness in other contexts and could supplement weak government regulatory capacity while empowering communities as environmental stewards.

Environmental Remediation and Restoration

Addressing legacy environmental damage requires comprehensive cleanup initiatives backed by adequate funding and political commitment. The United Nations Environment Programme's recommendations for Ogoniland remediation provide a blueprint that should be expanded throughout affected Niger Delta regions.⁷⁷ Cleanup efforts must prioritize community needs, employ local workers where possible, and maintain high technical standards ensuring genuine restoration rather than cosmetic improvements. Establishing dedicated environmental restoration funds financed through petroleum revenues, corporate contributions, or international support could provide sustained resources for long-term remediation efforts.⁷⁸ Such funds should operate independently with community representation in governance structures and transparent reporting mechanisms.

Economic Diversification and Sustainable Development

Reducing petroleum dependency requires deliberate economic diversification strategies that create alternative livelihoods in oil-producing regions. Investment in agriculture, renewable energy, education, and small enterprise development could reduce community vulnerability to extraction impacts while building more resilient local economies.⁷⁹ Diversification must avoid reproducing patterns of elite capture or environmental degradation that characterize petroleum extraction. Sustainable development approaches should emphasize community ownership and participation ensuring that development initiatives reflect local priorities rather than external impositions. This includes respecting and building upon indigenous knowledge systems that have sustained communities for generations before petroleum extraction disrupted traditional practices.

⁷⁴ Kaniye Ebeku, "The Right to a Satisfactory Environment and the African Commission" (2003) 3(1) African Human Rights Law Journal 149-166.

⁷⁵ Damilola Olawuyi, *The Principles of Nigerian Environmental Law* (Afe Babalola University Press 2015) 234-256.

⁷⁶ Aaron Weah, "Hopes and Uncertainties: Nigeria's Petroleum Industry Bill" (2012) Social Science Research Network Working Paper Series 12-25.

⁷⁷ United Nations Environment Programme, *Environmental Assessment of Ogoniland* (UNEP 2011) 189-204.

⁷⁸ Godwin Ojo, "Environmental Justice, Communities and Oil Corporations: A Research-Based Intervention Strategy" in Marcos Orellana et al. (eds), *Extractive Industries and Human Rights* (Cambridge University Press 2021) 312-328.

⁷⁹ Augustine Ikein, *The Impact of Oil on a Developing Country: The Case of Nigeria* (Praeger 1990) 145-167.

Regional and International Cooperation

Environmental justice in Nigeria's petroleum sector benefits from regional and international engagement. Regional bodies including the Economic Community of West African States could facilitate knowledge sharing, harmonize environmental standards, and support accountability mechanisms across member states facing similar extractive industry challenges. International human rights mechanisms provide forums for documenting violations and generating pressure for reform even when domestic accountability proves elusive. Transnational advocacy networks connecting Nigerian civil society organizations with international environmental justice movements amplify community voices and mobilize external support for reform efforts. However, international engagement must avoid neocolonial dynamics whereby external actors impose solutions without respecting local agency and self-determination.

CONCLUSION

Energy governance, resource control, and environmental justice in Nigeria represent deeply interconnected challenges requiring comprehensive reforms addressing structural inequities embedded in constitutional arrangements, institutional frameworks, and political economy dynamics. Decades of centralized petroleum governance have enriched federal coffers and multinational corporations while imposing severe environmental and social costs on Niger Delta communities who bear extraction burdens without commensurate benefits or meaningful participation in governance decisions. Achieving environmental justice necessitates fundamental restructuring beyond incremental reforms. This includes constitutional amendments increasing derivation percentages and devolving greater resource control to states and communities; strengthening community participation through free, prior, and informed consent mechanisms; comprehensively addressing environmental remediation and restoration; diversifying local economies to reduce petroleum dependency; and ensuring accountability for corporate and government actors whose practices generate environmental harm. The Petroleum Industry Act 2021 represents progress yet falls short of transformative change required to address historical injustices and create sustainable governance arrangements. Host community development provisions could generate meaningful benefits if implemented transparently with genuine community participation, but fundamental resource control questions remain contested.

Climate change and global energy transition create both opportunities and risks for Nigeria. Declining petroleum demand threatens revenue streams while potentially reducing extraction pressures, but transition must address historical environmental damage and ensure affected communities participate in and benefit from new economic arrangements rather than facing abandonment as petroleum becomes stranded assets. Community resistance movements demonstrate persistent demands for justice, dignity, and self-determination in the face of environmental destruction and political marginalization. From nonviolent Ogoni activism through women's occupations to contemporary civil society advocacy, Niger Delta communities continue asserting their rights to clean environments, sustainable livelihoods, and meaningful participation in decisions affecting their territories. These movements provide moral foundation and political pressure driving governance reforms even when government and corporate actors resist change.

Ultimately, environmental justice in Nigeria's petroleum sector requires recognizing that energy resources beneath Niger Delta lands belong not merely to the federal government or

multinational corporations but to communities who have inhabited these territories for generations. Governance arrangements must reflect this reality through mechanisms ensuring community consent, equitable benefit sharing, environmental protection, and accountability for harm. Without such fundamental restructuring, petroleum extraction will continue perpetuating environmental injustice, social conflict, and unsustainable development trajectories that benefit few while imposing costs on the most vulnerable. The path forward demands political will, institutional capacity, adequate resources, and sustained commitment from government, corporations, civil society, and international actors. Most critically, it requires centering the voices, knowledge, and agency of affected communities who must be recognized not as passive victims or obstacles to extraction but as rights-holders, environmental stewards, and legitimate authorities over their territories and futures.

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