OIL AND OPPRESSION: A CRITICAL LEGAL STUDIES APPROACH TO INDIGENOUS RIGHTS IN OIL RICH REGIONS IN NIGERIA

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NOVEMBER 2025

CERTIFICATION

I, **Ehimeme Francess AKHIGBE**, with Matriculation Number **LAW2006579,** hereby certify that apart from references made to the works of other people which have been duly acknowledged herein, this entire project is the product of my personal research, and it has neither in part nor in whole been presented for another degree elsewhere.

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APPROVAL

We certify that this project was written and completed by **Ehimeme Francess AKHIGBE**, with Matriculation Number **LAW2006579,** in partial fulfillment of the requirements for the award of a Bachelor of Laws (LL.B) degree.

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DEDICATION

This research work is dedicated, first and foremost, to Almighty God, whose grace, wisdom, and unwavering presence have sustained me throughout the course of my academic journey. His guidance has been my anchor and the source of every strength that brought this work to completion.

I also dedicate this project to myself. It stands as a testament to my resilience, determination, and the many sacrifices made along the way. This work reflects my growth, discipline, and commitment to pursuing excellence.

With deep appreciation, I dedicate this work to my family, whose constant love, support, and encouragement formed the foundation upon which my academic achievements were built. Their belief in my potential has been a continuous source of motivation.

Finally, this project is dedicated to the academic community, whose knowledge systems, intellectual engagements, and learning environment have shaped my understanding and contributed immeasurably to my development as a scholar.

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LIST OF ABBREVIATIONS

CLS	Critical Legal Studies
FPIC	Free, Prior, and Informed Consent
ICCPR	International Covenant on Civil and Political Rights
LFN	Laws of Federation of Nigeria
MNCs	Multinational Corporations
NDDB	Niger Delta Development Board
NDDC	Niger Delta Development Commission
NDRBA	Niger Delta River Basin Authority
NESREA	National Environmental Standards and Regulations Enforcement Agency (Establishment) Act
NNOC	Nigerian National Oil Corporation
NNPC	Nigerian National Petroleum Corporation
NOSDRA	National Oil Spill Detection and Response Agency
OMPADEC	Oil Mineral Producing Areas Development Commission
OPC	Oil Producing Communities
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

ABSTRACT

This study critically examines the rights of Nigeria's oil producing communities (OPCs), particularly those in the Niger Delta, within the framework of international law, domestic legal regimes, and Critical Legal Studies (CLS). It interrogates the historical, socio-economic, and environmental conditions surrounding oil extraction and highlights how colonial-era governance structures established patterns of dispossession that continue to shape contemporary resource governance. The research demonstrates that although Niger Delta communities satisfy internationally recognized criteria for indigeneity such as historical continuity, distinct cultural institutions, and a profound connection to ancestral lands they lack formal recognition under Nigerian law, leaving them vulnerable to systemic marginalization. Through an assessment of national laws, including the Constitution, Petroleum Act, Minerals and Mining Act, NESREA Act, EIA Act, and institutional mechanisms such as the NDDC, NOSDRA, and NNPC, the study reveals pervasive enforcement gaps, weak regulatory oversight, and structural biases that favor state and corporate interests over community rights. The study further explores Nigeria's partial engagement with international instruments such as ILO Conventions and UNDRIP, showing how the absence of domestication limits their practical utility. A comparative review of Canadian jurisprudence illustrates how constitutional recognition and judicial activism can strengthen indigenous rights and resource governance. The study concludes that the Niger Delta's plight reflects deep rooted legal and structural injustices embedded within Nigeria's resource control framework. It calls for comprehensive reforms, including legal recognition of indigenous status, stronger environmental safeguards, mandatory Free, Prior and Informed Consent (FPIC), institutional restructuring, and alignment with international standards to ensure environmental justice, equitable development, and protection of indigenous rights.

CHAPTER ONE
GENERAL INTRODUCTION

1.1 INTRODUCTION

The intersection of oil extraction and Indigenous rights has emerged as a critical area of study within the framework of Critical Legal Studies (CLS), highlighting the systemic oppression faced by Indigenous communities in oil rich regions. This discourse encompasses the historical exploitation of natural resources, the profound environmental degradation resulting from oil extraction, and the legal struggles of Indigenous peoples to assert their rights to ancestral lands and resources. The ongoing conflicts are not only environmental but also deeply cultural, as the encroachment of oil operations disrupts traditional livelihoods and communal ties, leading to displacement and cultural erosion. The legal frameworks designed to protect Indigenous rights often fall short in practice, with communities frequently having to navigate biased legal systems that favor corporate interests over their inherent rights[1]. These complexities reveal a broader narrative of environmental injustice, wherein Indigenous populations are disproportionately affected by health crises and loss of subsistence practices due to pollution and ecological disruption stemming from oil activities[2]. Notably, the resistance efforts of Indigenous communities underscore a movement toward reclaiming agency and advocating for legal reforms that prioritize their rights. The discourse surrounding oil extraction and Indigenous rights serves as a lens to examine the intersections of law, power, and social justice, emphasizing the necessity of reinterpreting legal frameworks to genuinely protect the rights of marginalized populations. As global advocacy efforts continue to support Indigenous resistance movements, the ongoing struggle against the exploitation of

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[1] Tom Flanagan, 'First Nations ownership in smaller-scale energy projects key to success' (2021) <https://www.fraserinstitute.org/studies/first-nations-and-petroleum-industry-conflict-cooperation> accessed 22nd September 2025.

[2] EVH Carlson, 'Indigenous Communities Versus Oil Companies: Identifying Trends in T ends in Tactics and Success of Indigenous-Led Anti-P actics and Success of Indigenous-Led Anti-Petroleum Movements in the Ecuadorian Amazon' *Independent Study Project (ISP) Collection* (2020) <https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=4346&context=isp_collection> accessed 22nd September 2025.

oil resources remains a poignant example of the challenges faced by Indigenous communities in asserting their rights and preserving their cultural identities amidst relentless industrial pressure[3].

1.2 BACKGROUND TO THE STUDY

The historical context of oil extraction and its impact on indigenous rights in Nigeria is deeply rooted in the colonial and post-colonial governance structures. Before British colonial rule, the political landscape in the Niger Delta was characterized by communalism, where relations between communities were generally peaceful, despite occasional territorial disputes. However, the advent of British colonial governance disrupted these traditional institutions, leading to the consolidation of diverse ethnic groups under a centralized authority, which was primarily designed to facilitate resource exploitation[4]. The colonial government granted monopolies on oil exploration to British firms, thereby establishing a pattern of dispossession that marginalized local communities[5]. This trend continued into the late 20th century when military rulers in Nigeria nationalized oil ownership, further stripping local populations of control over their land and resources. The political elite that emerged during and after decolonization largely remained loyal to British interests, perpetuating a system that prioritized wealth accumulation for a select few at the expense of indigenous communities[6]. The struggles of the Ogoni people, a prominent ethnic group in the Niger Delta, epitomize the ongoing fight for recognition and rights in the face of environmental degradation and economic exclusion due to oil extraction. Their resistance against multinational oil

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[3] Business Bliss Consultants FZE, 'Critical Legal Studies' <https://www.lawteacher.net/free-law-essays/constitutional-law/critical-legal-studies-analysis.php?vref=1> accessed 22 September 2025.

[4] Jennie Persson, 'Increasing Economic Opportunity for Residents in the Niger Delta: A Problem-Driven Political Economy Analysis' <https://www.iar-gwu.org/print-archive/fj8yy35dkvsh543lfuslvxionpq5q0> accessed 22 September 2025.

[5] EO Popoola, 'Moving the Battlefields: Foreign Jurisdictions and Environmental Justice in Nigeria' (2017) <https://items.ssrc.org/just-environments/moving-the-battlefields-foreign-jurisdictions-and-environmental-justice-in-nigeria/> accessed 22 September 2025.

[6] IP Ugwu, 'The Doctrine of Discovery and Rule of Capture: Re-Examining the Ownership and Management of Oil Rights of Nigeria's Indigenous Peoples' (2023) <https://journals.umcs.pl/sil/article/view/13808> accessed 22 September 2025.

corporations has highlighted the broader issues of marginalization faced by indigenous communities throughout Nigeria, where the extraction of natural resources has often led to severe socio-economic and environmental challenges[7]. As international oil companies expanded their operations in the Niger Delta, the initial promise of economic development often gave way to significant environmental damage and social disruption. Although some of these companies engaged in community development projects, the benefits have frequently failed to reach the majority of the local population, exacerbating feelings of injustice and oppression among indigenous groups. This historical narrative underscores the complex interplay between resource extraction, indigenous rights, and the enduring legacy of colonialism in Nigeria's oil-rich regions.

1.3 STATEMENT OF THE PROBLEM

This research addresses the complex array of legal, social, and economic issues confronting the Oil Producing Communities (OPCs) in the Niger Delta region of Nigeria. Fundamentally, the problem arises from environmental degradation and the systematic deprivation of the rights of these communities due to oil exploration and production by Multinational Corporations (MNCs) and government policies. The legal issues include inadequate recognition and protection of indigenous rights under both international and domestic law, the problematic application of state sovereignty over natural resources, and the non-ratification of key international legal instruments such as the ILO Conventions (No. 107 and 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) by Nigeria. Socially, the communities face marginalization, dispossession, cultural disintegration, and political under representation despite being the original inhabitants of oil-rich lands.

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[7] AC Nkem and others, 'Economic exclusion and the health and wellbeing impacts of the oil industry in the Niger Delta region: a qualitative study of Ogoni experiences' *Int J Equity Health* (2024) <https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-024-02248-7> accessed 22 September 2025.

Economically, the OPCs bear the brunt of oil-related environmental harm without equitable compensation or development benefits, fostering poverty and social unrest.

Thus, the issues which this study seeks to address are:

i. To what extent do Nigerian oil-producing communities qualify as indigenous peoples under international law?

ii. How do international legal frameworks and domestic Nigerian laws interact in protecting the rights of OPCs?

iii. What obligations do multinational oil companies and the Nigerian government have toward these communities?

iv. How does the failure to obtain Free, Prior, and Informed Consent (FPIC) exacerbate rights violations?

v. What mechanisms exist or are necessary to ensure environmental protection, compensation, and participation of OPCs in decisions affecting their lands?

vi. The problem is entrenched in the tension between state sovereignty, economic interests in oil exploitation, and the human rights of indigenous populations, exacerbated by weak enforcement and political will.

1.4 AIM AND OBJECTIVES OF THE STUDY

The aim of the study is to critically analyze the rights of Nigerian oil producing communities under international law.

The following are the objectives of this essay:

i. Examine the indigenous concept and its applicability to Nigerian OPCs within international legal doctrines and jurisprudence.

ii. Assess the extent of Nigeria's compliance with international human rights instruments pertinent to indigenous and environmental rights.

iii. Analyze the scope and limitations of Nigerian domestic laws, including the Land Use Act and Petroleum Act, in protecting land and resource rights.

iv. Evaluate the role and responsibilities of MNCs operating in Nigeria in ensuring environmental stewardship and community participation.

v. Investigate the implementation and challenges associated with the principles of Free, Prior, and Informed Consent (FPIC) in oil-producing communities.

vi. Develop recommendations to policymakers, legal practitioners, and community stakeholders for improving protection and enforcement of OPC rights.

1.5 SCOPE AND LIMITATIONS OF THE STUDY

The study focuses on the indigenous rights of oil-producing communities in Nigeria, with particular attention to the Niger Delta region, the epicenter of oil exploration and production activities. Geographically, the scope encompasses communities directly impacted by extraction operations and the territorial frameworks governed by Nigerian federal and state laws. The research examines international legal instruments, such as ILO Conventions, UNDRIP, the African Charter on Human and Peoples Rights, and related case law while situating these within Nigeria's ratification status and application.

Limitations include the non-ratification of critical international indigenous rights instruments by Nigeria, which restricts direct enforceability and shapes the incorporation mechanisms of these norms into domestic law. Further, empirical data limitations arise from the lack of transparent government and corporate disclosures on environmental and compensation practices. The political sensitivity of resource control and indigenous claims in Nigeria also pose challenges in accessing unbiased information and may inhibit community participation in research. Methodologically, the study is constrained by reliance on secondary legal sources, international law interpretations, and documented case law rather than extensive primary fieldwork.

1.6 SIGNIFICANCE OF THE STUDY

This study holds significant value for multiple stakeholders. For policy makers, it provides a detailed, legal and socio-economic analysis necessary to reform laws and policies governing indigenous and resource rights in Nigeria, thus enabling more sustainable and equitable development. Legal practitioners and human rights advocates benefit from a nuanced elucidation of international and domestic legal intersections and enforcement gaps, equipping them to better protect OPCs' rights through litigation or advocacy.

For the indigenous communities themselves, particularly the OPCs, the study clarifies their rights under international law and domestic statutes, empowering them with knowledge to assert claims, engage in consultations, and demand transparency from the government and MNCs. Furthermore, it highlights the crucial role of Free, Prior, and Informed Consent (FPIC), which, if effectively implemented, can curb exploitative practices and environmental harm.

Academically, the study bridges critical gaps in indigenous rights scholarship related to African contexts, which depart from Western notions of indigeneity, and offers a contextually relevant, interdisciplinary analysis integrating law, socio-economics, and environmental studies. The comprehensive review of judicial decisions and international doctrines also contributes to jurisprudence discourse on indigenous rights, sovereignty, and resource governance in developing countries, particularly resource-dependent states like Nigeria.

Ultimately, this study advances both theoretical understanding and practical frameworks essential for reconciling state sovereignty, economic development, and indigenous peoples' rights.

1.7 RESEARCH METHODOLOGY

This research adopts the doctrinal research methodology, which involves the analysis of primary and secondary sources such as statutes, case laws, textbooks, articles, essays,

journals etc. for ease of reference. The doctrinal research indicates the arranging, ordering and analyzing of data to search out the new thing by extensive surveying of literature but without engaging in any field work. It is a category of research that solves research problems within a short period of time with fewer expenses by closely examining and analyzing materials, existing studies or reports in a logical, systematic and scientific way.

1.8 CONCLUSION

This analysis, through a Critical Legal Studies lens, highlights the persistent challenges faced by Nigerian oil producing communities. The study underscores the urgent need for legal and policy reforms that prioritize the rights of these communities, ensuring environmental protection, fair compensation, and genuine participation in decisions affecting their lands and livelihoods. By clarifying the scope of indigenous rights under international law and revealing the limitations of domestic frameworks, this study provides a foundation for advocating for systemic change and empowering marginalized populations in resource-rich regions. It is hoped that this study contributes to more equitable and sustainable practices in the Nigerian oil industry.

CHAPTER TWO

CONCEPTUAL, THEORETICAL & HISTORICAL FRAMEWORK

2.1 CONCEPTUAL CLARIFICATIONS

2.1.1 Definition of terms

i. Indigenous People & rights

Under international law, despite the recognition of the rights of indigenous peoples, there is no general agreement to a definition of indigenous peoples under international law.[8] This definition challenge is traceable to the first set of international instruments on the subject. The International Labour Organization Indigenous and Tribal Populations Conventions of 1957[9] and 1989[10] avoided the definition of indigenous peoples. However, Article 1(b) of the 1989 Convention gives identification markers to identify indigenous peoples:

> Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

This challenge of definition became one of the grounds on which indigenous peoples globally advocated for an international legal instrument dedicated to their rights. However, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007 (hereinafter called the 2007 Declaration) a product of this agitation, failed to address the challenge.[11] The 2007

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8 Benedict Kingsbury, 'Indigenous Peoples in International Law: A Constructivist Approach to the Asian Controversy' (1998) 419.

9 ILO Indigenous and Tribal Populations Convention, 1957 (No. 107)

10 ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)

11 Claire Charters and Rodolfo Stavenhagen,'Making the Declaration Work: The United Nations Declaration on the Rights of Indigenous Peoples' (2009) 53&54.

Declaration even recognizes in its preambles that the yardsticks utilized in identifying indigenous peoples vary per jurisdiction and further states that the:

> Significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration.

This omission of an express definition is not an oversight on the part of the drafters but as a result of strong opposition from various governments with indigenous peoples on their territory, such as: the United States, Australia, Canada, New Zealand and members of the African Union.[12] The African Union caucus even equated a vast population of the African continent to be indigenous peoples who embrace the right to self determination as a tool by African nations to free themselves from the yokes of colonialism.[13]

However, Article 33(1) provides that:

> Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and tradition.

Although not a legally binding instrument,[14] the adoption of a definition or clarification, if given, would have become a reference point for discussions on the subject matter. Furthermore, various international instruments[15] on indigenous rights do not define the concept. In instances such as this, international law enthusiasts would usually look to the international and regional courts or committees for an answer. However, these courts and committees, including the Human Rights Committee (HRC), the European Court of Human Rights (ECTHR), the International Court of Justice (ICJ), and the Inter-American Court, amongst others, have not issued rulings which properly resolve the challenge of definition.

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[12] Karen Engle, 'On Fragile Architecture: The UN Declaration on the Rights of Indigenous Peoples in the Context of Human Rights' (2011) 144.

[13] Ibid

[14] Monsuratu Kadiri, ' The Rights Of Indigenous People In Oil Producing Communities: A Case Study Of The Niger-Delta People Of Nigeria' (2021).

[15] Ibid p.4

The HRC, especially, has always sought to leave the claim and denial of such a status to the Applicant and Respondent parties, respectively. For instance, in *Lovelace v Canada,*[16] the Committee noted that the power of a state to define a person as Indigenous or non-Indigenous, including the power to deny any benefits that may accompany such a definition. This appears to give a lot of discretion to the State. The HRC has also attempted to avoid definition issues by grouping indigenous peoples as ethnic and religious minorities in its General *Comment 23* for the purpose of Article 27 of the International Covenant on Civil and Political Rights (ICCPR). Perhaps, the decision which gives an insight as to the characteristics utilized in identifying indigenous peoples is that delivered by the Inter-American Court in *Saramaka People v Suriname*[17] where the Court compared the non-indigenous Saramaka people to indigenous peoples and highlighted certain markers, including:

> Having social, cultural and economic traditions different from other sections of the national community; identifying themselves with their ancestral territories; a special relationship to land, as well as their communal concept of ownership; and regulating themselves, at least partially, by their own norms, customs, and traditions.

The lifeline for resolving the challenge of definition, where necessary, is the adoption of the criteria given by Jose Martinez Cobo, a former United Nations Special Rapporteur on the rights of Indigenous Peoples and those inherent under the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples.[18] These criteria include:

i. Self-identification: The group must self-identify as being indigenous peoples, such as a nation or community which differs from other ethnic groups in the state.

ii. Common ancestry and historical continuity with pre-colonial or pre-settler societies: They must have traces to societies which existed prior to the colonial rule in the said state.

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[16] (1981) 24/1977, U.N. Doc. A/36/40, at 166 (HRC 1905) paras 10 - 19
[17] Ibid (n7) p.5
[18] JM Cobo, 'Study of the Problem of Discrimination against Indigenous Populations' (1981) 1 E/CN.4/Sub.2/476

iii. Special relationship with ancestral lands: The peoples claiming indigenous status must have a relationship akin to ownership of ancestral lands which they settle on. Such lands must have been passed down from their ancestral settlers.

iv. Existence of distinct social, economic and political systems, as well as a distinct language, culture, beliefs and customary law: Indigenous groups must be identified distinctively with their own social, economic and political systems such as a system of leadership which has been sustained for long. Furthermore, such groups should have languages, cultures, beliefs and customary system of laws which are distinctive from that of other groups in the state.

v. Formation of non-dominant groups within society: Within the indigenous peoples, there should be sub-groups which are equal and non-dominant in relation to another.

vi. Determination to preserve, develop and transmit their identities and occupied territory to future generations: The indigenous groups must show a desire for continuity by taking steps to preserve and transit their identity as an indigenous groups and cultural practices through teaching, documentation and initiation of the future generation, whichever is their agreed system of doing this.

Under African human rights jurisprudence the definition challenge which exists under the already discussed international instruments also exists under the African human rights jurisprudence. The African Commission on Human and Peoples' Rights (ACHPR), in 2000, established the Working Group on Indigenous Populations/ Communities in Africa[19] to clarify the concept amongst other tasks. In its 2005 report, the ACHPR Working Group on Indigenous Peoples noted the undesirability of having a definition where all Africans identify as indigenous.[20] However, in the opinion of the group, the marginalization of certain groups,

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[19] African Commission on Human and Peoples' Rights, '51 Resolutions on the Rights of Indigenous Peoples' Communities in Africa' (2000) *African Commission on Human and Peoples' Rights* <https://www.achpr.org/sessions/resolutions?id=56> accessed 23rd September 2025.

[20] African Commission on Human and Peoples' Rights, 'Working Group on Indigenous Populations/ Communities and Minorities in Africa' online: *African Commission on Human and Peoples' Rights* <https://www.achpr.org/specialmechanisms/detailmech?id=10> accessed 23rd September 2025.

in Africa, in their own countries necessitated the recognition and protection of their rights including the Ogoni people of the Niger Delta in Nigeria. The group stated the criteria used in identifying indigenous peoples in Africa, including:

a) self-identification; b) a special attachment to and use of their traditional land whereby their ancestral land and territory have a fundamental importance for their collective physical and cultural survival as peoples; and c) a state of subjugation, marginalization, dispossession, exclusion, or discrimination because these peoples have different cultures, ways of life or modes of production than the national hegemonic and dominant model.[21]

By highlighting these criteria, the Working Group did not resolve the lingering definition challenges, but adopted the approach of Jose Martinez Cobo, the Former UN Special Rapporteur, which only reduces the challenges faced in identification of indigenous Peoples in Africa. The implication of the report was the issuing of several decisions by the African Commission upholding the rights of indigenous peoples in Africa. The ACHPR utilized the African Charter on Human and Peoples' Right (hereinafter called the African Charter) in its 2007 Advisory Opinion,[22] the Commission opined that there are rights in the African Charter which bear semblance to those in the UNDRIP 2007, and that pursuant to Articles 2 and 3 of the African Charter, which border on the right to the enjoyment of the rights in the African Charter without distinction of any kind including ethnic group and the right to equal protection of the law respectively, indigenous peoples are entitled to these rights, a denial of which is a violation of the African Charter by the State. The African Charter was ratified by Nigeria on June 22, 1983 and is also recognized under the Fundamental Rights (Enforcement Procedure) Rules 2009 (FREP Rules) as being part of the Nigerian legal jurisprudence on

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[21] Kealeboga Bojosi and GM Wachira, 'Protecting Indigenous Peoples in Africa: An Analysis of the Approach of the African Commission on Human and Peoples' Rights' (2006) 404.

[22] African Commission on Human and Peoples' Rights, 'Advisory Opinion of the African Commission on Human and Peoples' Rights on the United Nations Declaration on the Rights of Indigenous Peoples' (2007) 5-10.

Human Rights.[23] However, the African Charter and the FREP Rules are subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended)[24].

a) Additionally, the Commission has invoked the mandate in Article 17 (2) of the African Charter which recognizes the right to cultural life in a community and extended it to land rights of indigenous peoples.[25] Cultural rights are the rights to participate in and enjoy the benefits of culture and science as it relates to the pursuit of knowledge, understanding and creativity. The protection of which is the duty of the State and more specifically, in *Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v Kenya*[26], the Commission recognized the importance of the communities access to Lake Bogoria for cultural rights and celebrations (which was a central element of Endoris cultural Practice), which had been obstructed by the creation of a game reserve, without alternative access to the lake. For the first time, indigenous peoples' rights over traditionally owned land was recognized. It also emphasized the African Charter's protection for collective claims to land rights by indigenous communities. The decisions of the African Commission are persuasive to national courts[27] and serve as a guide for Nigerian courts in recognizing the rights of indigenous peoples.

ii. Critical legal studies

Critical Legal Studies (CLS) is a progressive legal theory and movement that emerged in the United States during the late 1970s, advocating for a critical examination of the role of law in perpetuating social injustices and power imbalances. CLS challenges the conventional understanding of law as a neutral and objective system, asserting instead that legal doctrines

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[23] Ibid (n7) 8.

[24] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap C20 LFN 2004, s 1(3)

[25] *Social and Economic Rights Action Centre (SERAC) and Centre for Economic and Social Rights (CESR) v Nigeria* [Application No. 155/96] paras 58, 60 and 62; *Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v Kenya* [Application No. 276/03] paras 241 and 251

[26] Ibid

[27] Yakare-Oule and others, 'The Unique Jurisdiction of the African Court on Human and Peoples' Rights: Protection of Human Rights Beyond the African Charter' (2019) 33 EILR 204.

often reflect and reinforce the interests of dominant societal groups, particularly in relation to issues of race, gender, and class. The significance of CLS lies in its interdisciplinary approach, drawing on a range of philosophical and social theories, including Marxism, feminist legal theory, and intersectionality. By deconstructing traditional legal narratives, CLS scholars highlight the complexities and contradictions inherent in legal systems, advocating for reforms that address systemic inequalities.[28] The movement has influenced legal scholarship, education, and practice by encouraging a reflexive examination of the social and political contexts that shape legal interpretations and applications.[29] Central to CLS is the concept of indeterminacy, which posits that legal texts and principles are open to multiple interpretations, often resulting in outcomes that favor those in power.[30]

This perspective raises significant ethical questions about the legitimacy of legal orders and the role of law in maintaining existing social hierarchies. Prominent critiques within CLS include its analysis of family law, labor law, and the criminal justice system, which reveal how legal frameworks can perpetuate inequalities and marginalize vulnerable populations. While CLS faced challenges and criticisms in the years following its inception, its core ideas continue to resonate in contemporary legal discussions, particularly within movements advocating for law-and-political-economy reform.[31] By bridging theoretical insights with practical applications, CLS remains a vital force in the ongoing struggle for social justice and the re-imagining of legal institutions.

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[28] James Boyle, 'The Politics Of Reason: Critical Legal Theory And Local Social Thought' *University of Pennsylvania Law Review* (1985) <https://law.duke.edu/boylesite/politics.htm> accessed 23rd September 2025.

[29] Stanford Encyclopedia of Philosophy, 'Feminist Philosophy of Law' (2025) <https://plato.stanford.edu/entries/feminism-law/> accessed 23rd September 2025.

[30] Samuel Moyn, 'Reconstructing Critical Legal Studies' (2025) <https://www.yalelawjournal.org/essay/reconstructing-critical-legal-studies> accessed 23rd September 2025.

[31] Katheryn K. Russell, 'A Critical View from the Inside: An Application of Critical Legal Studies to Criminal Law' Journal of Criminal Law and Criminology (1994) <https://scholarlycommons.law.northwestern .edu/cgi/viewcontent.cgi?article=6810&context=jclc> accessed 23rd September 2025.

2.2 THEORETICAL FRAMEWORK

Critical Legal Studies (CLS) encompasses a diverse range of theories that challenge traditional legal frameworks and propose alternative understandings of law's role in society. Emerging in the 1970s, CLS critiques the notion of law as neutral and objective, asserting that legal doctrines often reinforce existing power structures and social hierarchies.

2.2.1 Feminist Legal Theory[32]

Feminist legal theory is a crucial element of CLS, bringing an interdisciplinary approach to understanding law and gender justice. It critiques traditional legal frameworks for their gender biases and seeks to highlight the ways in which law can perpetuate gendered injustices. This theory responds to contemporary legal issues, such as reproductive rights, and emphasizes the importance of contextual and practical considerations in legal analysis. The field has gained prominence through various publications and academic discourse, underscoring its relevance in ongoing legal debates.

2.2.2 Intersectionality and the Law[33]

One significant aspect of CLS is its emphasis on intersectionality, which integrates insights from critical race theory and feminist legal theory. This approach insists on analyzing law through gendered, racialized, and intersectional lenses, recognizing that forms of domination, such as capitalism and white supremacy, are not static but are continuously reshaped through legal interpretations of under determined norms. The law and political economy movement within CLS reflects this need for a balanced approach that acknowledges these complexities.

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[32] Ibid (n21)

[33] Business Bliss Consultants FZE, 'Critical Legal Studies (CLS)' (Lawteacher.net, September 2025) <https://www.lawteacher.net/free-law-essays/constitutional-law/critical-legal-studies-analysis.php?vref=1> accessed 23rd September 2025

2.2.3 Marxist Jurisprudence[34]

Another foundational theory within CLS is Marxist jurisprudence, which critiques the legal system as a mechanism for maintaining capitalist dominance. Marxists argue that the law cannot be viewed in isolation but must be understood as part of a broader socio-economic context. They contend that legal structures are inherently tied to the power dynamics of society and serve the interests of the ruling class, often at the expense of the proletariat. This perspective focuses on the law's role in perpetuating social inequalities and aims to uncover and challenge the repressive structures inherent in legal systems.

2.2.4 Political Economy and Law[35]

The law-and-political-economy movement within CLS integrates various theoretical perspectives, arguing that understanding law requires examining its relationship with economic structures and power dynamics. Scholars in this field contend that legal analysis must not only consider doctrinal aspects but also the socio-political contexts that shape law and its applications. This holistic view encourages a critique of the ideologies underlying legal frameworks, aligning with the broader aims of CLS to challenge established norms and advocate for social justice.

2.2.5 The Role of Phenomenology[36]

Phenomenological approaches also inform CLS, as they provide tools for understanding the lived experiences of individuals within the legal system. This perspective highlights how legal norms can obscure the complexities of social reality, often resulting in a 'mystification' of law as an objective entity. By focusing on the subjective experiences and social contexts of individuals, phenomenology within CLS seeks to reveal the inherent contradictions and power dynamics at play in legal interpretations and applications.

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[34] Nate Holdren, 'Capitalism, Law, and Critical Theory: A Reply to Karl Klare' (2020) <https://legalform.blog/2020/11/30/capitalism-law-and-critical-theory-a-reply-to-karl-klare-nate-holdren/> accessed 23rd September 2025

[35] Ibid (n26)

[36] Ibid (n23)

2.3 HISTORICAL CONTEXT OF INDIGENOUS PEOPLES STRUGGLES AGAINST DISPOSSESSION AND ENVIRONMENTAL HARM IN NIGERIA

The suffering which plagues the indigenous Niger Delta peoples did not feature in their pre-colonial existence. Prior to the colonial rule, the Niger Delta communities thrived in terms of their economic and cultural practices. The Delta, a combination of different ecological makeup, had a high concentration of biodiversity, enabling them to thrive in flora, fauna, crops, trees and freshwater fish.[37] The Niger Delta lands and waters were also clean and sacred as the 'Mami Water' deity's worship depended on this.[38]

However, the exploitation of the region began with the boom in slave trade and subsequently, palm oil trade.[39] The desire of the British Government to gain total control over the area led to invasions, deposition of leaders and even the empowerment of the Royal Niger Company vide the Royal Charter of 1886.[40] These acts facilitated the complete control of the region and birthed the colonial rule. Colonialism resulted in exploitation of the Niger Delta people as their palm oil wealth was shipped off and traded with little or no benefit to the people, thus plunging the Niger Delta people into poverty and hardship. This led to the revolt by Brassmen in 1895 and an attack on the Royal Niger Company's port.[41]

The exploitation and oppression of the region took a new turn when oil was discovered in Oloibiri in 1956.[42] Multinational Companies began exploratory activities, with some embarking on prospecting in other parts of the region. The Niger Delta lost the right to her

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[37] Boris Happy Odalonu, 'Paradox of Poverty in the Midst of Abundant Resources: The Politics of Oil Resources and Renewed Insurgency in the Niger Delta Region of Nigeria'(2019) IJSCISL 94

[38] Jill Salmons, 'The Role of Mammy Wata as an Agent for the Promotion of Ogoni National Identity' *Henry John Drewal, Sacred Waters: Arts for Mami Wata and Other Divinities in Africa and the Diaspora* (2008) IU Press 432 - 433.

[39] Ike Okonta and Oronto Douglas, 'The Niger Delta: A People and Their Environment' (10 March 2018) online: *Verso Books* <https://www.versobooks.com/blogs/3678-the-niger-delta-a-people-and-their-environment> accessed 23rd September 2025.

[40] John E Flint, 'Sir George Goldie and the Making of Nigeria' (London: Macmillan, 1960) 187-215.

[41] Sylvester Okotie, 'The Nigerian Economy Before the Discovery of Crude Oil' In Prince Emeka Ndimele ed, 'The Political Ecology of Oil and Gas Activities in the Nigerian Aquatic Ecosystem' (Academic Press (2017) pp.71-81

[42] Ben Naanen, 'Bala Usman, History and the Niger Delta' (September 2001) online: *The Channel Online* <http://www.waado.org/nigerdelta/Essays/BalaUsman/BenNaanen.html> accessed 23rd September 2025.

resources to the British and the state dominion of these resources was passed on to the Nigerian State upon independence in 1960. The Petroleum Act of 1969[43] and the constitutions created thereafter vested the ownership of the mineral resources in the Federal Government which licensed Multinational companies to explore resources and trade, leaving the region with little or no benefits. The situation persisted through several years and is still the reality today. Despite the wealth derived from trade in crude oil, communities in this region lack basic amenities such as electricity, pipe-borne water, hospitals, good roads and proper housing.[44] They are also faced with extreme poverty, malnutrition, environmental degradation to mention but a few which has led to several movements and in some case violent protests.

The Nigerian Government has also effected several measures to tackle the issues faced in the region, especially by establishing different committees and institutions such as: the Willink Commission on the Rights of Minorities 1957; Niger Delta Development Board (NDDB) 1961; Niger Delta River Basin Authority (NDRBA) 1967; Oil Mineral Producing Areas Development Commission (OMPADEC) 1992; Niger Delta Environmental Survey 1995; and the Niger Delta Development Commission (NDDC) 2000.[45] These efforts have been largely unsuccessful due to several factors, including; the failure in implementation of recommendations by government, lack of funding and corruption in these institutions where necessary funding is provided.

Also, there is a derivation principle in section 162(2) of the Nigerian Constitution, which mandates an allocation of 13% of the revenue accruing to the Federation Account directly from any natural resources to the State where such is gotten from. However, this is inadequate in addressing the developmental issues in the region, coupled by corruption on the

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[43] Petroleum Act 1969, Cap P10 LFN 2005, s.1

[44] JC Ebegbulem and others, 'Oil Exploration and Poverty in the Niger Delta Region of Nigeria: A Critical Analysis*'* (2013) IJBSS 284

[45] Angela Ajodo-Adebanjoko, 'Towards Ending Conflict and Insecurity in the Niger Delta Region: A Collective Non-Violent Approach' (2017) AJCR 18.

part of political leaders of the region. The indigenous peoples of Niger Delta lack the recognition and rights necessary for their existence, especially environmental, land ownership and resource control rights. This state of affairs is the reason for the continuous agitation in the region.

2.4 LITERATURE REVIEW

Okonkwo[46] and Kadiri[47] examine the struggles of oil producing communities in the Niger Delta, situating them within international debates on indigenous rights, human rights, and resource governance.

i. Definition Ambiguity: There is no settled definition of "indigenous peoples" in Nigeria. Colonial doctrines like *terra nullius* and the Land Use Act 1978 continue to deny Niger Delta groups recognition as indigenous. However, by international standards (UNDRIP, ILO Conventions, African Charter), they meet the criteria of indigeneity.

ii. Resource Control: Nigerian law vests ownership of oil and gas in the federal government, excluding local communities. Courts have reinforced this by prioritizing national economic interests over community rights. This contrasts with Canada, where indigenous rights to land and even subsurface resources are legally recognized.

iii. International and Regional Frameworks: Instruments like the African Charter and UNDRIP support indigenous rights, and cases such as *SERAC v Nigeria*, *Endorois v Kenya*, and *Ogiek v Kenya* affirm community rights to land and culture. Yet Nigeria has not ratified or domesticated most relevant conventions, limiting their enforcement.

iv. Comparative Lessons: Canada provides a useful model, as indigenous rights are constitutionally entrenched and courts recognize aboriginal title and consultation duties. Nigeria lacks such protections, making its oil regime more oppressive.

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[46] OP Okonkwo, 'Indigenous Rights of Nigerian Oil Producing Communities under International Law; has all been said?' (2017).

[47] Ibid(n7)

v. Human Rights and Oppression: Oil exploration in the Niger Delta has led to environmental devastation, economic marginalization, and violent suppression of community resistance. Law serves to entrench state and corporate interests rather than protect communities.

The Niger Delta's plight reflects a structural legal injustice rooted in colonial legacies and perpetuated by Nigerian law. International law and regional human rights bodies provide frameworks for protection, but without domestic incorporation and reform, oppression persists. From a Critical Legal Studies perspective, Nigeria's oil regime shows how law functions to legitimize dispossession rather than deliver justice.

2.5 CONCLUSION

This chapter explores the complex interplay between international law, critical legal studies, and the historical struggles of indigenous peoples in Nigeria's Niger Delta. Despite the recognition of indigenous rights in international instruments, the absence of a universally accepted definition and the continued application of colonial-era legal doctrines in Nigeria perpetuate the marginalization and dispossession of these communities. The chapter highlights the need for legal reform, domestic incorporation of international standards, and a critical re-evaluation of the legal frameworks that prioritize state and corporate interests over the rights and well-being of indigenous populations. By drawing on theoretical insights from feminist legal theory, intersectionality, Marxist jurisprudence, political economy, and phenomenology, this analysis contributes to a deeper understanding of the systemic injustices faced by the Niger Delta people and underscores the urgency of addressing these issues through legal and social change.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS GOVERNING INDIGENEOUS RIGHTS AS REGARDS TO OIL EXPLORATION IN NIGERIA

3.1 LEGAL FRAMEWORK FOR OIL OWNERSHIP & EXPLORATION IN NIGERIAN

Guaranteeing an equilibrium between economic development and the right of the people of Nigeria to a healthy and clean environment became crucial as it raised grave concern.[48] This sub-section addresses the adequacy or otherwise of the existing laws and the effectiveness of the enforcement mechanism in preventing human rights violations by multinational corporations.

Compared to operations in developed countries which maintain and apply higher standards, in Nigeria the case is the opposite, which has been a great concern in the Niger Delta region. The oil companies, however, state that their operations are legal as they follow local laws which established the minutest legal standards that regulate their activities.

3.1.1 The Constitution of the Federal Republic of Nigeria

The constitutional provisions of Nigeria do not impose human rights obligations directly on companies. They protect their citizens from human rights violations through the enactment of general provisions in the Nigerian Constitution for human rights protection.[49] Law and other methods of environmental protection that recognize the social, economic and political aspects of environmental control are still advancing in Nigeria.[50] Section 20 of the Constitution of the Federal Republic of Nigeria, 1999 acknowledges the importance of the environment and it

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[48] Dinah Shelton, 'Problems in Environmental Protection and Human Rights: A Human Right to the Environment' *GW Law Faculty Publication and Other Works* (2011) paper 1048, <https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2050&context=faculty_publications> accessed 26th September 2025.

[49] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap C20 LFN 2004, Chapter II, s.33 to 45.

[50] Mosope Fagbongbe, 'Criminal Penalties for Environmental Protection in Nigeria: A Review of Recent Regulation Introduced by Nigeria' NIALS Journal of Environmental Law (2012) 151.

provides that: “The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.”[51]

The Niger Delta people, by being denied these rights enshrined in the constitution, fail to meet up to the citizens of the Federal Republic which holds a 60% share of the joint venture interest with the translational oil companies. In Nigeria, all oil, gas and minerals are settled in the Federal Government of Nigeria. Section 44 sub-section 3 of the constitution states:

> Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.[52]

Although the application and enforcement of environmental regulations by Nigeria would have been in the best interest of its citizens, especially those in the oil producing communities, however, in practice this is not always the case because the provision of Section 20, under Chapter II, dealing with Fundamental Objectives and Directive Principles of State Policy, is not justiciable subject to section 6(6)(c) of the Constitution of Nigeria, 1999.[53] The Nigerian government has devised and promulgated a comprehensive system of laws on environmental regulation and protection.[54] However, these regulations and policies are rarely enforced; in most cases, they are deliberately disregarded due to fears that tough environmental regulations to control the activities of the oil companies would cause reduction in profit and these companies to leave Nigeria. Critically, it’s apparent that environmental pollution continues to occur in Nigeria and this is contrary to the human rights principle of reasonable living conditions and the development of human personality, as advocated in many human rights instruments, along with the fact that the interruption of the fundamental ecological

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[51] Ibid (n2) Section 20
[52] Section 44(3) CFRN
[53] Section 6(6)(c) CFRN
[54] JP. Eaton, ‘The Nigerian Tragedy, Environmental Regulation of Transnational Corporations, and the Human Right to a Healthy Environment’ *Boston University International Law Journal* (1997) 15, 261,297.

balance is harmful to physical and moral health. However, it should be noted that there is a central connection concerning the right to a healthy environment and other human rights. The continuous degradation of the environment affects the right to life, health, work, dignity of human person, privacy of the home, education and other human rights.[55] Several avenues by which Nigeria adopted the concept of corporate accountability are through specific legislation on the environment[56] and other sectors of the economy.[57]

3.1.2 The Petroleum Act

This Act provides for the exploration of petroleum from the earthly waters and the continental projection of Nigeria and to vest the ownership of the natural resources, as well as all on-shore and off-shore revenues from petroleum resources derivable from the federal government and for all matters related.[58] General Yakubu Gowon's regime promulgated the Petroleum Decree No. 51 in 1969; (now Cap 10 L.F.N 2004) this decree placed ownership and control of all petroleum resources in Nigeria under the control of the federal government, meaning that lands containing natural resources which were owned by individuals, communities, local governments and even states were denied their rights to the natural resources.

Under the Act, the Petroleum (Drilling and Production) Regulations[59] made provisions for sanctions against environmental pollution by MOCs, and in Section 25 it provides that:

> The licensee or lessee shall adopt all practicable precautions, including the provision of up-to-date equipment approved by the Director of Petroleum

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55 BE. Umukoro, 'Gas Flaring, Environmental Corporate Responsibility and the Right to a Health Environment: The Case of Niger Delta', in Festus Emiri and Gowon Deinduomo (eds), *Law and Petroleum Industry in Nigeria: Current Challenges*, Essays in Honour of Justice Kate Abiri (Lagos: Malthouse Press Limited, 2009), 67.

56 Section 7 of the Harmful Waste (Special Criminal Provisions) Act, Cap H1 LFN 2004; Section 6 of the Oil in Navigable Waters Act, Cap 06 LFN 2004; Section 3(1) and 4 of the Associated Gas Re-injection Act, Cap 08 LFN 2004; Section 27(2) of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007; Section 62 of the Environmental Impact Assessment Act, Cap E 12 LFN 2004.

57 Section 28(2) of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act of 2003, Sections 65–67 of the Companies and Allied Matters Act of 2004, Laws of the Federation of Nigeria.

58 Petroleum Act, L.N 69 of 27 November 1969, Cap. P10 LFN, 2004.

59 Section 25 of the Petroleum (Drilling and Production) Amendment Regulations 2019.

> Resources, to prevent the pollution of inland waters, rivers, watercourses, the territorial waters of Nigeria or the high seas by oil, mud or other fluids or substances which might contaminate the water banks or shoreline or which might cause harm or destruction to fresh water or marine life and where any such pollution occurs or has occurred, shall take steps to control and, if possible, end it.

Unfortunately, measures are not only taken to control pollution when it occurs, as there exist no other obligations on the oil company, or any criminal penalty against the oil company in affected communities. It has been established that MOCs in the Niger Delta do not comply with best practices in the oil industry as some of the equipment used during the process of extraction is outdated. Best practices require that the equipment should usually have a lifespan of 15 years, but in Nigeria, the records showed that MOCs' equipment could last as long as 25 years and their operational failures and faulty equipment lead to oil spillage in the neighbouring communities, which diminishes the rights of the people to a safe and healthy environment.

It is important to emphasize that Paragraphs 35(a) and 36 of the first Schedule of the Petroleum Act, which were enacted pursuant to Section 2(3) of the Act, provide for necessary acquisition subject to payment of fair and adequate compensation for the infringement of apparent or other rights to any person who owns or is in lawful occupation of the licensed or leased land. By these provisions MOCs are liable to pay adequate compensation in the event of oil and gas pollution, although in practice these MOCs hardly pay sufficient compensation as provided by the law.[60] There is no provision under the Act for penalty for the license holder for any environmental damage, or for compulsory cleanup and restitution of the environment in case of acts resulting in hostile impact on the environment such as oil and gas pollution. Possibly, this would make MOCs committed to environmental protection, as for now they pay little or no damage for crops, economic trees and other property; they leave the

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[60] Simon Warikiyei Amaduobogha, 'The Legal Regime for Petroleum activities in Nigeria' in Tina Hunter (eds), Regulation of the Upstream Petroleum Sector: A Comparative Study of Licensing and Concession Systems (Edward Elgar Publishing 2015) 263.

environment contaminated and useless after exploration, such as in Ogoniland. The Petroleum Act has failed to provide the necessary environmental guidelines for the control of these MOCs that operate in joint ventures with governments, owning 60% of the investment. The provisions of this Act are obsolete and therefore need to be amended to give land owners control of their resources, and also to raise the standards of operation to safeguard the environment effectively.

3.1.3 Minerals and Mining Act

The Minerals and Mining Act of 1992 was enacted to amend and strengthen all existing legislation relating to mines and minerals, conferring ownership of mineral resources on the federal government.[61] This Act relates to oil mining activities and general growth in the oil industry.[62] Section 99 pertains to the prevention of pollution of the environment and it provides that:

> The holder of a mining title shall, in exercise of its right under the license or lease, have regard to the effect of the mining operations on the environment and take steps as may be necessary to prevent pollution of the environment resulting from the mining operation of the oil company.

This provision tends to strengthen similar provisions in the Petroleum Act discussed above as it places obvious legal obligation on the oil company to protect the environment from the effects of oil mining. The Act took a step further by providing offences against pollution by the oil companies engaged in oil mining activities and provides in Section 115 that: "a person who pollutes the environment or uses water contrary to sections 65, 69, 71 and 99 of this Act, commits an offence under this Act." Section 65, dealing with prohibition on pollution of watercourse, provides that: *"*no person shall, in the course of mining or prospecting for minerals, pollute or cause to be polluted any water or watercourse in the area within the

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61 The Minerals Oil Ordinance No. 17 of 1914 and No. 1 of 1924

62 Minerals and Mining Act 1992, Cap. M12 LFN 2004.

mining lease or beyond that area."[63] Where both pieces of legislation would have further halted the degradation of the environment is by making provision for the protection of "Protected and Productive Trees" under Section 21 of the Petroleum Act and "Saving of Sacred Trees Trees and Other Objects of Veneration" under Section 8 of the Minerals and Mining Act, respectively. The law also made provision for the payment of adequate compensation but did not make provision for the enforcement of such payment; again, these provisions fall short of an enforceable law because they only state the offence without any corresponding penalty, which would have served as the basis for diligent prosecution. So, these provisions are voidable as you cannot place something on nothing.

3.1.4 Niger Delta Development Commission (NDDC) Act

The Act establishes the Commission[64] which among its functions is to confront ecological and environmental problems derived from the exploration of oil and minerals in the Niger Delta area, to have a dialogue with the federal government and member states on the prevention and control of oil spillages, gas flaring and environmental pollution,[65] and to interact with the various oil, mineral and gas prospecting and producing companies on all matters of pollution prevention and control.[66]

The provision of the NDDC Act is not a very impressive legal framework, and the government's lack of will to enforce environmental regulations against erring oil companies, coupled with the restricted access to justice for those who may be adversely affected by the activities of the MOCs, make effective control of these MOCs at the national level near illusion.[67]

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63 Ibid (n11) s. 155 and 65.
64 NDDC Act, Cap. N86, LFN 2004.
65 Ibid s. 7(1)(h
66 Ibid., s7(1)(i) NDDC Act, Cap. N86 LFN 2004.
67 Simon Warikiyei Amaduobogha (n13).

3.1.5 Associated Gas Re-injection Act

The Associated Gas Re-injection Act was enacted to basically make oil companies submit preliminary programmes for gas re-injection and a thorough plan for the implementation of gas re-injection.[68] It became effective on 28 September 1979. By the provision of Section 2, companies were bound to submit comprehensive plans for gas re-injection by 1 October 1980, while gas flaring was to cease by 1 January 1984; thus, flaring was declared illegal except with the written permission of the Minister for Petroleum. Any flaring without the requisite certificate from the minister is illegal and the company shall forfeit the concession granted in the particular field.[69] Further, the Associated Gas Re-injection (Continued Flaring of Gas) Regulations were enacted with a commencement date of 1 January 1985.

The regulations are to the effect, *inter alia*, that a certificate for continued gas flaring will be issued only where more than 75% of the produced gas is effectively utilized or converted. According to the regulations, the minister has the power to review, mend, alter, add or delete any of the provisions of the regulations. Despite the obvious provisions of the law since 1985, MOCs in the oil sector in Nigeria have continued to be free to flare gas without sanctions. Nigeria is one of the greatest gas-flaring countries in the world and it is estimated that over 70% of its associated gas is being flared. 31 December 2012 was one out of several extended dates set by the Federal Government of Nigeria, but this set date has not been met by the government as MOCs continue to claim that it is not possible to end the flaring of associated gas in Nigeria. This means that MOCs will continue to impair the environment in the Niger Delta through gas flaring since the government is not committed to ending the iniquitous actions of the MOCs in the region.

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[68] Associated Gas Reinjection Act 2004, Cap. A25, LFN.
[69] Ibid., s3 and 4.

3.1.6 National Environmental Standards and Regulation Enforcement Agency (NESREA) Act

This agency is specifically charged with responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources in general and environmental technology, which includes co-ordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.[70] The function of the agency includes the enforcement of compliance with policies, standards, regulations and guidelines on water quality, environmental health and sanitation, including pollution abatement; the agency has the responsibility under its mandate to enforce compliance with the guidelines and legislation on sustainable management of the ecosystem, biodiversity conservation and the development of Nigeria's natural resources.[71]

Also, the agency is empowered to enforce compliance with regulations on the importation, exportation, production, distribution, storage, sales, use, handling and disposal of hazardous chemicals and waste. But it is sad to observe that the Act excludes such enforcement in the oil and gas sector.[72] The reason is not far-fetched, because the oil and gas sector accounts for the greatest source of environmental degradation in the Niger Delta region,[73] and any law that affects the production of oil and gas will definitely affect the government and economy of Nigeria because over 90% of foreign revenue to the government comes from tax and royalties levied on oil production by the MOCs.

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[70] Section 36 of the NESREA Act repealed the Federal Environmental Protection Agency Act, Cap. F10 LFN 2004. See s (1)(1) of the NESREA Act 2007.

[71] Ibid Section 7

[72] Section 7(g) (h) (j) and (k) of the NESREA Act 2007.

[73] S.G. Ogbodo and O.J. Ogbodo, 'Environmental Democracy, Public Participation and the Niger Delta Crisis: A Critique of the Nigerian Experience' *NIALS Journal of Environmental Law* (2012) 312–316.

3.1.7 National Oil Spill Detection and Response Agency (NOSDRA) Act 2006

The National Oil Spill Detection and Response Agency Act was established in 2006 and the responsibility of the agency is to prepare, detect and respond to all oil spillages in Nigeria.[74] It also manages and implements the National Oil Spill Contingency Plan for Nigeria. The agency's responsibility is to survey and ensure compliance with all existing environmental legislation and the detection of oil spills in the petroleum sector, as well as receive reports of oil spillage and coordinate oil spill response activities throughout Nigeria. The agency is also burdened with the task of undertaking surveillance, reporting, alerting and other activities as they relate to oil spillages.[75] The mandate of the agency is entirely administrative and does not specify the rights of victims of oil pollution and the extent of compensation which would be given to oil pollution victims.

3.1.8 Nigerian National Petroleum Corporation (NNPC)

NNPC is the state-owned oil corporation. At the start of the oil industry in Nigeria, there was slight regulation by the Government of the activities of the oil MNCs.[76] During this period, oil MNCs operated concessions and paid taxes and their supervision was granted on a one man unit at the Mines Division of the Ministry of Lagos Affairs, later part of the Ministry of Mines and Power.[77] The NNPC was established in 1977 by the NNPC Decree (now Act).[78] NNPC was formed as result of the merger between the Ministry of Petroleum Resources, and the Nigerian National Oil Corporation (NNOC) which was first established in 1971.

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74 Section 1 of the NOSDRA Act, 2006.

75 NOSDRA Act 2001, s 5, 6(a) and (b) and 7.

76 Nwokeji Ugo, 'The Nigerian National Petroleum Corporation and the Development of the Nigerian Oil and Gas Industry: History, Strategies and Current Directions' *The James A. Baker III Institute for Public Policy and Japan Petroleum Energy Centre, Rice University* (2007) 138.<http://bakerinstitute.org/media/files/page/9b067dc6/noc_nnpc_ugo.pdf> accessed 26th September 2025.

77 A Gboyega and others, 'Political Economy of the Petroleum Sector in Nigeria' (2011) A World Bank Policy Research Working Paper. < http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-5779> accessed 26th September 2025.

78 Cap.N1O, LFN 2004.

The repeal of the NNOC was to engage in the prospecting, mining and marketing of oil and all other activities with the petroleum industry.[79] Due to the various problems encountered by the NNOC during the course of its operations, it was terminated. NNPC then combined commercial functions of the NNOC with the regulatory functions of the Ministry of Mines and Power.

The functions of the NNPC in the oil and gas sector, is encapsulated in Section 5 of the NNPC Act. Some of these functions include exploring and prospecting for oil, refining, providing and operating pipelines, purchasing and marketing of petroleum, and constructing and equipping farms. The NNPC controls or regulates upstream and downstream activities in the oil and gas industry in Nigeria.[80] The downstream sector includes the movement and distribution of petroleum products to the final consumers, while the upstream sector of the oil and gas industry in Nigeria includes exploration and production activities. The NNPC is a very large organization with over 9,000 employees and more than 12 subsidiaries in various sectors, which includes, research, refineries, oil trading companies and petrochemical plants. The most important subsidiary of the NNPC is said to be the National Petroleum Investment Services (NAPIMS) which acts as the oil and gas industry concessionaire, entering into contracts with oil MNCs on behalf of the Federal government. The operations of the NNPC has been marked by power struggles by political elites over what the NNPC controls and who controls it[81] preventing it achieving its primary objectives. Also, the NNPC has been known for a widespread of corruption. Nigerian governments have still not granted NNPC full organizational autonomy, and as such Government officials see the NNPC as a means of enriching themselves. The NNPC has been re-organized several times, to attempt to rectify decades of inefficiency in the oil and gas industry by the NNPC, for example, was the Oil and

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[79] Eghosa Ekhator, 'Regulating the Activities of Multinational Corporations in Nigeria: A Case for the African Union?' *Intl. Comm. Law Review* (2018) 20(1) 30–68.

[80] Ibid. However, this is no longer the case. The DPR is now the main regulatory agency in the oil and gas sector in Nigeria.

[81] Nwokeji (n29).

Gas Sector Reforms Implementation Committee (OGIC) in 2000 by the former president Obasanjo to produce a National Oil and Gas Policy.[82] However, the recommendations made by the committees were disregarded. In 2007, the President Yar'adua's administration constituted the OGIC under the chairmanship of Rilwanu Lukman with a mandate to transform the provisions of the National Oil and Gas Plan (NOGP) into better and more efficient structures to improve the oil and gas industry. The OGIC report was submitted to the Government in August 2008. A landmark highlight of the report is to make NNPC independent of governmental control and be run as a business enterprise. The OGIC report recommended the creation of new regulatory agencies in the oil and gas sector of Nigeria. Some of these new bodies include, the National Petroleum Assets Management Agency (NAPAMA), Nigerian Petroleum Directorate (NPD), National Petroleum Oil Company (NPOC Ltd) and the National Petroleum Research Centre (NPRC). These new agencies are encapsulated in the new Petroleum Industry Bill.

3.1.9 The Environment Impact Assessment (EIA) Act

The Environmental Impact Assessment (EIA) Act of 1992[83] is also an accountability mechanism that endeavours that sound environmental practices are fostered in Nigeria. The EIA acts prevent a likely negative impact of a project, either private or public, on the environment. Also, the various states in Nigeria have distinct environmental sanitation laws regulating environmental practices or sanitation in the states.[84] The EIA is one of the few statutes in Nigeria that encourages public participation in Nigeria's oil and gas industry. The EIA is a landmark in the Nigerian environmental protection system because it is the first statute that allows public participation in the decision-making processes relevant to

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[82] Iledare Wumi,'An Appraisal of Oil and Gas Industry Reform and Institutional Restructuring in Nigeria'(2008) < https://www.iaee.org/documents/newsletterarticles/408wumi.pdf> accessed 26th September 2025.

[83] CAP E12, LFN 2004.

[84] Olubayo Oluduro, 'Oil Exploitation and Human Rights Violations in Nigeria's Oil Producing Communities' (Cambridge: Intersentia Publishing Ltd, 2014) 399.

development.[85] Thus, public members can retrieve information on projects and participate in the decision-making process on negative or positive) impacts on their immediate environment.[86] Under the EIA, oil MNCs and other key project developers shall not take part in projects without considering the potential environmental impacts at the early stages except permitted by law.[87] Under section 2 (2) & (3) of the EIA, "where the extent, nature or location of a proposed project is likely to affect the environment significantly", oil MNCs are expected to undertake an environmental impact assessment of the intended project. Under section 4(d) &(e) of the EIA, an environmental impact assessment shall include a description of the proposed activities, evaluation of the proposed activities, a review of the likely environmental impacts and alternatives to mitigate any adverse effects project others. In the activities or industries listed in the schedule to the EIA as mandatory study activities, environmental impact assessment must be by Government. The industries deemed required to study under the EIA include mining, petroleum, transmission, and power generation.

In respect of mandatory study activities, the EIA provides in section 23 that: Where the Agency believes that a program is in the mandatory study list, the Agency shall:

(a) ensure that there is a mandatory study conducted, and a mandatory study report is prepared and submitted to the Agency, following the provisions of this Decree; or

(b) refer the project to the Council for a referral to mediate or review section 25 of this Decree. Projects designated as mandatory study activities vetted and approved by the Federal Ministry of Environment.[88] However, under section 40(1) (b) of the EIA, the Federal Ministry of Environment has the powers to refuse the approval of a project if it is "likely to

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[85] Yinka Omorogbe, 'The Legal Framework for Public Participation in Decision-making on Mining and Energy Development in Nigeria: Giving Voices to the Voiceless,' in Zillman, D.N et al. (eds) Human *Rights in Natural Resource Development: Public Participation in Sustainable Development of Mining and Energy Resources (*Oxford: Oxford University Press 2002) 565-77.

[86] Eghosa Ekhator, 'Regulating the Activities of Multinational Corporations in Nigeria: A Case for the African Union?' Intl. Comm. Law Review (2018) 30–68.

[87] Section 2(1) (4) of the EIA

[88] Eghator (n39).

cause significant adverse environmental effects that cannot be mitigated and cannot be justified in the circumstances".

Section 7 of the EIA allows public participation in environmental impact assessment in Nigeria. Section 7 provides: Before the Agency decides on an activity to which an environmental assessment has produced, the Agency shall give government agencies, public members, experts in any relevant discipline, and interested groups to comment on the environmental impact assessment of the activity.[89]

Under section 25 of the EIA, in mandatory study activities projects, EIA reports shall be published and made available to the public in selected places. Any person or individual can file comments on the conclusions and recommendations of such statements. Under section 57, a public registry should be established by the Federal Ministry of Environment containing information and records for enhanced public participation and access to justice. Furthermore, public participation in environmental assessment pronounced in the review panel stage. Under section 17 (1)(c), comments filed by private individuals are taken into consideration in the review panel. Here, public concerns about the potential environmental impacts may prompt the Federal Ministry of Environment to refer to a review panel or mediation.[90] The Review Panel accentuates public participation in environmental impact assessment in Nigeria. Under section 37 (b), proceedings in the review panel stage expected to be conducted in public "in a way that offers the public an opportunity to participate in assessment".

Under section 8 of the EIA, the adequate period expected to elapse,

where comments by the public expected to scrutinize before any proposed project is approved or authorized. Also, under sections 9(1)(2), the decisions reached must be written form and made available to interested persons or groups. Under section 9(3), if no interested person or group requested the report, the Agency can publish it in any form wherein members of the

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89 Eghator (n39).
90 Sections 22(1) (b) (ii), 26(a) (ii) & 27) b) of the EIA.

public or interested parties interested in the project shall be notified. The provisions above are not strictly adhered to in the EIA process, and it is often at the discretion of the project developer.[91]

For example, Shell Nigeria will also bolster the assertions that some oil MNCs deliberately avoid engaging in environmental impact assessment of their projects. Shell, the Nigerian Liquefied Natural Gas Project (NLNG) operator at Bonny, allegedly failed to undertake an EIA of the project's potential impacts. The company's decision not to embark on an EIA of the NLNG project was challenged in court by well-known Niger Delta environmental activist Mr Oronto Douglas. In *Oronto Douglas v. Shell Petroleum Development Company Ltd*[92] the court held that the plaintiff lacked the standing to sue Shell regarding Shell's failure to observe the provisions of the EIA. An inherent weakness in the EIA is that in some instances, EIA can be jettisoned. The Act creates some exceptions. These exceptions can be found in section 15(1). The section states thus an environmental impact assessment would not be required when:

(a) in the opinion of the Agency, projects which the President, Commander-in-Chief of the Armed Forces or the Council believes that environmental effects of the project are likely to be minimal;

(b) the project should be carried out during a national emergency for which the Government has taken temporary measures;

(c) the project was done in response to situations that, in the opinion of the Agency, the project is in the interest of public health or safety

The above provisions are against the purpose of the EIA. For example, despite protest to a proposed project, the President of Nigeria is within his powers to avoid the statutory

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[91] Rhuks Ako, 'The Judicial Recognition and Enforcement of Rights to Environment: Differing Perspectives from Nigeria and India' *NUJS Law Review* (2010) 423–445.

[92] Suit No. FHC/L/CS/573/96 [Unreported]

requirements for an EIA in oil and gas projects.[93] In the oil sector, where environmental degradation is most prevalent, the influence of the oil companies and the paternalistic attitude of judges towards them in matters relating to environmental hazards created by companies have made the enforcement of environmental laws ineffective and holding MNCs accountable difficult.[94]

3.2 APPLICATION OF INTERNATIONAL LEGAL INSTRUMENTS TO RIGHTS OF INDIGENOUS PEOPLES IN NIGERIA

The Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1957 (C 107) described indigenous peoples with reference to colonialism. The *Cobo Report* also gave a legal definition of indigenous peoples as:

> Those who have a historical continuity with pre-invasion and pre-colonial societies.[95]

Some scholars also described them under international law as communities that manifest historical antiquity with societies that occupied and governed territories prior to European contact and colonization. These definitions present a restricted understanding of indigenous peoples. Larger or conquering groups may have subsumed the "real" indigenous peoples before colonization. In effect, they could not have had contact with the colonialists, who interacted with, and empowered the larger non-indigenous groups. Consequently, indigenous peoples are regarded in this article as those who were:

> Distinct from other peoples living in the same society with them in terms of identity and culture; descendants of the original inhabitants of the territory before other peoples settled among them; settled with the other peoples by consensual cohabitation, cession or by conquest.

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93 Eghator (n39).
94 Ako (n44).
95 OP Okonkwo, 'Indigenous Rights of Nigerian Oil Producing Communities under International Law; has all been said?' (2017).

The definition may appear simplistic but can put anyone on notice that a group of persons described in that manner has a semblance of indigenousness in reference to a particular territory in which the group resides. Moreover, it comes close to a description of indigenous peoples by the Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989. Nigeria has not ratified the ILO Conventions C 107, C 169 and the United Nations Declaration on the Rights of Indigenous Peoples 2007. The provisions of these instruments are therefore not ordinarily enforceable in Nigeria. The non-ratification of the legal instruments nevertheless, does not rob the oil communities in Nigeria of protection from the activities of the MNCs and the government on the land that they occupy. It rather presupposes that Nigeria does not encourage assertion of indigenous rights. However, the substance and spirit of the instruments can be applied in Nigeria by incorporation on the following grounds:

i. Nigeria is a signatory to other international instruments incorporated by the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)[96] or regional instruments.

ii. The United Nations Charter on Human Rights Charter, which Nigeria ratified, was incorporated by (UNDRIP). The charter contains provisions on the rights of peoples to self-determination, one of the constituent rights of indigenous peoples, recognized by UNDRIP.

iii. The International Covenant on Economic, Social and Cultural Rights ICESCR)and the counterpart International Covenant on Civil and Political Rights (ICCPR), (both ratified by Nigeria) provided for the rights of indigenous peoples to self-determination, rights to natural resources and right to participation in decisions affecting cultural life.[97] More precisely, the Human Rights Committee on the implementation of the International Covenant on Civil and

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[96] Charter of the United Nations, 1945, The International Covenant on Economic, Social and Cultural Rights, 1966, the International Covenant on Civil and Political Rights 1966 and the Vienna Declaration and Programme of Action 1993: See the Preamble to the United Nations Declaration on the Rights of Indigenous Peoples 2007.

[97] International Covenant on Economic, Social and Cultural Rights above Articles 1(1)(2)(3) and 15; International Covenant on Civil and Political Rights above Articles 1(1), (2) (3) and Article 27.

Political Rights interpreted the rights of minorities to culture to include land and resource rights, which are the major concern of indigenous peoples.[98]

iv. The Convention on the Elimination of All Forms of Racial Discrimination, 1969 (ratified by Nigeria) that affirms equality of all peoples applies to indigenous peoples. The Committee that monitors compliance with the convention requires states parties to the convention to recognize and protect the group rights of the indigenous peoples in line with UNDRIP.

v. The United Nations Declaration on the Rights of Persons Belonging to National Ethnic Religious and Linguistic Minorities 1992 also contains provisions on protection of peoples' right (particularly minorities) to culture and participation in national and regional issues affecting them.

vi. UNDRIP reflects customary international law because of its wide acceptance and incorporation of international legal principles and pre-existing human rights standards already recognized in a number of human rights instruments.

vii. Indigenous rights are vulnerable to the technicality of the common law including the evidential burden of establishing ownership and possession rights dating back to times beyond human memory. This is exacerbated in a country like Nigeria where the wheel of justice grinds very slowly and clogged with peculiar domestic bottlenecks and oddities.

viii. Nigeria did not vote against UNDRIP. By abstention from voting, it gave a signal that it was not opposed to its contents. It has enacted domestic legislations that contain provisions relevant to indigenous peoples.

ix. The international legal instruments not ratified by Nigeria defer to domestic laws and justifies their consideration in spite of the non-ratification of the instruments.

Nevertheless, the characteristics which form the condition precedent to claim of indigenousness under UNDRIP and the ILO Convention No. 169 do not completely avail the

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[98] *Bernard Ominayak v Canada* HRC. 38th Session, UN Doc C.C.P.R/C/38/D/167/1984 (26/3/90), para. 33.

claimants of indigenousness in Nigeria. They have a big hurdle of passing the test of indigenousness under international law. Consequently, the peoples inhabiting the areas of activities of the MNCs in Nigeria are referred to in this paper as Oil Producing Communities (OPCs).

3.3 CONCLUSION

This chapter has highlighted the shortcomings in Nigeria's legal and institutional frameworks governing indigenous rights concerning oil exploration. While the Constitution and various acts like the Petroleum Act and Minerals and Mining Act acknowledge the importance of environmental protection and compensation for affected communities, their enforcement remains weak and often favors economic interests over human rights. The failure to fully adopt and implement international legal instruments further exacerbates the vulnerability of Oil Producing Communities to environmental degradation and human rights violations. Addressing these gaps through legislative reforms, stricter enforcement mechanisms, and a greater commitment to international standards is crucial to ensure a more equitable and sustainable approach to oil exploration that respects the rights and well-being of the affected communities.

CHAPTER FOUR

A COMPARATIVE ANALYSIS RIGHTS OF INDIGENOUS PEOPLE OF THE NIGER DELTA AND CANADA

4.1 RATIONALE FOR THE REFERENCE TO THE CANADIAN JURISPRUDENCE

The determination of whether the Niger Delta people are indeed indigenous, in a bid to accord them indigenous rights is a difficult task in light of the lack of legal recognition domestically. Hence, it is important that Nigeria learns from Canada in recognizing the rights of indigenous peoples. The writer's rationale for reference to the Canadian jurisprudence stems from the satisfaction of the criteria for indigenous status by the Niger Delta people and Canadian aboriginals, and the status of Nigeria and Canada as large oil producers, giving credence to the argument that oil producing communities deserve an equal share of the development funded by their resources.

Nigerian law fails to recognize the indigenous status of certain groups in the country, especially the marginalized Niger Delta groups. However, in light of international standards, writers have argued that the Niger Delta people satisfy the criteria of being indigenous and should be recognized as such. In the opinion of two legal scholars, the main variable in the Cobo definition and the criteria in ILO Conventions, which is self-identification, is met by the Niger Delta people.[99] Although they meet other criteria, self-identification is held as a key factor. Unlike the Nigerian system, the indigenous status of the Indians, Inuit and Métis is guaranteed under Canadian law in addition to fulfilling the criteria under international law.[100] A major issue which arises from this discourse is that of resource control. The indigenous peoples reside, and are landowners, in the oil exploration communities. Although in Canada, said land ownership includes ownership of the subsurface, this is not obtainable in Nigeria, as

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[99] AA Adewumi and Adeniyi Olatunbosun, 'Enhancing Stakeholder Participation in the Niger Delta Region: The Potential Contributions of the ILO Convention 169' *JSDLP* (2015) 132.

[100] Erika Sarivaara and others, 'Who is Indigenous? Definitions of Indigeneity' *ESJ* (2013) 371.

there is a clear distinction between the ownership of the land and that of the natural resources found beneath the surface, the ownership and control of the latter is vested in the Federal Government.[101]

In light of the proven oil wealth of these climes, the welfare and rights of those at the receiving end of the explorative activities should be prioritized. Sadly, this is not the case in the Niger Delta as oil exploration activities has left the region with issues of environmental pollution, health complications, poisoning of the marine-life, loss of livelihood amongst others.

4.2 BRIEF SIMILARITIES BETWEEN THE SYSTEMS IN NIGERIA AND CANADA

The Canadian clime can indeed serve as a notable model for Nigeria on indigenous rights. However, whilst it might be easy to suggest the steps taken in Canada as regards indigenous rights, the applicability is worth examining due to the similarities between both countries, in terms of governance, legal system and economic activities.

In terms of governance, Canada and Nigeria practice federalism with autonomy and power shared between the federal, provincial/states and municipal/local governments. Although the Canadian democracy differs from that of its Nigerian counterpart, noting that the Parliamentary system and constitutional monarchy are at play in Canada whilst the presidential and parliamentary systems are obtainable in Nigeria. The federal nature becomes an important criterion because this structure aids the understanding of resource allocation and power to make laws which recognize and protect the rights of indigenous people. Under the Canadian federal system,[102] sovereign authority is split between the federal government and the provinces,[103] unlike in Nigeria where power is concentrated on the federal Government.[104]

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[101] Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap C20 LFN 2004, s. 44(3)

[102] Punch Editorial Board, 'Canada at 150: Lessons for Nigeria' (2017) <https://punchng.com/canada-at-150-lessons-for-nigeria/> accessed 26th September 2025.

[103] Canadian Constitution Act 1982, s. 91&92

[104] Dr AE Ibiam, 'Federalism, Democracy and Constitutionalism: The Nigerian Experience' *JLPG* (2016) 5.

For instance, the Canadian provinces are vested with the power to regulate non-renewable natural resources within their territories under section 92A, leaving the federal parliament to legislate on exploration activities on federal territories and export.[105] Furthermore, section 109 of the Constitution Act 1982 vests ownership of mineral resources on the respective provinces where they are found.[106] The Canadian situation is a direct opposite of the Nigerian context where the National Assembly the federal parliamentary body by virtue of Item 39 of the Second Schedule to Part I of the Nigerian Constitution, is vested with the power to legislate on

> Mines and minerals, including oil fields, oil mining, geological surveys and natural gas.[107]

Also, unlike the vesting of the federal parliament in Canada with the power to legislate on indigenous peoples,[108] there is no such provision in the Nigerian Constitution. However, all these do not detract from the federal structure of both climes as the federalism of a country is what the Constitution says it is.

Furthermore, the legal system of both climes mirrors the common law system, with the exception of the Canadian civil province of Quebec,[109] resulting from British colonization. Additionally, Canada and Nigeria are large oil producing nations and the effect of exploration is largely felt by the indigenous groups. Hence, it is important to identify the reason for lesser agitation by the Canadian indigenous communities in a bid to map out recommendations for quelling the agitations by the indigenous Niger Delta peoples and resolving their challenges.

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[105] RD Cairns and others, 'The Resource Amendment (Section 92A) and the Political Economy of Canadian Federalism' OHLJ (1985) 260.
[106] Ibid (n5)s. 109
[107] Ibid (n3) sch.2, part 1, item 39
[108] Ibid (n5) s.91(24)
[109] Canadian Department of Justice, 'Where our Legal System Comes from?' *Department of Justice* (2020) <https://www.justice.gc.ca/eng/csj-sjc/just/03.html> accessed 26th September 2025.

4.3 SIMILARITIES AND DIFFERENCES BETWEEN THE INDIGENOUS PEOPLE OF NIGERIA AND CANADA

Indigenous peoples globally are faced with similar challenges in asserting their rights and improving their welfare. Particularly, the indigenous peoples in Nigeria and Canada have similarities in terms of their status, the agitation for ownership and self-government, discrimination and economic marginalization. In terms of status, indigenous peoples in Canada and Nigeria both satisfy the criteria for indigeneity under international law. Furthermore, the social and economic implications of this status are felt by these groups in both climes. Indigenous groups in Canada, despite the current legal recognition of their status and rights to ownership of land and participation in oil resource control, still agitate for the application of the resource control guarantee under the law and self-government.[110] The Niger Delta peoples have long agitated for control or even participation in the decisions made for the oil exploration activities.[111] This is especially because the exploration of these resources has numerous effects on their environment, aqua-life and means of livelihood, leaving most people in the Niger Delta impoverished. The demand for self-government reached a peak and was later quelled by the amnesty program initiated by the administration of Late President Yar'adua in 2009.[112] These agitations count as the most striking similarity between indigenous peoples in Canada and Nigeria. Furthermore, indigenous peoples in both climes battle discrimination from other ethnic groups. In Canada, the United Nations[113] and Amnesty International have noted the massive discrimination against aboriginals, especially

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[110] WB Henderson and Catherine Bell, 'Rights of Indigenous Peoples in Canada' *The Canadian Encyclopaedia* (2019)<https://www.thecanadianencyclopedia.ca/en/article/aboriginal-rights> accessed 26th September 2025.

[111] AA Adewumi (n1) 140.

[112] Adeyemi Aderogba, 'Government Amnesty Programme and Peace Efforts in the Niger Delta Region: An Analysis of Newspapers' Coverage' *ESJ* (2016) 29.

[113] Melissa Gorelick, 'Discrimination of Aboriginals on Native Lands in Canada' *UN Chronicles* (2007) <https://www.un.org/en/chronicle/article/discrimination-aboriginals-native-lands-canada> accessed 26th September 2025.

aboriginal children[114], thus denying them of basic amenities provided by the Government. A writer notes that there exists systematic discrimination against the Canadian aboriginals in the political and policy-making spheres.[115] Also, the Ontario Human Rights Commission has noted instances of racial profiling against indigenous peoples.[116] Similarly, the under-development which plagues the Niger Delta has been attributed to the discrimination in terms of allocation of resources from the National level.[117] The result of these factors is another similarity, which is economic marginalization of these groups. Canadian aboriginals face economic marginalization due to the fact that they have a relationship with the State which is unequal to that of other groups. This marginalization has been noted to play out in the following ways: lower educational levels, lower labour force participation rates, higher unemployment rates, and lower income levels when compared to non-Aboriginal Canadians.[118]

In terms of distinctions between the indigenous peoples in Canada and the Niger Delta people in Nigeria, it can be said that in the former, their rights are constitutionally recognized and welfare prioritized, thus not obtainable in the latter. However, the similarities and differences go to show that the agitations of indigenous peoples in both climes is on similar issues and the Canadian response can serve as a point of reference for Nigeria.

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[114] Amnesty International Canada, 'Discrimination Against First Nations Children in Canada' *Amnesty International Canada* (2012) <https://www.amnesty.ca/our-work/issues/indigenous-peoples/indigenous-peoples-in-canada/discrimination-against-first-nations> accessed 26th September 2025.

[115] Marie Battiste, 'Systemic Discrimination Against Aboriginal Peoples' *Canadian Race Relations Foundations* (2018) <https://www.crrf-fcrr.ca/en/component/flexicontent/item/24056-systemic-discrimination-against-aboriginal-peoples> accessed 26th September 2025.

[116] Ontario Human Rights Commission, 'Paying the Price: The Human Cost of Racial Profiling' *OHRC* (2003) <http://www.ohrc.on.ca/en/paying-price-human-cost-racial-profiling/impact-racial-profiling-aboriginal-community> accessed 26th September 2025.

[117] BU. Omojimite, 'The Economic Dimensions of the Niger Delta Ethnic Conflicts' AFRREV (2011) 54.

[118] Marie Battiste (n17).

4.4 JUDICIAL PRECEDENTS BY THE CANADIAN AND NIGERIAN COURTS ON THE DEFINITION OF INDIGENOUS PEOPLES

Canadian Courts have been proactive in the recognition and definition of indigenous peoples, especially in interpreting section 35 of the Canadian Constitution. The first decision by the Supreme Court of Canada (hereinafter SCC) on the said provision is the case of *R v Sparrow,*[119] where the Court held that the accused was an indigenous person who enjoyed fishing rights. In determining the status of the accused person, the Court gave no definition, but cited the rule based on the fact that the person was an Indian recognized under the Canadian Constitution. In *Delgamuukw v British Columbia*,[120] the SCC held that aboriginal title is an ancestral right which the Constitution protects. In *Clyde River (Hamlet) v Petroleum Geo-Services Inc*[121] the status of the Inuit was recognized, while in *R v Powley and Daniels*[122] *v Canada (Indian Affairs and Northern Development)*[123] the Court affirmed the status of the Métis as aboriginals with an ancestral hunting right. It must be noted that Canadian Courts do not define indigenous peoples, but seek to ascertain whether the group claiming such a status identifies itself with and trace its ancestry to one of the groups recognized by the Canadian Constitution. At least this recognition affords the indigenous peoples, the platform to enforce and protect their rights.

In Nigeria, there is yet to be a decision on the definition or recognition of indigenous people. The challenge which lies therein is their inability to protect or defend their rights against the Multinational Oil Companies (MNOC). For instance, in *Allan Irou v. Shell BP*[124] the High Court of Delta State declined the Claimant's injunction sought against the Defendants whose oil mining operations polluted the land, fishpond and creek of their community as such an

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[119] *R v Sparrow* [1990] 1 S.C.R. 1075
[120] *Delgamuukw v British Columbia* [1997] 3 SCR 1010
[121] *Clyde River (Hamlet) v Petroleum Geo-Services Inc* [2017] 1 SCR 1069 paras 1 and 19
[122] *R v Powley* [2003] 2 SCR 207 para. 30
[123] *Daniels v Canada (Indian Affairs and Northern Development)* [2016] SCC 12 para 46
[124] *Allan Irou v Shell BP* Suit No. W/89/91 Warri HC/26/91

order will disturb trade which is the main source of Nigeria's economy. Perhaps the Delta State High Court would have been more inclined to grant damages as the Supreme Court did in *SPDC (Nig) Ltd v Tiegbo VII,*[125] a case with similar circumstances, even when damages does not resolve the environmental degradation in such communities. The writer opines that the decisions of the Courts would have been much different had there been an existing definition or recognition of indigenous peoples, because the Courts would be weighing the gross infringement of legally recognized collective rights on one hand and pecuniary interests on the other, hence the decisions would have been made with greater considerations which would create respite no matter how little to the indigenous communities. [126]

4.5 THE INDIGENOUS STATUS OF THE PEOPLE OF NIGER DELTA

The failure of the Nigerian Constitution to recognize the Niger Delta people does not deny them the indigenous status under international law. The Niger Delta people meet all the criteria under international law. It is thus important to briefly examine these criteria.

i. Self-identification: Self-identification is a common thread that runs through most of the characteristics relating to indigenous peoples. Convention 169 of the ILO was most emphatic on this requirement. It provided that self-identification is a fundamental criterion for determining the groups to which the provisions of the convention shall apply. Holding out or specifying self-identification as the sole criterion for determining indigenousness will open an unstoppable floodgate of claims to indigenousness. On the other hand, the postulation by Daes and the World Bank subjecting self-identification by a group to recognition by other competing groups will generate friction and conflicts. In either case, Kelsen's theory of recognition of states in international law[127] becomes a relevant analogy. Under Kelsen's declaratory theory that was applied to recognition of states, a state comes into existence if it

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[125] *SPDC (Nig) Ltd v Tiegbo VII* (2005) 9 NWLR (Pt 931) 439 para B at 469

[126] Andrew Canessa, 'Who Is Indigenous? Self-Identification, Indigeneity, And Claims to Justice in Contemporary Bolivia' *Urban Anthropology and Studies of Cultural Systems and World Economic Development* (2007) 199.

[127] Hans Kelsen**, '**Recognition in International Law; Theoretical Observations*' AJIL* (1941) 605.

merely declares itself as one; whereas his constitutive theory recognizes a state when other states validate its declaration of intention to be recognized. The substance of Kelsen's theory if applied to indigenousness will require recognition to be by self-identification or by acceptance/validation of a claim of indigenousness by the sovereign state in which the asserting group exists.

None of the two Kelsenian theories had arisen in Nigeria. As earlier canvassed, every person in Nigeria belongs to one indigenous group or the other. Some populations of nomadic peoples now inhabit areas with settlement of oil and gas deposits which they arrived comparatively recently. Any claim to indigenousness by such groups must therefore be considered based on any form of marginalization by the state or by other sedentary agricultural peoples and not because of indigenousness on the ground of being first settlers. Mere self-identification as an indigenous group, even if accepted by the other groups within a state is not an end in itself. It must be in solicitation of remedy from marginalization, discrimination or dispossession of their rights because of their *indigenous origin or identity*[128]. International law cannot therefore unilaterally denominate a community as indigenous for it is an act that must be assertively and unequivocally performed by the community at issue.[129] The focus of this discussion is the determination of the obligations owed to the Oil Producing Communities (hereinafter OPCs), independent of the rights of other indigenous groups. The OPCs, in this respect, have repeatedly demanded for the fulfillment of these obligations, first as minorities and later as victims of the operations of the oil companies and not as indigenous peoples. In the *Kaiama Declaration*,[130] the Ijaws a major oil producing community in the Niger Delta demanded for commensurate compensation and development in all spheres of their lives in exchange for the expropriation and exploitation of the resources on their

[128] United Nations Declaration on Rights of Indigenous Peoples, (1989) art. 2.

[129] *Xakmok Kesek v Paraguay* IACtHR, 24 Aug. 2010. <http://www.worldcourts.com.> accessed 26th September 2025.

[130] OP Okonkwo, 'Indigenous Rights of Nigerian Oil Producing Communities under International Law; has all been said?' (2017).

ancestral lands; or the freedom to manage their resources for their all round development. This does not amount to self-identification as indigenous people in line with the characteristics appurtenant thereto. It is at best a demand for concrete express application of universal civil, economic and social rights by the state and the oil companies whether they are recognized as indigenous peoples or not.

ii. Common ancestry, historical continuity with pre-colonial or pre-settler societies and special relationship with ancestral land: The writer has previously discussed the pre-colonial and pre-settler societies in the Niger Delta. It has also been noted by a writer that the communities which form the Niger Delta, including the; Ijo, Ogoni, Urhobo, Itsekiri, Ukwuani (Ndokwa), Epie/Atissa, Ogbia, Abua, Odual (Saka), Abureni (Mini), Ikwerre, Etche, Ekpeye, Ogbah and Egbema had their ancestors occupy their ancestral land as far back as 7,000 years ago.[131] Beginning from the Ijo, other groups came to be on the vast lands and despite having various ancestral figures, these groups indeed share common ancestry and enjoyed historical continuity before and after the colonial era. The special relationship which the Niger Delta communities share with[132] land is traceable to the worship of their deities and their economic means of survival, agriculture.

iii. Distinct social, economic and political systems: Prior to the colonial occupation, the Niger Delta people existed with distinct social, economic and political systems[133]. During the palm oil trade, the traditional heads in the Niger Delta communities facilitated the trade with British traders, by fixing prices and appointing middlemen to negotiate with these traders.[134] This showed the intertwining of political and economic systems in the region. The political

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[131] AM Okorobia and ST Olali, 'Ethno-Nationalism and Identity Conflicts in Nigerian History: The Niger Delta Situation to 2012' *Mediterr. J. Soc. Sci* (2013) 431 & 432.

[132] BH Odalonu, 'Paradox of Poverty in the Midst of Abundant Resources: The Politics of Oil Resources and Renewed Insurgency in the Niger Delta Region of Nigeria' *IJSCISL* (2019) 94.

[133] Jill Salmons, 'The Role of Mammy Wata as an Agent for the Promotion of Ogoni National Identity' In Henry John Drewal, Sacred Waters: Arts for Mami Wata and Other Divinities in Africa and the Diaspora' (IU Press 2008) 432 - 433.

[134] Martin Lynn, 'Change and Continuity in the British Palm Oil Trade with West Africa, 1830-55' *TJAH* (1981) 333.

system was so strong that the attempt by the British colony to capture and control the region was only possible by exiling traditional leaders.[135] Notably, these structures still exist today. Also, the Niger Delta communities are known for fishing and farming, with adequate resources to produce palm oil. However, the environmental degradation resulting from oil exploration pollute their lands and water, making it impossible to practice these trades. Furthermore, the Niger Delta people still practice their distinct cultures and beliefs, speak their distinct languages and uphold their customs on different spheres of life.

iv. Determination to preserve, develop and transmit their systems to future generations: The cultural and religious practices which existed years ago in the Niger Delta region are still prominent in the region today. The Niger Delta people have shown a desire to make their systems evergreen and indestructible by the passage of time.[136] These cultural practices still play out in marriage, succession, medicine and even in conflict resolution. Whilst the communities and their inhabitants have roles to play in passing the knowledge of traditional systems, the traditional leaders exist majorly for this purpose. Traditional leaders in the Niger Delta play the role of custodians of tradition and culture, ensuring that the knowledge of cultural systems is passed to future generations.[137] Indeed, the Niger Delta peoples meet all the criteria necessary for recognition as indigenous peoples. Hence, they should enjoy globally acknowledged benefits, such as resource control, land ownership and equality in economic participation and development.

4.5.1 Reason for Agitation for Status and Benefits to be Gained

It is no longer contestable that the Niger Delta people qualify as indigenous peoples under international law. Whilst the Niger Delta People can be said to have met the criteria under the

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[135] Tunde Oduwobi, 'Deposed Rulers under the Colonial Regime in Nigeria' *Cahiers d'etudes africaines* (2003) 558.

[136] AO Babatunde, 'The Efficacy of Traditional Cultural Practices in the Rehabilitation of Victims of Torture in Nigeria's Niger Delta' *Torture Journal* (2015) 47.

[137] Timeyin Preston Ideh, 'Who Needs Traditional Rulers?' *Stears Business* (2018) <https://www.stearsng.com/article/who-needs-traditional-rulers> accessed 26th September 2025.

various international and regional instruments, the question to be asked is the applicability of these instruments in the Nigerian legal jurisprudence or even before the Nigerian Courts. Section 12 of the Nigerian Constitution is to the effect that for any treaty to be legally binding, it must be enacted into law by the National Assembly. The African Charter on Human and Peoples rights, has been ratified and recognized as forming part of the Human Right jurisprudence in Nigeria, although recognizing the collective rights it does not define or recognize the status of indigenous peoples. Respite can be found in the criteria set by the African Court such as self-identification, experience of marginalization, exclusion, or discrimination, use of a territory, cultural distinctiveness, laws and institutions, all of which are clearly exhibited by the Niger Delta People.

There are several justifications for the agitation by Niger Delta people. Some include:

i. Ownership of resources. Indigenous peoples of Niger Delta are landowners where the resources are found. It is understood that Governments intend to utilize the proceeds of these resources to facilitate development in all parts of the country, however, this should not be to the detriment of the Niger Delta people. The indigenous peoples in the region should own the resources and suffer the most degradation from its exploration. Hence, the ownership of these resources should justify the accrual of benefits to them.

ii. History of marginalization and need for reconciliation. The Niger Delta people have long suffered marginalization in the social, political and economic spheres of the country's existence. This fact should justify efforts aimed at addressing the injustices and developmental inequalities in the region. Furthermore, governments should make efforts to reconcile with the indigenous peoples who have not only suffered degradation, but have experienced the use of military forces in a manner that violates several rights.

iii. The need for organized institutions protecting the rights and welfare of indigenous peoples. Flowing from the history of marginalization the Niger Delta region has been weakened

economically and politically. The communities which make up this region lack the resources to even survive comfortably let alone seek redress for violation of their rights by MNOC or government agencies. It is globally agreed that indigenous peoples should have the recognition and status for the furtherance of their rights and welfare. This burden is usually borne by National Human Rights Commissions and other specified State agencies.[138] Similar agencies like the National Human Rights Commission (NHRC) and the Niger Delta Development Commission (NDDC) charged with this task in Nigeria have not been able to secure the recognition or protection of the rights of these indigenous peoples. The NHRC was set up under the National Human Rights Act 1995[139] as a quasi-judicial mechanism to strengthen the protection of human rights, take on investigations and litigation for human rights violations, monitor the observance of human rights in Nigeria, aid in the formulation of human rights policies by government and assist human rights victims. However, despite the extension of the Commission's mandate under the NHRC (Amendment) Act 2010[140], the Commission has not been able to uphold its mandate due to lack of independence and lack of funding[141].

Also, the NDDC was established under the Niger-Delta Development Commission (Establishment etc) Act 2000.[142] The Commission was tasked with the general welfare and development of the region, by putting in place policy and projects which develop the region. However, the Commission has failed to perform up to par due to several challenges, including the failure of implementation of its policy recommendations, lack of proper funding

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[138] Commonwealth Forum of National Human Rights Institutions, 'Promoting and Protecting Indigenous People's Rights' *CFNHRI* (2019) <https://cfnhri.org/updates/promoting-and-protecting-indigenous-peoples-rights/> accessed 26th September 2025.

[139] National Human Rights Act 1995 Cap. 61. N46 LFN 2004

[140] NHRC (Amendment) Act 2010

[141] May Agbamuche-Mbu , "Nigeria and its Human Rights Commission" *This Day* (2014) <https://web.archive.org/web/20150402095128/http://www.thisdaylive.com/articles/nigeria-and-its-human-rights-commission/191769/> accessed 26th September 2025.

[142] Niger-Delta Development Commission (Establishment etc) Act. 2000 Act No 6; Cap. N86 LFN 2004. (as amended by the Niger-Delta Development Commission (Establishment etc) (Amendment) Act 2017)

and corruption through the mismanagement of the scarce funds of the Commission.[143] Hence, the agitation of the Niger Delta people to be recognized as an indigenous people is necessary to ensure that specific institutions created to take on these tasks realistically function towards the general welfare of the indigenous Niger Delta people.

iv. Need for self Government and proper utilization of revenue obtained from oil exploration.

Oil is indeed the mainstay of the Nigerian economy. Oil trade contributes largely to the Nigerian Gross Domestic Products and 95% of foreign exchange.165 Simply put, oil from the Niger Delta keeps Nigeria running. Thus, the underdeveloped nature of the source of this wealth defies logic. As the region from which oil is mined, it is expected that the Niger Delta is meant to be well developed with critical infrastructure and standard health care system funded from the proceeds from the sale of oil. However, this is not the case.

It must be noted that the self government here does not refer to the leadership of the respective states, but rather the facilitation of consultative and participatory platforms to allow common members of the Niger Delta communities to decide on their fate as a people.

4.6 CONCLUSION

While the Niger Delta people undeniably meet the criteria for indigenous status under international law, their lack of domestic legal recognition continues to hinder their ability to assert their rights and improve their welfare. By examining the Canadian experience, particularly judicial precedents and constitutional provisions, Nigeria can gain valuable insights into recognizing indigenous rights, promoting resource control, and fostering self-governance. The agitation of the Niger Delta people is justified by historical marginalization, the need for reconciliation, and the necessity of organized institutions that protect their rights and ensure the responsible utilization of revenue generated from oil exploration. Embracing

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[143] Angela Ajodo-Adebanjoko, 'Towards Ending Conflict and Insecurity in the Niger Delta Region: A Collective Non-Violent Approach' *Reliefweb* (2017) <https://reliefweb.int/report/nigeria/towards-ending-conflict-and-insecurity-niger-delta-region> accessed 26th September 2025.

these principles will not only address the injustices faced by the Niger Delta people but also contribute to the overall stability and prosperity of Nigeria.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 SUMMARY OF FINDINGS

The study establishes that oil producing communities in the Niger Delta meet international criteria for recognition as indigenous peoples, given their historical continuity, cultural distinctiveness, and special relationship with ancestral lands. However, the Nigerian legal system does not extend corresponding recognition or legal protection. Instead, ownership and control of hydrocarbons are centralized under federal legislation, particularly the Petroleum Act, which excludes communities from substantive decision-making and benefit sharing mechanisms. This creates a structural imbalance that marginalizes local populations while prioritizing state and corporate interests.

Environmental protection mechanisms are shown to be inadequate in both design and implementation. The Environmental Impact Assessment Act, while theoretically enabling public participation, is undermined by executive exemptions, weak enforcement, and procedural irregularities. Other legal frameworks such as the Associated Gas Re-injection Act and anti-flaring regulations remain largely ineffective, resulting in persistent pollution and ecological damage. Agencies such as NESREA, NOSDRA, and NDDC are further constrained by limited powers, overlapping mandates, under funding, and political interference, reducing their capacity to regulate, remediate, or hold operators accountable.

The document also highlights systemic failures in corporate practices. Multinational oil companies and state-owned enterprises operate with outdated technology, insufficient safeguards, and limited sanctioning for non-compliance. This leads to recurring oil spills, gas flaring, and widespread environmental degradation, with severe consequences for livelihoods, health, and food security in affected communities.

International and regional instruments, including the United Nations Declaration on the Rights of Indigenous Peoples and the African Charter, articulate protective norms that could address these inequities. However, Nigeria's non-ratification or lack of domestic incorporation of key instruments prevents their enforceability. Comparative jurisprudence, particularly from Canada, demonstrates practical models for indigenous participation, land rights recognition, and duties to consult, but Nigeria has yet to adopt comparable measures.

The cumulative conclusion is that the Nigerian legal order legitimizes extractive outcomes that prioritize national revenue generation while entrenching social, economic, and environmental injustice in oil-producing regions.

5.2 RECOMMENDATIONS

The study advances a series of interlinked reforms designed to realign Nigeria's legal and institutional frameworks with principles of equity, accountability, and environmental justice.

i. Legislative and constitutional reform should address the imbalance in resource ownership. While wholesale constitutional change may be politically sensitive, statutory recognition of community participation and benefit-sharing is both feasible and necessary. Domestic incorporation of international instruments such as UNDRIP and ILO Conventions would create enforceable standards that guarantee consultation and protect indigenous rights.

ii. Regulatory frameworks must be strengthened. Agencies charged with environmental oversight should be given independent enforcement powers, secure funding, and clear mandates. The Environmental Impact Assessment process must be revised to eliminate broad exemptions and to guarantee transparency and community participation. Enforcement mechanisms must include strict penalties for non-compliance, coupled with mandatory publication of environmental reports.

iii. Oil operators should be subjected to strict liability regimes requiring compulsory cleanup, compensation, and environmental restoration. Mechanisms such as environmental bonds,

insurance, or dedicated remediation funds should be established to ensure financial responsibility for ecological harm.

iv. Free, Prior, and Informed Consent should be codified as a legal requirement for petroleum exploration and development. Communities must have enforceable rights to consultation, with outcomes subject to judicial review or oversight by an independent administrative body.

v. Institutional restructuring is required. Agencies such as NOSDRA and NDDC should be depoliticized, given technical capacity, and subjected to transparent financial management and external audit. The Nigerian National Petroleum Corporation should be restructured to separate its commercial interests from regulatory functions, thereby eliminating conflicts of interest.

vi. Judicial mechanisms should be adapted to enhance access to justice. Specialist environmental courts, simplified procedures for community claims, and class action mechanisms would enable faster and more effective redress. Legal aid programs should be expanded to support affected communities.

vii. Technical standards must be modernized. Operators should adopt global best practices in spill prevention, monitoring, and remediation. Independent monitoring bodies, supported by transparent data-sharing platforms, would improve accountability.

Finally, revenue-sharing arrangements should be restructured. The derivation principle must be implemented transparently, with funds ring fenced for community development, health, education, and environmental remediation. Civil society and community participation in fund management would reduce corruption and increase developmental impact. Lessons from comparative jurisdictions, particularly Canada, provide adaptable frameworks for co-management agreements, recognition of collective rights, and negotiated revenue sharing models.

5.3 CONCLUSION

The study concludes that the challenges facing oil-producing communities in Nigeria are not primarily the result of legal absence but of legal design and institutional practice that privilege state and corporate interests over community rights and environmental stewardship. The findings underscore that international and regional legal standards provide a clear normative framework for reform, but without domestic incorporation and institutional restructuring, these standards remain aspirational.The recommendations advanced are both practical and necessary. Statutory recognition of community rights, enforceable consent mechanisms, stronger regulatory capacity, strict liability for pollution, institutional restructuring, and transparent revenue-sharing are measures that can be implemented within Nigeria's existing governance framework. Together, they would narrow the accountability gap, reduce conflict, and ensure that resource extraction aligns with principles of justice, sustainability, and social stability. Ultimately, the document demonstrates that reform is not merely a matter of compliance with international norms but a political and socio-economic imperative. Failure to act will perpetuate cycles of marginalization and ecological harm, while meaningful reform holds the potential to balance economic interests with the rights and welfare of Nigeria's oil-producing communities.

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