



A CRITICAL ANALYSIS OF THE LEGAL FRAMEWORK GOVERNING OIL AND GAS REVENUE ALLOCATION TO HOST COMMUNITIES IN NIGERIA

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ABSTRACT

The allocation of oil and gas revenue to host communities in Nigeria has remained one of the most contentious issues in the country's political economy and constitutional discourse. Despite contributing the overwhelming proportion of national revenue, oil-producing communities in the Niger Delta continue to experience environmental degradation, underdevelopment, and social dislocation. This article investigated the Allocation of Oil and Gas Revenue to Host communities in Nigerian and evolving relationship amongst Federal Government, State Government and the oil-bearing communities in Nigeria, and the cause of pipeline vandalism, community unrest and other social vices. The study strived to evaluate the adequacy of existing legal frameworks in addressing these challenges while providing clarity on the extent to which current laws promote and protect allocation of oil and gas revenue to the host communities in Nigeria. The central aim of this article was to examine the allocation of oil and gas revenue to oil bearing communities in Nigeria, with a view to proposing a legal reform. The specific objectives of the work were to examine whether the existing legal frameworks currently governing the allocation of oil and gas revenue to host communities in Nigeria are adequate by the challenges the activities of oil and gas posed to the environment and human beings affected by those activities; investigate what challenges hinder effective implementation of existing revenue allocation mechanisms for oil-producing communities. Employing a doctrinal research methodology, the dissertation undertook a thorough analysis of legal frameworks and case law, yielding significant findings. This study finds that the legal instruments currently governing oil and gas revenue allocation to host communities in Nigeria including the Constitution, the Petroleum Act (repealed), the Niger Delta Development Commission (NDDC) Act, and more recently, the Petroleum Industry Act (PIA) 2021 lack coherence and consistency in addressing the long-standing demands of host communities. The article's comparative insights from international jurisdictions provided valuable lessons on the importance of harmonized laws, transparency, and host communities direct participation in decision making processes in oil and gas revenue allocation. Based on the findings, the dissertation proposed several recommendations aimed at enhancing oil and gas revenue allocation in Nigeria.

KEYWORDS: *Oil and Gas Revenue, Host Communities, Revenue Allocation, Derivation Principle, and Environmental Degradation.*

1. INTRODUCTION

Nigeria is a nation blessed with mineral resources out of which oil is singled out. The discovery of oil in commercial quantity made the oil and gas sector in Nigeria the biggest¹. Oil provided near

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90% of foreign exchange earnings and approximately 80% of Federal revenue and contributes to the growth of the Nigerian economy². The income from oil exploration and exportation over time has been the mainstay of the economy. Oil being the backbone of the Nigerian economy performs a major function in influencing the economic well-being of the country. Oil being the backbone of the Nigerian economy performs a major function in influencing the economic well-being of the country.³ The oil and gas sector has been seen as the mainstay that drives the economic growth and development of Nigeria.

Paradoxically, the communities from whose lands these resources are extracted remain among the poorest and most environmentally degraded in the country. This contradiction lies at the heart of the debate on the allocation of oil and gas revenue to host communities in Nigeria⁴.

The question of who owns natural resources, who controls them, and who benefits from their exploitation has generated intense controversy since the colonial era. Post-independence Nigeria inherited a centralized resource control model that vested ownership of mineral resources in the state⁵. Over time, this model has been reinforced through constitutional provisions and statutes, often at the expense of local communities. The resulting imbalance has fueled grievances, protests, militancy, and demands for resource control, particularly in the Niger Delta region⁶.

Legal responses to these grievances have evolved through various phases. Early revenue allocation regimes emphasized regional derivation, allowing producing regions to retain a substantial share of resource revenues. However, the advent of military rule and the oil boom of the 1970s marked a shift toward fiscal centralization. Although the return to civilian rule in 1999 restored the derivation principle to some extent, the allocation of oil and gas revenue to host communities remains largely indirect, mediated through federal and state institutions whose effectiveness is often questioned.

This article contends that the persistent underdevelopment of host communities is not merely a policy failure but a legal one. Existing laws inadequately recognize host communities as stakeholders in resource governance and fail to provide enforceable rights to revenue benefits. The Petroleum Industry Act 2021 (PIA), while representing a significant reform effort, raises critical questions regarding the sufficiency of its host community provisions. Accordingly, this article

¹ A O Akinlolu and others, 'Oil revenue and Nigerian economic growth from 1981 – 2018: A resource curse?' [2020] (2) (4) *International Journal of Management Studies and Social Science Research*, 291-304.

² *ibid.*

³ O U Efanga and others, 'Analysis of the Impact of Oil Revenue on the Economic Growth of Nigeria Between 1981 and 2018' [2020] (11) (2) *IOSR Journal of Economics and Finance*, 25-34.

⁴ I M S Justice and others, 'Rural Poverty and Artisanal Mining in Sub-Saharan Africa: New Perspectives Through the Environment–Poverty Paradox' [2017] (13)(2) *International Journal of Rural Management* 162–181.

⁵ M J Watts, 'Contested Communities, Malignant Markets, and Gilded Governance: Justice, Resource Extraction, and Conservation in the Tropics' in C Zerner (ed), *People, Plants, and Justice: The Politics of Nature Conservation* (New York: Columbia University Press 2000), 21–51.

⁶ R B Stewart, 'Pyramids of Sacrifice—Problems of Federalism in Mandating State Implementation of National Environmental Policy' [1976] (86) *Yale Law Journal* 1196



undertakes a comprehensive legal analysis of oil and gas revenue allocation in Nigeria and proposes targeted legal reforms to address longstanding inequities

2. CONCEPTUAL FRAMEWORKS

There is need to herein, set out the conceptual meaning of allocation of oil and gas revenue and the theoretical lenses through which their analysis can be understood.

2.1 Conceptual Framework of Allocation of Oil and Gas Revenue

This article will give clarifications of the relevant concepts used by the researcher, to enable readers have better comprehension of the topic of this work.

2.1.1 Oil and Gas Revenue

Oil and gas revenue refers to income derived from the exploration, production, processing, and sale of petroleum resources⁷. In Nigeria, this revenue primarily accrues to the state through royalties, petroleum profits tax, company income tax, rents, signature bonuses, and other statutory payments made by oil companies⁸. These revenues are paid into the Federation Account and subsequently distributed among the federal, state, and local governments in accordance with constitutional and statutory formulas.

2.1.2 Revenue Allocation

Revenue allocation in Nigeria refers to the structured method of distributing the country's financial resources particularly those derived from oil and gas among the federal, state, and local governments⁹. This process is governed by constitutional provisions, statutory formulas, and political negotiations. However, the current structure heavily favors the federal government, which collects and redistributes the majority of revenues, particularly those from petroleum resources¹⁰. This has sparked longstanding debates and dissatisfaction, especially among oil-producing communities who feel excluded from the benefits of the wealth extracted from their land.

2.1.4 Host Communities

The term “host communities” generally refers to communities in whose land or territorial waters oil and gas operations take place¹¹. These communities bear the direct environmental, social, and economic impacts of petroleum activities, including pollution, land degradation, displacement, and loss of traditional livelihoods. Under the Petroleum Industry Act 2021, host communities are

⁷ J J Soladay ‘Measurement of Income and Product in the Oil and Gas Mining Industries’ in D Usher (ed), *The Measurement of Capital* (Chicago University of Chicago Press 1980), 347–376.

⁸ L Nnah, ‘Petroleum Revenue and Public Spending in Nigeria 2005–2020’ [2023] (20) *BW Academic Journal*, 20–20.

⁹ A Salami and others, ‘Taxation, Revenue Allocation and Fiscal Federalism in Nigeria: Issues, Challenges and Policy Options’ [2011] (56) (189) *Economic Annals*, 27–50.

¹⁰ A Z Huq and others, ‘The Negotiated Structural Constitution’ [2014] (114) (1) *Columbia Law Review*, 1595.

¹¹ U W Nwosu, ‘The Relationship Between Oil Industries and Their Host Communities in Nigeria’s Niger Delta Region’ [2017] (4)(1) *International Journal of Public Administration and Management Research*, 42–52.



defined more specifically as communities that host facilities for the exploration, production, processing, or transportation of petroleum.

2.1.4 Derivation Principle

The derivation principle is a constitutional guideline that mandates the allocation of a portion of revenue generated from natural resources back to the state or area where those resources are extracted¹². Under the 1999 constitution at least 13% of oil revenue generated from a producing state must be returned to that state¹³. This principle is designed to compensate for the environmental degradation, infrastructural strain, and socio-economic disruptions associated with resource extraction. In theory, it promotes fairness by ensuring that oil-producing areas benefit directly from the wealth derived from their land¹⁴.

3. THEORETICAL FRAMEWORK

Under these headings the work examines the theories relevant to the article. These theories are the natural school of law, sociological school of law and the positivist school of law.

2.2.1 Natural School of Law

The Natural School of Law is a legal theory rooted in the belief that law derives its authority not merely from enacted statutes but from a higher moral order or universal principles of justice¹⁵.

This school views law as intrinsically linked to morality, fairness, and the common good. Prominent proponents of natural law theory include Aristotle (384–322 BC), Thomas Aquinas (1225–1274), and later, John Locke (1632–1704)¹⁶. These scholars emphasized that unjust laws those that contradict reason or natural justice lack legitimate authority and should not be obeyed¹⁷.

In the context of Nigeria's oil and gas ownership and the push for equitable revenue allocation to host communities, the natural law perspective raises critical ethical questions¹⁸. It challenges the legitimacy of a legal framework that vests exclusive ownership of oil and gas in the federal government while disregarding the suffering, degradation, and displacement of the communities from whose lands the resources are extracted.

¹² T Okonkwo and others, 'Ownership and Control of Natural Resources Under the Nigerian Constitution 1999 and Its Implications for Environmental Law and Practice' [2017] (3) (2) *Journal of Sustainable Development in Africa*, 1–27.

¹³ Constitution of Federal Republic of Nigeria 1999, S 162 (2).

¹⁴ N P Hariram and others, 'Sustainalism: An Integrated Socio-Economic-Environmental Model to Address Sustainable Development and Sustainability' [2023] (15) (13) *Sustainability*, 10682.

¹⁵ J Finnis, 'Natural Law Theories' in E N Zalta (ed), *The Stanford Encyclopedia of Philosophy* (Stanford Metaphysics Research Lab 2007), 23.

¹⁶ S Coyle, *Natural Law and Modern Society* (Oxford Oxford University Press 2023), 34.

¹⁷ L L Weinreb, *Natural Law and Justice* (Cambridge Harvard University Press 1987), 12.

¹⁸ J O Adebayo, *Oil and Gas Contracts: A Law in Context Analysis Using Nigeria as a Case Study* (Lagos Malthouse Press 2018), 56.



2.2.2 Sociological School of Law

The Sociological School of Law views law as a social institution that must evolve to reflect the realities, values, and needs of the society it governs¹⁹. Unlike the Natural School, which focuses on moral ideals, this school emphasizes law as a dynamic tool shaped by social forces, interactions, and experiences²⁰. address the real social consequences of resource extraction²¹.

The sociological school supports reforms that prioritize community welfare, participatory governance, and equitable development²².

This school gained prominence in the late 19th and early 20th centuries, with notable proponents such as Eugen Ehrlich (1862–1922), Roscoe Pound (1870–1964), and Léon Duguit (1859–1928)²³. Roscoe Pound, in particular, advanced the idea that law should serve as a means of “social engineering” balancing competing interests to achieve justice and societal order²⁴.

By focusing on law as a reflection of lived experience, this theory demands a legal framework that accounts for the voices, struggles, and expectations of oil-bearing populations. It encourages laws that evolve with society laws that not only regulate resource control but also promote justice, inclusion, and environmental sustainability in Nigeria’s oil-rich regions.

2.2.3 Positive School of Law

The Positive School of Law, also known as Legal Positivism, holds that law is a creation of human authority and must be obeyed as written, regardless of its moral content²⁵.

Key proponents include Jeremy Bentham (1748–1832), who criticized natural law for its vagueness, and John Austin (1790–1859), who defined law as a command issued by a sovereign backed by sanctions. In the 20th century, HLA Hart (1907–1992) further developed this school by introducing a more nuanced understanding of legal systems, emphasizing rules of recognition, change, and adjudication²⁶.

¹⁹ N Luhmann, *A Sociological Theory of Law* (London Routledge 2013), 34.

²⁰ L S Krieger and others, ‘Human Nature as a New Guiding Philosophy for Legal Education and the Profession’ [2007] (47) (1) *Washburn Law Journal*, 247.

²¹ M S Islam and others, ‘Conceptualizing Development and Underdevelopment: From Classical Modernization to Contemporary Post-Development Discourse’ [2018] (4) (2) *Journal of Asian Development*, 107–122.

²² A Fung and others, ‘Deepening Democracy: Innovations in Empowered Participatory Governance’ [2001] (29) (1) *Politics and Society*, 5–41.

²³ H P Pareja and others, ‘Sociological Jurisprudence: Its History, Applications and Trends’ [2014] (2) (1) *SDSSU Multidisciplinary Research Journal*, 61–69.

²⁴ S A Gochhayat, *Social Engineering by Roscoe Pound: Issues in Legal and Political Philosophy*, <<https://ssrn.com/abstract=1742165>> accessed 1st August, 2025.

²⁵ B H Bix, ‘Legal Positivism’ in M P Golding and W A Edmundson (eds), *The Blackwell Guide to the Philosophy of Law and Legal Theory* (Oxford Blackwell 2005), 29–49.

²⁶ G J Costello, *Natural Law and Natural Rights in Nineteenth Century Britain* (London Routledge 2013) 56.



Within the context of this dissertation, the positive law perspective explains the existing legal framework that vests ownership and control of oil and gas in the federal government of Nigeria²⁷. The Petroleum Act and the Constitution provide a legal basis for centralized ownership, and under positivist reasoning, these laws are valid and enforceable because they were properly enacted²⁸. However, this legal recognition does not necessarily translate into social justice or equitable distribution of wealth. While positivism defends the current arrangement, it also exposes a major limitation: laws can be procedurally valid yet socially unjust.

Thus, the author opines that positivism reinforces the point that if the law no longer serves justice or social balance, it can and should be changed to meet evolving needs and aspirations.

4. LEGAL FRAMEWORKS

This section will examine the legal and institutional frameworks on the Allocation of Oil and Gas Revenue to Host Communities in Nigeria, and present possible proposal for a legal review.

4.1 National Legal Framework

Nigeria's national legal framework is anchored in the 1999 Constitution (as amended), which vests ownership and control of petroleum resources in the federal government. Supporting laws such as the Petroleum Industry Act 2021, the NNPC Act, the RMAFC Act, and the FIRS Act regulate exploration, revenue collection, and distribution. Together, these instruments centralize control while providing mechanisms—such as the Host Communities Development Trusts (HCDTs) under the PIA—for channeling benefits to oil-producing communities.

4.1.1 Constitution of the Federal Republic of Nigeria, 1999

The 1999 Constitution serves as the supreme law governing oil and gas ownership, revenue allocation, and host community entitlements in Nigeria. It vests all petroleum resources in the federal government on behalf of Nigerians²⁹. The constitution further governs revenue distribution, including the derivation principle which mandates that a portion of oil to producing states³⁰. In the context of this dissertation, the Constitution is foundational. It legally sanctions federal ownership of oil and gas, establishing the central control that largely excludes host communities despite their bearing the environmental and social costs of extraction. While state governments receive a percentage of oil revenue via the derivation formula, actual benefits often stop short of reaching local communities due to intermediary layers of governance and weak accountability³¹.

²⁷ O B Oba, 'Analysis of the Regulatory Framework for the Control of Oil and Gas Pollution in Nigeria's Niger Delta Region' (Unpublished LLM Dissertation, 2022), 34.

²⁸ (n 1), S 43.

²⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended) Ss. 44 (3), 20 and 43 44 (1). S 44 (3).

³⁰ (n 30), S 162.

³¹ G E Thompson, 'The Double-Edged Sword of Sovereignty by the Barrel: How Native Nations Can Wield Environmental Justice in the Fight Against the Harms of Fracking' [2016] 63 *UCLA Law Review*, 1818.



Moreover, the Constitution does not provide explicit legal recognition of host communities or guarantee their participation in decision-making or compensation. This creates a structural vacuum, where communities are impacted but lack formal legal standing to claim their rightful share³².

The constitutional framework therefore underpins the key tension in our study the gap between legal ownership and community entitlement. Reforming or reinterpreting these constitutional provisions so they explicitly protect and compensate oil-producing communities becomes critical if direct revenue allocation is to succeed

4.1.2 Petroleum Industry Act 2021

The enactment of the Petroleum Industry Act (PIA) in 2021 marked a turning point in Nigeria's oil and gas sector³³. After nearly two decades of legislative delays, the Act consolidated existing petroleum laws and introduced a more comprehensive regulatory framework aimed at improving transparency, accountability, and community engagement. For host communities, the most notable provision is the establishment of the Host Communities Development Trust (HCDDT), which is designed to facilitate direct benefit-sharing³⁴.

Oil and Gas companies are now mandated to set aside 3% of their actual operating expenditure from the previous year into the Trust Fund for the benefit of host communities³⁵. This provision was a deliberate response to years of agitation by oil-producing communities who felt marginalized and left to suffer the brunt of environmental degradation and socio-economic dislocation³⁶.

This article is of the idea that by creating a legally backed mechanism for direct revenue allocation, host communities would no longer be entirely dependent on federal or state interventions that often fail to reach the grassroots. However, despite this legislative innovation, the implementation of the HCDDT has raised serious concerns. Critics argue that 3% is grossly insufficient given the scale of environmental harm and economic displacement caused by petroleum operations. Furthermore, the structure of the Trust places considerable influence in the hands of oil companies regarding project selection and fund administration, potentially undermining community autonomy. While the PIA signifies progress in recognizing the rights of host communities, its practical impact depends heavily on transparent implementation, equitable project delivery, and a review mechanism that allows for future amendments based on community feedback and evolving realities.

³² C Saunders, 'International Involvement in Constitution Making', in D Landau and H Krieger (eds), *Comparative Constitution Making* (Cheltenham, Edward Elgar Publishing, 2019), 69–89.

³³ S E Imoisi and others, 'Legal Issues and Innovations Introduced by the Petroleum Industry Act 2021 in the Nigerian Oil Industry' [2023] (10)(2) *Journal of Commercial and Property Law*, 229.

³⁴ Petroleum Industry Act (PIA) 2021 Chapter 3, s 235.

³⁵ (35), s 240.

³⁶ B Sunny-Hart and others, 'Legal and Institutional Framework of the Oil and Gas Industry in Nigeria: A Critical Overview' [2024] (9)(1) *AJIEEL*, 229.



4.2 Foreign Legal Framework

Foreign legal frameworks provide comparative insights into how other resource-rich states manage the allocation of oil and gas revenues, especially in relation to host communities. In Canada, natural resources are largely under the jurisdiction of the provinces, with provincial governments exercising control over exploration, leasing, taxation, and revenue distribution. This system enables producing provinces such as Alberta to retain significant portions of petroleum revenues for local development, thereby reflecting principles of federalism and decentralization.

4.2.1 Alaska Statehood Act, 1958

The Alaska Statehood Act of 1958 was the foundational legal instrument that granted Alaska full statehood within the United States³⁷. Beyond its political significance, the Act had substantial implications for land ownership and natural resource management, especially oil and gas³⁸. Under its provisions, Alaska received entitlement to select over 100 million acres of federal land, including areas rich in petroleum deposits³⁹. This control over land and resources allowed the newly formed state to assert authority over exploration, licensing, leasing, and taxation of extractive activities within its boundaries⁴⁰.

A particularly strategic outcome of the Act was the empowerment of Alaska to derive direct economic benefits from its natural endowments⁴¹. With ownership came the legal latitude to develop a framework for sustainable resource exploitation that considered both economic needs and environmental obligations⁴². The Act laid the groundwork for Alaska's later establishment of the Alaska Permanent Fund, which captures a portion of oil revenues for long-term public benefit⁴³.

For Nigeria, the Alaska Statehood Act offers a crucial precedent in resource federalism and decentralized control. It highlights how legal recognition of sub-national resource ownership can translate into more responsive governance, improved local development outcomes, and stronger environmental stewardship. Importantly, it raises critical questions for Nigeria's federal structure especially in the context of resource control debates between the federal government and oil-producing states.

³⁷ G A McBeath, *The Alaska State Constitution* (Oxford, Oxford University Press, 2011), 45.

³⁸ Alaska Statehood Act 1958, S 4 and 6.

³⁹ K M Grote and others, 'Indigenous Peoples and the Power (lessness) Of Public Participation: Assessing Effects of Indigenous Community Input in The Alaskan Coastal Plain Oil and Gas Leasing Program Environmental Impact Statement' [2024] 158 *Environmental Science & Policy*, 103787.

⁴⁰ (n 221), S 4, 6(a)–(I), 6(m) and 28.

⁴¹ F S Chapin III and others, 'Policy Strategies to Address Sustainability of Alaskan Boreal Forests in Response to a Directionally Changing Climate' [2006] 103(45) *Proceedings of the National Academy of Sciences*, 16637.

⁴² E Duruigbo, 'Permanent Sovereignty and Peoples' Ownership of Natural Resources in International Law' [2006] 38 *George Washington International Law Review*, 33.

⁴³ O S Goldsmith, *The Alaska Permanent Fund Dividend: A Case Study in the Direct Distribution of Resource Rent* (Institute of Social and Economic Research, University of Alaska Anchorage 2011) 67.



4.2.2. The Constitution of the Republic of Uganda (1995, as amended)

The Constitution of the Republic of Uganda, adopted in 1995 and subsequently amended, serves as the supreme legal instrument governing the management of natural resources within Uganda's territory⁴⁴. It lays the foundational principles for resource ownership, allocation, and environmental protection, while also emphasizing equitable development. The Constitution vests the ownership of minerals in the government on behalf of the people and mandates the state to regulate their exploitation in a manner that safeguards national interest⁴⁵. Furthermore, the Constitution promotes sustainable development by directing the state to manage natural resources in trust for current and future generations, reflecting the principle of intergenerational equity. It also enshrines environmental rights and obligations, requiring both the state and citizens to preserve and protect the environment⁴⁶.

Crucially, the Constitution provides the framework for transparency and public accountability in the natural resource sector⁴⁷. By emphasizing the decentralization of resource governance, it ensures that local governments and communities have a stake in decisions affecting their environment and livelihoods. In doing so, it enhances participatory governance and aligns with global best practices on community engagement and benefit sharing⁴⁸.

The Constitution further provides that revenue derived from natural resource exploitation must be managed in a manner that promotes national development and poverty alleviation. Its provisions form the basis for subsequent legislation and policies guiding Uganda's oil, gas, and mineral sectors, and it remains a key reference point in the implementation of responsible resource governance⁴⁹. For Nigeria, Uganda's constitutional approach offers valuable lessons on how a legal framework can balance state control with environmental responsibility and community inclusion.

5. INSTITUTIONAL FRAMEWORK

The institutional framework governing oil and gas revenue allocation in Nigeria is highly centralized, reflecting constitutional provisions that vest ownership and control of petroleum resources in the federal government. At the apex is the Federal Government of Nigeria, which exercises authority through the Ministry of Petroleum Resources and the Nigerian National Petroleum Company Limited (NNPCL). Regulation and policy implementation are undertaken by agencies such as the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), responsible for licensing and monitoring upstream activities, and the Nigerian Midstream and Downstream

⁴⁴ P A Aidonojie and others, 'Constitutional and Legislative Frameworks for Green and Sustainable Environmental Governance in Uganda' [2025] (1) *International Journal of Constitutional and Administrative Law*, 1–20.

⁴⁵ Constitution of the Republic of Uganda (as amended) 1995, art 244.

⁴⁶ Ibid, art 245.

⁴⁷ (n 46), Art 17(i).

⁴⁸ (n 47), Art 164.

⁴⁹ Ibid, Art 153 – 156.



Petroleum Regulatory Authority (NMDPRA), which oversees midstream and downstream operations.

Revenue collection and allocation are managed by the Federal Inland Revenue Service (FIRS), the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC), and ultimately the Federation Account Allocation Committee (FAAC), which disburses revenues among the three tiers of government. In relation to host communities, the Host Communities Development Trusts (HCDDTs) introduced by the Petroleum Industry Act (PIA) 2021 provide a new framework for direct benefit sharing, requiring oil companies to contribute a percentage of their operating expenditure to local community development.

Despite this architecture, institutional overlap, weak enforcement, and limited community participation continue to pose challenges. Strengthening these institutions to enhance transparency, accountability, and inclusiveness remains critical for ensuring equitable distribution of oil and gas revenues to host communities.

6. CRITICAL EXAMINATION OF ALLOCATION OF OIL AND GAS REVENUE TO HOST COMMUNITIES IN NIGERIA

6.1 Historical and Political Context of Oil and Gas Ownership in Nigeria

Oil was first discovered in Oloibiri, in what is now Bayelsa State, in 1956. From that time, Nigeria's petroleum resources have shaped its economy, polity, and national identity⁵⁰. Under colonial rule, the British established legal mechanisms that claimed underground resources as the property of the government. Upon attaining independence in 1960, Nigeria inherited this model, and the subsequent 1963 Republican Constitution reaffirmed state ownership of subsurface minerals⁵¹. This framework was expanded and solidified in the 1999 Constitution (as amended), which vests all petroleum resources in the federal government on behalf of Nigerians⁵².

6.1.1 The Current Allocation Architecture and the Marginalization of Oil-Producing Communities

Nigeria's existing oil revenue allocation architecture remains heavily top-down⁵³. The Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) formulates a revenue-sharing formula that assigns roughly 52.7% to the federal government, 26.7% to states, and 20.6% to local

⁵⁰ L Saka and others, 'The Niger Delta, Oil Politics and the Nigerian State' in O Fagbadebo and A Ruffin (eds), *Nigerian Politics* (Cham, Springer International Publishing 2020), 321.

⁵¹ A K Offu Sr and AK Offu, *The Nigerian Dependent Management & Leadership Development in the Post World War II Colonial Nigeria* (Bloomington, Author House 2013), 45.

⁵² B Oloyede, 'An Overview of State Participation in the Nigerian Petroleum Industry: A Legal Perspective' (2019) <<https://ssrn.com/abstract=5075315>> accessed 10th August, 2025.

⁵³ P S Orogun, 'Resource Control, Revenue Allocation and Petroleum Politics in Nigeria: The Niger Delta Question' [2010] (75) (5) *GeoJournal*, 459.



governments⁵⁴, of the federal share, only a portion is supposed to trickle down to oil-producing states under the 13% derivation principle. Yet, because these funds flow through state and local administrative layers, host communities rarely receive direct benefits. Decision-making continues to occur at the Centre or at state capitals, rather than at the grassroots.

6.2 Critique of Existing Revenue-Sharing Mechanisms

Existing revenue-sharing mechanisms, particularly in resource-rich country like Nigeria, have long been critiqued for their inefficiencies, inequities, and lack of transparency. Many frameworks fail to adequately compensate host communities, often resulting in socio-economic disparities, local grievances, and mismanagement of resources. Scholars and policymakers argue that without reforms emphasizing fairness, accountability, and community participation, current models perpetuate conflict and undermine sustainable development. The following subheading below will do justice to the topic.

6.2.1 Structural Breakdown of Nigeria's Revenue Allocation Formula (Federal, State, Local Governments)

Nigeria's revenue allocation architecture is rooted in constitutional design and guided by the Revenue Mobilization, Allocation and Fiscal Commission.⁵⁵ The current arrangement splits federation revenue into three shares: federal government 52.68%, state governments 26.72%, and local governments 20.60%. These percentages are intended to support governance at all tiers⁵⁶. Within these distributions, however, the federal share dominates, which reflects a centralized logic of resource control⁵⁷. From a design standpoint, the formula aims to balance national development and regional equity, but its execution has systematically disadvantaged the true custodians of oil-bearing areas: the host communities⁵⁸.

6.2.2 Flaws in the 13% Derivation Model

The derivation principle, enshrined in the Constitution, guarantees 13% of quantum oil revenue to producing states⁵⁹. It is intended to compensate for environmental degradation and social disruption arising from extraction⁶⁰. Yet, the policy is structurally flawed. It allocates volume based on the crude oil revenue accruing to the federation account not based on negative externalities or

⁵⁴ E Udoh, 'Revenue Allocation in Nigeria: Implications for Sustainable National Development' [2019] 5 *International Journal of Operational Research in Management, Social Sciences & Education*, 73.

⁵⁵ S M A Aloko and others, 'The Intersection Between Revenue Allocation and Economic Drive and Development in Nigeria Since 1999' [2024] (23) (10) *Journal of Studies in Social Sciences* 42.

⁵⁶ J W Wright, 'The Federal Government' in *The New York Times Almanac 2002* (New York, Routledge 2006), 289.

⁵⁷ J S Johnston, 'The Tragedy of Centralization: The Political Economics of American Natural Resource Federalism' [2003] (7) (5) *University of Colorado Law Review*, 487.

⁵⁸ R S Muhongo, 'Creating a Regional Content Framework for the Oil and Gas Industry: A Case Study of the East African Community' (Doctoral dissertation, University of Dundee, 2021), 67.

⁵⁹ (n 145), S 162(2).

⁶⁰ L Downey and others, 'Natural Resource Extraction, Armed Violence, and Environmental Degradation' [2010] 23(4) *Organization & Environment*, 417.



community needs. Thus, states with oil production benefit, but actual host communities remain without direct access⁶¹.

6.2.3 Centralized Disbursement to State Governments vs. Exclusion of Communities

Under the present system, revenue goes primarily to state governments, which determine the allocation of funds within their jurisdictions⁶². This centralized disbursement is constitutionally permitted but it structurally excludes local communities from exercising control or oversight. Host communities, though the source of extraction, have no legal status in the flow of funds. They are dependent upon state-level decisions to access benefits⁶³.

6.3 Barriers to Effective Community Revenue Allocation

The persistent socio-economic deprivation of oil-producing communities in Nigeria, particularly in the Niger Delta, underscores deep-rooted structural, institutional, and political obstacles that continue to impede equitable revenue distribution. This section delves into the various impediments that have historically undermined effective community-based revenue allocation, beginning with federal-state tensions and extending to elite manipulation, institutional voids, and the need for a transformative framework such as the proposed Community Oil Revenue Trust (CORT). Each subsection that follows offers a focused critique of these barriers, drawing on both empirical evidence and normative arguments to advance the case for a more accountable and inclusive model of resource governance.

6.3.1 Federal-State Power Conflicts Over Resource Control

Nigeria's governance architecture is shaped by a federal model that concentrates control over natural resource ownership at the national level⁶⁴. The Constitution vests oil and gas in the federal government, giving it ultimate authority over licensing, revenue collection, and industry regulation⁶⁵. Yet oil-producing states demand greater involvement and autonomy over resources extracted within their borders. This clash of jurisdictions manifests in ongoing legal and political tensions⁶⁶.

⁶¹ P Davidson, 'Public Policy Problems of the Domestic Crude Oil Industry' [1963] (53) (1) *The American Economic Review*, 85.

⁶² S T Akindele and others, 'Fiscal Federalism and Local Government Finance in Nigeria: An Examination of Revenue Rights and Fiscal Jurisdiction' [2002] (68) (4) *International Review of Administrative Sciences*, 557.

⁶³ P Bardhan and others, *Decentralization and Local Governance in Developing Countries: A Comparative Perspective* (Cambridge, MIT Press 2006), 15.

⁶⁴ A I Osawe and O G Uwa, 'Natural Resource Governance and Conflict in Nigeria' [2023] (8) (1) *International Journal of Natural Resource Ecology and Management*, 1-11.

⁶⁵ H Gorovitz Robertson, 'When States' Legislation and Constitutions Collide with Angry Locals: Shale Oil and Gas Development and Its Many Masters' [2016] (41) (23) *Wm. & Mary Envtl. L. & Pol'y Rev.* 55

⁶⁶ N M Yasin, 'Cross-Jurisdictional Unitization Agreements: A Legal Solution to the Issue of Cross-Jurisdiction Petroleum Reserves between Iran and Iraq' [2021] (7) (5) *ONE J.*, 621.



States argue that they bear local environmental costs pollution, land degradation, social disruption but receive insufficient influence or control over oil-generated revenue⁶⁷.

When federal authorities grant contracts or licenses without meaningful state involvement, it fosters resentment and erodes trust. States respond through court challenges or public campaigns demanding legislative reform. Meanwhile, federal authorities justify their central role by citing the need for unified policy, investor confidence, and national cohesion.

6.3.2 Elite Capture and Corruption in Existing Governance Structures

Even where revenue allocation systems exist, they are often hijacked by political elites and embedded patronage networks⁶⁸. State governors, appointed commissioners, and local political figures frequently exercise disproportionate control over derivation funds, Host Community Trusts, and development commissions like NDDC⁶⁹. These actors manipulate allocation processes to consolidate power, reward supporters, and finance political campaigns.

6.3.3 Structural Gaps: Lack of Institutionalized Frameworks for Direct Community Participation

Despite growing recognition of host communities' role, Nigeria's legal and policy frameworks lack formal structures for community participation in revenue decisions⁷⁰. The Constitution grants rights to states and local governments but does not provide legal personality or entitlement to host communities⁷¹. This absence prevents the creation of legal vehicles such as community trusts or boards that could institutionalize participation in budget-setting, oversight, and resource use.

6.4 Proposed Community Oil Revenue Trust (CORT) Framework and Bypassing State-Centric Models

To dismantle state-centric inertia and ensure fair revenue disbursement, a new legal model the Community Oil Revenue Trust (CORT) is proposed. This framework centers on direct allocation of 30–40% of oil revenues to oil-producing communities. Distinct from state mediation, it operates through a constitutionally recognized trust fund that bypasses state control entirely.

Under CORT, funds flow into legally distinct community entities empowered to plan, priorities, and implement development projects. Governance structures are multi-stakeholder boards

⁶⁷ C K Omorede, 'Assessment of the Impact of Oil and Gas Resource Exploration on the Environment of Selected Communities in Delta State, Nigeria' [2014] (3) (2) *International Journal of Management, Economics and Social Sciences*, 79-99.

⁶⁸ D Brinkerhoff and others, *Clientelism, Patrimonialism and Democratic Governance: An Overview and Framework for Assessment and Programming* (Washington DC, US Agency for International Development Office of Democracy and Governance, 2002), 49.

⁶⁹ A Tshangana, *Constituency Development Funds: Scoping Paper* (Cape Town, Community Law Centre, 2010), 2759.

⁷⁰ H De Haas, *International Migration and National Development: Viewpoints and Policy Initiatives in Countries of Origin – The Case of Nigeria* (Oxford, International Migration Institute, University of Oxford, 2006), 67.

⁷¹ A Eaton, 'The Right to Local Self-Government. I' [1900] (13) (6) *Harvard Law Review*, 441.



composed of community leaders, civil society representatives, youth voices, and technical advisers. This ensures decision-making reflects grassroots needs rather than political agendas.

6.5 Comparative Advantage of the CORT Model

The CORT (Community-Oil Revenue Trust) model offers a comparative advantage by directly linking resource revenues to community development priorities. Unlike traditional top-down revenue-sharing systems, it promotes transparency, local empowerment, and accountability, ensuring that benefits from natural resources translate into tangible socio-economic improvements for host communities.

6.5.1 Alignment with Global Best Practices

Around the world, resource-rich jurisdictions have experimented with models where wealth from extractive industries benefits local communities directly. Alaska's Permanent Fund and Uganda's petroleum revenue mechanisms offer instructive parallels to the proposed Community Oil Revenue Trust (CORT)⁷².

By referencing established international models, CORT is not an experimental abstraction but a contextual adaptation of known best practices. It bridges global innovation with local context delivering fairness, fostering trust, and embedding resilience in institutions that manage natural resources.

6.5.2 Mitigation of Historical Grievances Through Participatory Ownership

Historical patterns of marginalization and neglect have profoundly shaped community-state relations in Nigeria's oil-producing regions⁷³. Violence, protest, and mistrust often stem from decades of exclusion, unmet expectations, and environmental harm. CORT offers a pathway to heal these wounds by transforming communities from passive sufferers into active trustees of resource benefits⁷⁴.

On a symbolic level, CORT acknowledges that communities have rights to the wealth extracted from their land. Economically, it provides a steady stream for development. Politically, it weakens drivers of militancy by offering legitimate participation and autonomy. Socially, it restores dignity and confidence.

⁷² W Money and others, 'A Review of Natural Resource Extraction Industries and Their Influence on the Occurrence of Poverty' [2025] (18) (1) *Journal of Strategy and Management*, 191.

⁷³ M Iheme, 'An Investigation of Oil and Gas-Induced Displacement and Resettlement Policies in the South-South Region of Nigeria (Case Studies: Finima Community and Ogoniland)' (Doctoral dissertation, University of Salford, 2023), 45.

⁷⁴ J Corburn, *Cities for Life: How Communities Can Recover from Trauma and Rebuild for Health* (Washington DC, Island Press, 2021), 60.



6.5.3 Reduction of Fiscal Dependency on Federal Allocations

Under current systems, oil-producing communities depend on a chain of intermediary layers derivation funds, state governments, national commissions to access resource revenues, making them vulnerable to political whims and administrative dysfunction⁷⁵.

The result is communities that can plan and implement development initiatives without waiting on federal goodwill. By bypassing state-centric mediation, CORT helps stabilize local economies, calibrate development to real needs, and secure sustainable funding streams anchored in resource contributions.

6.6 Lessons for Nigeria: Accountability, Inclusivity, and Sustainability

The CORT model encapsulates three foundational principles; accountability, inclusivity, and sustainability that are critical for reforming Nigeria's oil governance⁷⁶.

Accountability is built via mandatory transparency protocols: real-time public tracking, independent audits, and community-led oversight boards⁷⁷. Community members not distant bureaucrats monitor fund utilisation. This reduces corruption, misappropriation, and elite diversion⁷⁸.

Inclusivity is ensured by design: governance structures balance representation between traditional leaders, youth, women, civil society, and technical experts. Decisions reflect ground realities and community priorities⁷⁹. Rather than token consultation, communities wield genuine decision-making authority. Their voices define project priorities and developmental outcomes⁸⁰.

Sustainability is embedded through multi-year planning, environmental remediation funds, and diversification initiatives. CORT mandates that a portion of revenues support economic empowerment e.g., micro-project grants, vocational training, and local enterprise

For Nigeria, CORT is more than a proposal it is a pathway toward inclusive oil governance that fosters trust, reduces conflict, and builds empowered futures at the very source of the country's wealth.

⁷⁵ N Adom, 'The Nexus of Oil Production, Democracy and Economic Diversification in Ghana' (Doctoral dissertation, Anglia Ruskin Research Online ARR 2023), 34.

⁷⁶ A Alaye and others, 'Oil Politics and Governance: Emerging Socio-Economic Trends in Nigerian States' [2024] (20) (1) *Acta Universitatis Danubius Juridica*, 126.

⁷⁷ M Yarish, 'Geo-Analytics and Eco-Gentrification: A Framework for Equitable Resilience in the Gowanus Canal' [2025] 10(1) *Scientia Moralitas – International Journal of Multidisciplinary Research* 253.

⁷⁸ J Platteau, 'Monitoring Elite Capture in Community-Driven Development' [2004] (35) (2) *Development and Change*, 223.

⁷⁹ I Ahmad and others, 'Empowerment and Participation: Key Strategies for Inclusive Development' in L Smith and others (eds), *Building Strong Communities: Ethical Approaches to Inclusive Development* (Bingley, Emerald Publishing Limited, 2024), 47-68.

⁸⁰ A Cornwall, 'Whose Voices? Whose Choices? Reflections on Gender and Participatory Development' [2003] (31) (8) *World Development*, 1325.



7. CONCLUSION

Based on the entire foregoing analysis, this dissertation has critically examined the legal frameworks governing the allocation of oil revenue to host communities in Nigeria. Drawing from statutory provisions, case law, policy documents, and empirical realities, the research established that despite numerous legislative interventions, the frameworks remain fragmented, inadequate, and poorly implemented. The study confirmed that while efforts have been made particularly with the enactment of the Petroleum Industry Act 2021 to correct historical imbalances, these attempts have largely fallen short of creating a just and inclusive system that guarantees host communities their rightful share in oil wealth.

8. RECOMMENDATION

Below are the recommendations of

- 1. Strengthen Legal Mandates for Revenue Allocation through Constitutional Amendment:** The National Assembly should initiate a constitutional amendment that directly enshrines the rights of oil-producing host communities to a defined percentage of oil revenues by creating environmental trust fund.
- 2. Establish a Community-Governed Host Community Development Board (HCDB):** The Federal Ministry of Petroleum Resources, in partnership with the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), should set up an independent Host Community Development Board in each oil-producing region.
- 3. Implement a Transparent Revenue Tracking and Accountability System:** The Nigeria Extractive Industries Transparency Initiative (NEITI) should create a real-time, publicly accessible digital platform that tracks oil revenue allocations and expenditures at the host community level. This system must detail the amount disbursed, recipients, usage plans, and implementation status of funded projects.
- 4. Review the Petroleum Industry Act (PIA) to Enhance Community Participation:** The National Assembly should undertake a targeted review of the Petroleum Industry Act 2021 to remove ambiguities and expand the scope of host community participation. Specifically, the provisions creating the Host Community Development Trust should be amended to grant communities decision-making powers over fund allocation and project execution.