



MINERAL RESOURCES, CLIMATE CHANGE AND SUSTAINABLE DEVELOPMENT IN AFRICA: A NIGERIAN REGULATORY PERSPECTIVE

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ABSTRACT

This article examines the relationship between mineral resource governance, climate change and sustainable development in Africa through a focused Nigerian lens. It argues that Nigeria's extractive economy, while central to public finance and industrial policy, has historically generated deep environmental harm, social conflict and weak accountability, particularly in oil producing regions and in under-regulated solid minerals operations. Adopting a doctrinal methodology, the paper analyses the international and African regional legal principles that condition resource extraction, including sustainable development, permanent sovereignty over natural resources, prevention of environmental harm, participation, remediation and intergenerational equity. It then evaluates Nigeria's domestic legal architecture, with particular attention to the Climate Change Act 2021, the Petroleum Industry Act 2021 and the Nigerian Minerals and Mining Act 2007. The article contends that the Petroleum Industry Act 2021 represents a major institutional and fiscal reform, but that its environmental and host-community innovations remain insufficiently integrated with climate obligations and remain vulnerable to enforcement weakness. It further argues that the Mining Act 2007 contains considerably stronger express provisions on environmental impact assessment, rehabilitation and community development agreements, yet suffers from implementation deficits and limited monitoring capacity. Through analysis of leading caselaw authorities, the paper demonstrates that African environmental adjudication is increasingly rights-based, participatory and remedial in orientation. It concludes that Nigeria requires more coherent integration of climate planning, extractive licensing, environmental compliance, host-community participation and remediation finance if resource exploitation is to become a genuine instrument of sustainable development rather than a recurring source of ecological loss and distributive injustice.

KEYWORDS: *Climate-change; sustainable-development; extractive-industries; environmental-justice; host communities.*

1. INTRODUCTION

Africa's mineral and hydrocarbon endowment remains one of the continent's most important development assets, yet it is also one of its most contested legal and ecological burdens. Nigeria illustrates this duality with particular clarity. The country depends heavily on petroleum revenues and is seeking renewed growth from its solid minerals sector, yet the social and environmental history of extraction has been marked by oil spills, gas flaring, ecosystem degradation, abandoned mine sites, weak rehabilitation and conflict over the distribution of benefits and burdens.¹ Climate

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change deepens these tensions because extractive activity both contributes to greenhouse-gas emissions and undermines the resilience of already vulnerable communities through land degradation, polluted water, air contamination and loss of livelihoods.²

The problem is therefore not simply whether Nigeria should exploit its natural resources, but under what legal conditions such exploitation can be regarded as compatible with sustainable development. Sustainable development cannot be reduced to aggregate growth or fiscal receipts. In a resource-dependent state, it must also encompass environmental integrity, public health, community participation, intergenerational responsibility and the maintenance of ecological systems upon which present and future development depends.³ The older assumption that extraction produces development automatically has become difficult to defend where the proceeds of resource wealth coexist with damaged ecosystems, underdeveloped host communities and significant climate vulnerability.

This article argues that Nigeria's contemporary extractive framework is normatively stronger than is often assumed but institutionally weaker than it needs to be. The Climate Change Act 2021 establishes a national climate framework with carbon budgeting and planning obligations; the Petroleum Industry Act 2021 introduces major governance, institutional and host-community reforms in the oil and gas sector and the Nigerian Minerals and Mining Act 2007 contains express obligations regarding environmental impact assessment, rehabilitation and community development agreements.⁴ The difficulty lies in misalignment, enforcement deficits, and the failure to integrate these laws into a coherent climate-conscious model of resource governance. The article therefore offers a doctrinal and analytical evaluation of the relevant international, regional and domestic legal frameworks and assesses their implications for Nigerian extractive practice.

2. METHODOLOGY, CONCEPTUAL AND THEORETICAL FRAMEWORK

The article adopts a doctrinal method. It relies on primary legal materials treaties, regional instruments, statutes and decided cases supplemented by selected scholarly commentary. The emphasis is on legal interpretation, normative coherence and institutional design rather than empirical fieldwork. This is appropriate because the central question is whether the law, as currently

law, international environmental law, energy law, oil & gas law, sustainable development law, Torts and Public International Law. Email: onome.ejenavi@mlugalilee.edu.ng

¹ United Nations Environment Programme, Petroleum Industry Act, no. 6 of 2021. The PIA is a considerably comprehensive legal, governance, regulatory and fiscal framework for the petroleum industry and host communities; United Nations Environment Programme, Nigerian Minerals and Mining Act, 2007 aims to provide; environmental protection, community development agreements and rehabilitation obligations.

² Climate Change Act, 2021. This is a framework for mainstreaming climate action, carbon budgeting and adaptation; see also, Climate Change Laws of the World (summary of net-zero and carbon-budget features).

³ World Commission on Environment and Development, Our Common Future (Oxford University Press 1987) 43 46; African Charter on Human and Peoples' Rights 1981 arts 22 and 24.

⁴ United Nations Environment Programme, Petroleum Industry Act, no. 6 of 2021, United Nations Environment Programme, Nigerian Minerals and Mining Act, 2007.



framed and applied, is capable of reconciling extraction, climate responsibility and sustainable development within the Nigerian context. The doctrinal method also aligns with the expectations of legal scholarship by consistent citation tradition, and close engagement with statutory text, case authority and legal principle.

The first conceptual foundation is sustainable development. Since the Brundtland Report, the concept has been understood as development that meets present needs without compromising the ability of future generations to meet their own.⁵ In public international law and African regional law, sustainable development has come to represent not a rhetorical aspiration but an interpretive discipline. It requires that economic planning be read alongside ecological protection and social welfare rather than against them.⁶ For resource-rich African states, this is especially significant because extractive sectors are often defended as necessary engines of national development even where their ecological and distributive costs are severe.

The second conceptual foundation is permanent sovereignty over natural resources. This doctrine emerged from decolonisation and remains politically and legally important for African states because it protects against external control over strategic wealth. Yet modern law no longer treats sovereignty as an unrestricted license to exploit. Resolution 1803 links sovereignty to national development and the well-being of the people.⁷ Contemporary analysis therefore reads sovereignty as responsibility as well as control. The state may regulate and allocate natural resources, but it must do so through lawful institutions and in ways that do not render the population and the environment disposable.⁸

The third conceptual foundation is environmental and climate justice. Environmental justice exposes the distributive asymmetry of extractive development: communities closest to mines, pipelines, flare sites and waste disposal points often bear the heaviest ecological and health burdens while the most significant rents accrue elsewhere. Procedurally, environmental justice insists that affected communities must have access to information, meaningful participation and effective remedies. Climate justice extends the same logic to greenhouse-gas emissions, adaptation burdens and intergenerational harm. In the Nigerian context, climate justice is inseparable from extractive governance because oil pollution, gas flaring and environmentally weak mining intensify exposure to flooding, coastal erosion, food insecurity and health vulnerability.⁹

⁵ World Commission on Environment and Development (n 3).

⁶ Gabčíkovo-Nagymaros Project (Hungary/Slovakia) [1997] ICJ Rep 7 [140].

⁷ UN General Assembly Resolution 1803 (XVII) 'Permanent Sovereignty over Natural Resources' (14 December 1962); Nico Schrijver, *Sovereignty over Natural Resources: Balancing Rights and Duties* (CUP 1997) 366–370.

⁸ *ibid*

⁹ African Charter arts 16, 21, 22 and 24; Social and Economic Rights Action Centre (SERAC) and Centre for Economic and Social Rights (CESR) v *Nigeria*, *Communication 155/96*, *African Commission on Human and Peoples' Rights*, 27 October 2001.



3. INTERNATIONAL AND AFRICAN REGIONAL LEGAL FRAMEWORKS

The international climate regime is anchored in the United Nations Framework Convention on Climate Change 1992 and the Paris Agreement 2015.¹⁰ The UNFCCC establishes the objective of preventing dangerous anthropogenic interference with the climate system and embeds the principle of common but differentiated responsibilities and respective capabilities. The Paris Agreement develops this architecture by requiring parties to prepare, communicate and maintain nationally determined contributions and by creating a framework for mitigation, adaptation, finance and transparency.¹¹ For Nigeria, these instruments matter because they place climate considerations at the heart of national planning. A resource law that facilitates emissions-intensive development without aligning with carbon budgets, adaptation policy and just transition planning increasingly sits uneasily with Nigeria's international commitments.

International environmental law reinforces this position. The no-harm principle, classically stated in the Trail Smelter Arbitration,¹¹ prevents states from permitting activities within their jurisdiction that cause serious injury beyond their borders. The International Court of Justice in *Gabčíkovo-Nagymaros Project*¹² and *Pulp Mills on the River Uruguay*,¹³ emphasized cooperation, environmental protection and the procedural importance of environmental impact assessment where there is risk of significant harm.¹⁵ Although these cases were not decided in the Nigerian petroleum or mining context, the principles are directly relevant. Mines, pipelines, gas infrastructure, hazardous waste disposal and tailings systems can affect shared waters, regional ecosystems and long-term public health. Their legality cannot therefore be judged solely by domestic licensing formalities.

Within Africa, the African Charter on Human and Peoples' Rights is indispensable, as it strives to protect health, peoples' control over their wealth and natural resources, the right to development and the right to a satisfactory environment favorable to development.¹⁴ This combination is doctrinally significant because it rejects any simplistic opposition between development and environment. Under the Charter, development that destroys environmental preconditions, public health and community livelihood is legally defective.¹⁷ That approach has become increasingly visible in the jurisprudence of the African Commission and African Court, especially in disputes involving extractive industries, toxic waste and environmental contamination.

The Africa Mining Vision adds a further regional dimension. It is not a treaty, but it is normatively influential in insisting that African mining should move beyond enclave extraction towards

¹⁰ United Nations Framework Convention on Climate Change 1992 (UNFCCC) art 2; Paris Agreement 2015 arts 2, 4 and 7.

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¹¹ Trail Smelter Arbitration (*United States v Canada*) (1941) 3 RIAA 1905;].

¹² *Gabčíkovo-Nagymaros Project (Hungary v Slovakia)* [1997] ICJ Rep 7.

¹³ *Pulp Mills on the River Uruguay (Argentina v Uruguay)* [2010] ICJ Rep 14 [197], 204

¹⁴ African Charter on Human and Peoples' Rights' African Commission on Human and Peoples' Rights, art 16,21,22 and 24.



transparent governance, domestic linkages, social inclusion and environmental responsibility. Its importance for Nigeria lies in the fact that the Vision can be used as a policy benchmark against which both petroleum and solid minerals regulation may be assessed.¹⁵ The issue is no longer whether Nigeria can license extraction, but whether it can do so in a manner that generates broad-based development while containing ecological harm and complying with climate imperatives.¹⁶

4. NIGERIA'S DOMESTIC CLIMATE AND ENVIRONMENTAL GOVERNANCE ARCHITECTURE

Nigeria's domestic framework is frequently criticized for fragmentation, yet it contains important building blocks for climate-responsive extractive governance.¹⁷ The 1999 Constitution directs the state to protect and improve the environment and safeguard the water, air, land, forest and wildlife of Nigeria.¹⁸ Although section 20 lies within Chapter II and is therefore not directly justiciable in the same way as Chapter IV rights, it remains a powerful constitutional guide to legislative interpretation and public policy.¹⁹ When read alongside the African Charter, which is domesticated in Nigeria, section 20 contributes to a constitutional culture in which environmental degradation can no longer be treated as legally marginal.²⁰

The Climate Change Act 2021 is Nigeria's framework climate statute. Official repositories describe it as a law that mainstreams climate action, establishes the National Council on Climate Change, creates a Climate Change Fund, mandates carbon budgeting and requires a National Climate Change Action Plan.²¹ Its objectives include low greenhouse-gas emissions, inclusive green growth, climate resilience, adaptation, coordination of sectoral action and the integration of climate considerations into development planning.²⁵ This is highly relevant to extractive governance. Once a carbon budget and national climate plan exist, petroleum policy, mining policy, industrial policy and environmental licensing can no longer be justified as wholly independent spheres. In normative terms, the Climate Change Act should now function as an overarching discipline on future extractive choices.

The Environmental Impact Assessment Act remains equally important, even though it predates the Climate Change Act by several decades. Its significance lies in the preventive logic that major

¹⁵ African Union, Africa Mining Vision (2009).

¹⁶ African Union, Africa Mining Vision (2009).

¹⁷ See, Nigerian Climate Change Act, 2021.

¹⁸ Constitution of the Federal Republic of Nigeria 1999, s 20 and 6(6)(c).

¹⁹ Ibid.

²⁰ Constitution of the Federal Republic of Nigeria 1999, s 20 and 6(6)(c). Articles 16, 21, 22 and 24 of African Charter on Human and Peoples' Rights' African Commission on Human and Peoples' Rights

²¹ Part 1, Ss 1 (a) – (c) of the Climate Change Act 2021.

²⁴ See Part 1, S 1 (f) Change Act, 2021, objectives, carbon budget, Climate Change Fund and Action Plan). Part V articulates key targets of SDG 13 affecting — Carbon Budget and National Climate Change Action Plans, s 19-20

²⁵.



projects must be assessed before irreversible environmental harm is permitted to occur.²² In the climate era, that preventive logic must be interpreted more expansively. Environmental impact assessment that excludes greenhouse-gas implications, cumulative effects, adaptation risks and community vulnerability is increasingly incapable of performing its proper legal function. This insight is especially clear in oil and gas development, mine expansion, mineral processing facilities and associated infrastructure such as pipelines, terminals and access roads.

Thus, Nigeria already possesses a multi-layered framework: constitutional environmental direction, a climate framework law, a general environmental assessment regime, sector-specific petroleum and mining legislation and the African Charter's rights-based overlay. The pressing legal question is not whether the country has any relevant law. It is whether these laws are aligned and enforced in a way that produces coherent climate-conscious resource governance rather than siloed and contradictory regulation.

5. THE PETROLEUM INDUSTRY ACT 2021: PROMISE, LIMITS AND CLIMATE RELEVANCE

The Petroleum Industry Act (PIA) 2021 is the most important petroleum reform Nigeria has enacted in decades. The PIA remains comprehensive in terms of its legal, governance, regulatory and fiscal framework for the petroleum industry and the development of host communities.²³ The Act restructures the sector by creating the Nigerian Upstream Petroleum Regulatory Commission and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, separating institutional roles and seeking greater transparency and accountability. It also establishes a commercially oriented national petroleum company and reorganises the relationship between the state and petroleum operations.

For present purposes, the PIA is especially significant because officially, it purports that the upstream regulator is empowered to enforce provisions, set standards and issue guidelines aimed at promoting healthy and efficient upstream operations in an environmentally sustainable manner.²⁴ The Act also addresses the environmental impact of upstream, midstream and downstream operations and includes regulatory powers concerning inspection, surveillance and technical oversight.²⁹ This is a notable doctrinal shift from older petroleum legislation that was often criticized for prioritizing production and fiscal take over environmental sustainability.

²² Environmental Impact Assessment Act (EIA) CAP E12, LFN, 2004 United Nations Environment Programme, See, Christabel Brakemi Jenakumo Naeyor, Ebikapade Amasuomo and Okoko James Esau, 'The Nigerian Petroleum Industry Act (PIA), 2021: Environmental and Host Communities Challenges and Way Forward in the Niger Delta Region, Nigeria' (2025) 5(5)

²³ Petroleum Industry Act, no. 6 of 2021

²⁴ Chapter 1 Parts iii and iv of the Petroleum Industry Act, No. 6 of 2021

²⁹ *ibid*



The host-community regime is one of the Act's most visible innovations. The PIA requires certain operators to establish Host Communities Development Trusts to promote peaceful and harmonious coexistence and to support social and economic infrastructure in host communities.²⁵ The PIA also affords provisions for the incorporation of a Trust and undertake needs assessments leading to community development plans, and that the failure to establish the Trust can have licensing consequences.²⁶ This strives to ensure that host-community development is not a charitable add-on but a structured legal component of petroleum operations. This is a clear advance on the older pattern in which community development was often discretionary, opaque or ad hoc.

Nevertheless, the Act is not without limits. Recent Federal High Court decisions indicate that host communities do not enjoy an enforceable role in decisions relating to operators' divestments or assignments under the PIA.²⁷ Even if those decisions are understood cautiously through the lens of commentary rather than an official law report, they reveal a broader structural point: the host-community architecture of the Act is developmental and compensatory rather than fully participatory. The communities are recognized as beneficiaries of trust structures, but not necessarily as actors with decisive voice over strategic petroleum decisions that may alter the risk landscape of their environment.

A further limitation is climate integration. The PIA undoubtedly improves institutional clarity and includes environmentally relevant powers, but it remains fundamentally a petroleum statute in a world increasingly shaped by climate obligations. Recent academic commentary reports that key concerns such as continuous gas flaring, frontier exploration and aspects of remediation were not adequately integrated into a broader just-energy-transition framework under the Act.²⁸ The criticism is not that the PIA is irrelevant to environmental sustainability, but that it stops short of fully harmonizing petroleum development with Nigeria's emerging climate obligations under the Climate Change Act. In this sense, the PIA is a major reform, but not yet a fully climate synchronized one.

The most persuasive interpretation, therefore, is that the PIA should now be read through the lens of the Climate Change Act and the African Charter. Its environmentally sustainable objects, host-community mechanisms and regulatory powers must be used as vehicles for decarbonization discipline, stronger remediation, transparent decommissioning, and participatory accountability. If considered narrowly, it risks entrenching hydrocarbon governance with only incremental

²⁵ Chapter 1, Parts iii – v of the Petroleum Industry Act, No. 6 of 2021

²⁶ *ibid*

²⁷ Aluko & Oyeboode, (reporting Federal High Court rulings of 15 November 2024 concerning OML 25 and OML 23 host communities). Christabel Brakemi Jenakumo Naeyor, Ebikapade Amasuomo and Okoko James Esau, 'The Nigerian Petroleum Industry Act (PIA), 2021: Environmental and Host Communities Challenges and Way Forward in the Niger Delta Region, Nigeria' [2025] 5(5) *Int J Adv Multidisc Res Stud* 695.

²⁸ *ibid*



environmental improvement. If systemically construed, it can serve as part of a larger transition-oriented extractive framework.

6. THE NIGERIAN MINERALS AND MINING ACT 2007: ENVIRONMENTAL COMPLIANCE, REHABILITATION AND COMMUNITY DEVELOPMENT

Nigeria's solid minerals framework is often overshadowed by petroleum discourse, yet the Nigerian Minerals and Mining Act,²⁹ contains several provisions of direct relevance to climate conscious and sustainable resource governance. Official summaries of the Act state that it regulates exploration and exploitation of solid minerals, provides rules for environmental protection, protects host-community interests, establishes a Mines Environmental Compliance Department, and requires environmental impact assessment and an Environmental Protection and Rehabilitation Programme from mineral title holders.³⁵

The institutional architecture is especially important. The Act establishes the Mining Cadastre Office, the Mines Inspectorate Department and the Mines Environmental Compliance Department. Official ministry material explains that the Mines Environmental Compliance Department is responsible for environmental impact assessment, reclamation and rehabilitation, monitoring and enforcement, social analysis and the review of mine closure and decommissioning plans.³⁰ It monitors compliance with national mining laws, EIA requirements, pollution control obligations, social, health and safety standards, public participation, and approved procedures for reclamation and restoration.³¹ If effectively empowered, this institutional design could make mining governance substantially more preventive and accountable than its historical practice.

The Act's environmental requirements are explicit. Official summaries state that holders of mineral titles must carry out environmental impact assessment and submit the resulting assessment and Environmental Protection and Rehabilitation Programme to the Mines Environmental Compliance Department. The Minister is also required to establish an Environmental Protection and Rehabilitation Fund to guarantee environmental obligations.³² This is doctrinally significant because it internalizes at least part of the logic that environmental restoration should not be treated as a speculative future good but as a current legal obligation backed by financial assurance.

The community dimension of the Act is equally notable. Official sources state that holders of mining leases, small-scale mining leases and quarry leases must conclude a Community

²⁹ See, Nigerian Minerals and Mining Act 2007, Act No. 50, LFN.

³⁰ Ministry of Solid Minerals Development, describing the Department's EIA, reclamation, rehabilitation, monitoring and enforcement roles.

³¹ *ibid*

³² Nigerian Minerals and Mining Act, 2007 which stipulates that holders of leases shall conclude with host communities a Community Development Agreement). See also, Reuben Chaku, 'An Analysis of Community Development Agreement Prescribed under the Minerals and Mining Act 2007' *The Nigeria Lawyer* (6 July 2024); Dentons ACAS-Law, Community development agreements in Nigeria's mining sector: Compliance, risks, and strategic benefits (28 January 2026).



Development Agreement with host communities before development activity begins.³³ This is not a soft-law preference but a statutory obligation. Secondary legal analysis within Nigeria has further emphasized that the Community Development Agreement is designed to structure the relationship between mineral title holders and host communities and to transfer social and economic benefits to those communities.²⁷ In principle, this creates a more directly negotiated and participatory framework than has historically existed in petroleum operations.

Yet the effectiveness of these provisions depends on implementation. Mining law may be environmentally sophisticated on paper and still be undercut by weak monitoring, illegal operations, under-resourced field inspection and poor rehabilitation practice. Official ministry descriptions of the Mines Environmental Compliance Department's projects—environmental auditing, abandoned mine reclamation, EIA review, annual reclamation statements, decommissioning plans and community development agreement oversight—show that the administrative tasks are extensive.³⁴ The deeper problem is therefore one of capacity and compliance rather than statutory silence. In this respect, the Mining Act 2007 is a striking example of a law whose environmental ambition is real but whose operational success depends on whether institutional enforcement can be made credible.

7. NIGERIAN CASE LAW AND THE RIGHTS-BASED APPROACH TO ENVIRONMENTAL GOVERNANCE

The foundational Nigerian authority in regional perspective is Social and Economic Rights Action Centre (SERAC) and Centre for Economic and Social Rights v Nigeria.³⁵ The African Commission held Nigeria responsible for violations of Articles 2, 4, 14, 16, 18(1), 21 and 24 of the African Charter arising from oil operations in Ogoniland.³⁶ Official summaries emphasise that the Commission required Nigeria to protect the environment, health and livelihood of the Ogoni people, conduct investigation and prosecution, ensure compensation, undertake comprehensive clean-up, require future environmental and social impact assessments, provide information and secure access to decision-making bodies.³⁷ SERAC remains doctrinally decisive because it establishes that extractive pollution is not merely a regulatory problem but a human-rights violation attracting positive duties of prevention, oversight, participation and remediation.³⁸ Within domestic

³³ Nigerian Minerals and Mining Act, 2007 which stipulates that mineral title holders must conduct EIA, submit an Environmental Protection and Rehabilitation Programme and that the Minister shall establish an Environmental Protection and Rehabilitation Fund).

³⁴ Ministry of Solid Minerals Development, describing the Department's EIA, reclamation, rehabilitation, monitoring and enforcement roles.

³⁵ African Charter arts 16, 21, 22 and 24; Social and Economic Rights Action Centre (SERAC) & Centre for Economic and Social Rights (CESR) v Nigeria, Communication 155/96, African Commission on Human and Peoples' Rights, 27 October 2001.

³⁶ African Commission on *Human and Peoples' Rights, Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria* - 155/96 (orders and findings).

³⁷ Ogoniland Case,

³⁸ SERAC Case



Nigerian jurisprudence, *Oronto Douglas v Shell Petroleum Development Company Ltd*³⁹ underscores the legal significance of environmental impact assessment. Available case summaries report that the appellant, an environmental activist, sought declarations and injunctive relief to restrain a liquefied natural gas project until a proper environmental impact assessment had been conducted under the Environmental Impact Assessment Decree 1992. The Court of Appeal held that the trial court had acted prematurely in striking out the action and remitted the matter for retrial.⁴⁰ Although the decision is often cited for locus standi and procedure, its deeper normative significance lies in the judicial recognition that environmental assessment obligations cannot be dismissed as trivial formalities. Preventive strategies towards securing the environment remains crucial. A further Nigerian theme appears in recent commentary concerning the PIA and host-community participation. Professional reporting on Federal High Court rulings concerning divestments in OML 25 and OML 23 suggests that host communities lack standing to prevent divestment decisions merely by virtue of their host-community status under the PIA.⁴¹ While those rulings are not yet part of a widely available official report in the materials retrieved, their reported reasoning illuminates a structural feature of the PIA: developmental trust mechanisms do not automatically translate into participatory control over strategic corporate decisions. This is an important issue for environmental governance because the identity, capacity and record of an operator may have significant implications for environmental compliance, remediation and community confidence.

Together, SERAC and *Oronto Douglas* support a rights-based and preventive reading of Nigerian environmental law. They imply that petroleum and mining governance should not be approached only through licences, royalties and revenue, but through environmental rights, public health, information, impact assessment and the accountability of both state and private actors. Those principles remain highly relevant when interpreting the newer statutory frameworks in the PIA and Mining Act.

8. COMPARATIVE AFRICAN JURISPRUDENCE AND LESSONS FOR NIGERIA

Recent African jurisprudence outside Nigeria further clarifies the courts stance towards environmental sustainability matters in the area of minerals or petroleum resource extraction. In *African Climate Alliance & Others v Minister of Mineral Resources and Energy*, the High Court of South Africa declared unlawful and invalid the decision to include an additional 1,500 megawatts of new coal-fired power in the country's electricity planning framework.⁴² Official summaries indicate that the Court found inadequate consideration of environmental rights and the rights of

³⁹ *Oronto Douglas v Shell Petroleum Development Company Ltd. & Ors.* (summary of Court of Appeal decision); see also, *Oronto Douglas v Shell Petroleum Development Company Ltd. & Ors* [Unreported].

⁴⁰ *Supra*.

⁴¹ *Aluko & Oyeboode, Petroleum Industry Act: Federal High Court of Nigeria Rules That Host Communities Lack Standing in Operators' Divestments* (summarising the HCDT framework under the PIA).

⁴² *African Climate Alliance & Others v Minister of Mineral Resources & Energy and Others, Centre for Environmental Rights* (official case summary), 4 December 2024.



children and set aside the impugned decisions.⁴³ For Nigeria, the case demonstrates that energy planning and resource governance may be reviewed not only for administrative regularity but also for constitutional and rights-based insufficiency where climate and health consequences are not properly addressed.

The Supreme Court of Kenya's decision in *Export Processing Zone Authority & 10 others v National Environment Management Authority & 3 others*,⁴⁴ arising from severe lead contamination in Owino-Uhuru, shows a similarly strong remedial posture. Official and authoritative summaries state that the Court affirmed constitutional rights to a clean and healthy environment and health, held state agencies accountable for environmental harm, and remitted the question of compliance with restoration orders.⁴⁵ The case is instructive because it rejects the view that licensing and bureaucratic approvals exhaust legal responsibility. Regulatory agencies retain duties of verification, oversight and restoration.

The African Court's judgment in *La LIDHO, Le MIDH, La FIDH & others v Republic of Côte d'Ivoire (the Trafigura case)*⁴⁶ extends the regional doctrine still further. Official case materials show that the Court found Côte d'Ivoire responsible for failing to protect rights to life, health, information and a satisfactory environment following the toxic waste disaster in Abidjan.³⁶ The decision is significant for Nigeria because it treats corporate environmental harm as capable of generating state responsibility where regulation, prevention, information and remedy are inadequate. This logic maps directly onto oil spills, toxic waste, hazardous discharges and tailings-related harms in extractive industries.

The comparative lesson is straightforward. African environmental adjudication is moving towards a model in which natural-resource governance is assessed through the combined lenses of rights, prevention, participation and restoration. Nigeria's newer extractive legislation should therefore be interpreted in that same direction. A statute that confers institutional power but is read without reference to climate responsibility, environmental rights and remedial accountability would be inconsistent with the broader evolution of African legal doctrine.

9. CLIMATE CHANGE, EXTRACTIVE ACTIVITY AND SUSTAINABLE DEVELOPMENT IN NIGERIA

Nigeria's climate challenge is inseparable from the structure of its extractive economy. The Climate Change Act itself makes clear that the country aims to achieve long-term mitigation and adaptation

⁴³ *African Climate Alliance & Others v Minister of Mineral Resources & Energy and Others*, Centre for Environmental Rights (n 42).

⁴⁴ *African Climate Alliance & Others v Minister of Mineral Resources & Energy and Others*, Centre for Environmental Rights (official case summary), 4 December 2024.

⁴⁵ *Supra*.

⁴⁶ *African Court on Human and Peoples' Rights, <External>Application 041/2016 - La LIDHO, LE MIDH, LA FIDH & others vs Republic of Cote d'Ivoire* (case details and judgment summary); Business & Human Rights Resource



goals, deploy carbon budgeting and coordinate national climate action.⁴⁷ Yet petroleum continues to dominate public revenue and external earnings, and the state seeks renewed growth from solid minerals as part of diversification policy. The developmental dilemma is therefore not whether extraction will continue, but how it will be governed.

The Niger Delta remains the clearest case study of extractive unsustainability. Official accounts of SERAC detail allegations of toxic waste disposal, oil leaks, contamination of water, soil and air, lack of impact studies, community exclusion and severe health consequences in Ogoni land.⁴⁸ Those facts reveal the incompatibility of extractive development with sustainable development when the rule of law, environmental oversight and community participation are weak. The developmental value of petroleum becomes legally and morally difficult to sustain where the Centre, African Court on Human and Peoples' Rights holds Côte d'Ivoire accountable in *Trafigura toxic waste dump case* for human rights failures communities hosting extraction are exposed to deteriorating ecosystems, damaged livelihoods and recurrent conflict.

The same reasoning applies in the solid minerals sector, albeit with different modalities. The Mining Act's emphasis on environmental impact assessment, rehabilitation, monitoring, closure planning and community development agreements indicates that the state recognises the risks of unchecked mining.³⁹ However, if these obligations are weakly enforced, the result will be familiar: short-term extraction, under-remediated sites, conflict over benefits, and ecological costs shifted to local communities and future generations. Sustainable development is therefore not an automatic by-product of resource wealth; it is a contingent outcome dependent on legal enforcement, fiscal transparency, ecological repair and climate-conscious planning.

A serious sustainable-development approach also requires differentiation between types of extraction. Some minerals may play roles in a lower-carbon economy, but even so-called transition minerals are not environmentally neutral. Their extraction still raises questions of land rights, water use, pollution, labour, indigenous and community participation, restoration and long-term local value addition. Likewise, petroleum may continue to play a transitional role in Nigeria's economy, but that role cannot justify indefinite regulatory tolerance for environmentally destructive practice. The more persuasive legal position is that all resource governance in Nigeria must now be read through a climate-and-rights lens, irrespective of the resource involved.

10. PROBLEMS OF ALIGNMENT, ENFORCEMENT AND INSTITUTIONAL DESIGN

Three interlocking problems recur across Nigeria's extractive governance architecture. The first is normative misalignment. The Climate Change Act creates a planning and budgeting framework for

⁴⁷ Nigerian Climate Change Act, 2021

⁴⁸ African Commission on Human and Peoples' Rights, Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria - 155/96 WorldCourts, *SERAC v Nigeria*, summary of facts.



low-emissions development, yet sector-specific laws and institutions may still operate as if extraction policy were insulated from climate obligation. Unless the PIA, Mining Act, EIA regime and climate institutions are interpreted and administered together, Nigeria risks producing contradictory legal signals: climate planning on one hand and emissions-intensive, environmentally weak licensing on the other.

The second problem is enforcement capacity. Official descriptions of the Mines Environmental Compliance Department's responsibilities demonstrate the breadth of environmental administration already contemplated in mining law.⁴⁹ The same is true of the environmental and surveillance roles created under the PIA.⁵⁰ But statutory power without technical capacity, adequate data systems, inspectorate strength, laboratory support, transparent reporting and budgetary autonomy will underperform. The issue is not merely the existence of environmental law, but whether regulators can monitor complex sites, detect non-compliance, enforce remediation and resist political or commercial pressure.

The third problem is democratic and procedural weakness. Both the PIA and the Mining Act contain community-facing mechanisms—the Host Communities Development Trust and Community Development Agreements respectively. Yet those mechanisms are not complete substitutes for genuine public participation, access to environmental information and review of strategic licensing decisions. If communities are treated only as beneficiaries of development projects rather than as rights-bearing participants in resource governance, social legitimacy remains fragile. Environmental justice requires more than compensatory structures; it requires voice, transparency and remedy.

11. IMPLEMENTATION PATHWAYS AND GOAL-ORIENTED IMPLICATIONS

The practical significance of this analysis lies in the proposition that Nigeria does not need wholly new extractive statutes before meaningful reform can begin. Much can already be achieved through interpretive alignment, administrative guidelines and enforcement practice under existing law. The Climate Change Act 2021 supplies the macro-framework of carbon budgeting, planning and adaptation; the Petroleum Industry Act 2021 supplies sectoral institutions, environmental powers and host-community mechanisms; and the Nigerian Minerals and Mining Act 2007 supplies explicit duties concerning impact assessment, rehabilitation and community development agreements. A core rationale and apt conclusion of this article is that, a sustainable progression must resist two common simplifications: first, that Nigeria's extractive problem is merely one of absent law; and secondly, that climate-compatible development requires a complete abandonment of resource exploitation. The more defensible legal position is that the country should move from climate-blind extraction to climate-conditioned extraction, where regulatory approvals,

⁴⁹ Nigerian Minerals and Mining Act, 2007. See also, Ministry of Solid Minerals Development Directives/Guidelines

⁵⁰ Petroleum Industry Act, no. 6 of 2021. (functions of the Commission and Authority, including inspection, surveillance and environmental sustainability).



environmental plans, remediation funds and community agreements are all interpreted as instruments for implementing sustainable development rather than as formalities detached from it.

This implementation perspective also has implications for future scholarship and policy design. The need to examine how Nigerian courts, regulators and host-community institutions operationalise the environmental clauses of the PIA and the rehabilitation and CDA provisions of the Mining Act in concrete disputes remains crucial. Especially in instances where remediation, decommissioning, divestment and community consent arise. Equally, policymakers should treat data transparency, periodic environmental auditing and public reporting as central components of extractive legality, not optional governance extras. Where environmental decision-making remains opaque, even strong statutory text will struggle to generate trust, compliance or sustainable outcomes. For that reason, the real test of the post-2021 legal order in Nigeria will not be whether the country can continue to license petroleum and mining projects, but whether it can do so while reducing ecological damage, strengthening host-community participation and honouring the climate-and-development commitments now embedded in its own framework laws.

12. CONCLUSION

This article has argued that Nigeria's extractive governance framework is best understood neither as an empty legal field nor as a solved regulatory problem. It contains meaningful statutory innovations—the climate framework of the Climate Change Act 2021, the institutional restructuring and host-community mechanisms of the Petroleum Industry Act 2021, as well as the environmental and community obligations of the Nigerian Minerals and Mining Act 2007. Yet those laws have not been sufficiently aligned or enforced to ensure that extraction reliably serves sustainable development.

The jurisprudence from Nigeria and the wider African region shows the direction in which the law is moving. Resource governance is increasingly evaluated through the combined lenses of environmental rights, participation, remediation, impact assessment, accountability and intergenerational responsibility. The legal future of Nigerian petroleum and mining governance therefore lies not in regulatory exceptionalism but in responsible sovereignty: the disciplined use of state control over natural resources in a manner consistent with climate commitments, ecological protection and the well-being of the people. Only on that basis can resource wealth be transformed from a recurring site of environmental injustice into an instrument of sustainable development.

12. RECOMMENDATIONS

1. Nigeria should expressly integrate climate assessment into the administration of the Petroleum Industry Act 2021, the Nigerian Minerals and Mining Act 2007 and the Environmental Impact Assessment Act. Licensing, field development plans, decommissioning plans, environmental management plans and mine closure plans should be tested against carbon budgets,



adaptation risk, cumulative ecological impact and just-transition objectives. This does not require the abandonment of extraction but it does require the rejection of climate-blind extraction.

2. The environmental compliance arms of both petroleum and mining governance must be strengthened institutionally. The mandates that already exist in the PIA and Mining Act should be matched by technical expertise, field equipment, public reporting obligations, financial assurance mechanisms, periodic environmental auditing and transparent sanctions. The Environmental Protection and Rehabilitation Fund under mining law and remediation-related obligations under petroleum law should be operationally credible rather than symbolic.

3. Host-community participation should be deepened. The Host Communities Development Trust framework should be complemented by stronger information rights, reasoned disclosure of environmental decisions, clearer grievance procedures and better integration of affected communities into oversight and review. In the solid minerals sector, Community Development Agreements should be treated not as transactional paperwork but as live governance instruments with measurable obligations, periodic review and enforceable commitments.

4. Courts and tribunals should continue the rights-based turn reflected in SERAC, Oronto Douglas and comparative African case law. Environmental rights, health, information, remediation and participation should remain central interpretive guides. Finally, Nigeria should pursue a developmental strategy in which resource extraction is linked to ecological restoration, domestic value addition, transparent revenue use and gradual diversification. Sustainable development in a climate-constrained century cannot be secured by extraction alone; it must be secured by law, institutions and public accountability capable of converting extraction into long term social and ecological value.