

Reconciling Competing Natural Resource Interests for Sustainable Development: The Role of Law in Balancing Oil Exploitation, Water Resource and Ecosystem Services in Nigeria

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Abstract

Oil exploitation remains important to the economy and development of Nigeria, but its interaction with the ecosystem and interconnected water resources create conflicts between competing forms of resource use. This paper examines whether Nigerian law provides a coherent and balanced framework for reconciling oil development with the continued impairment on water resources and associated ecosystems. The research adopts a doctrinal methodology, analysing the Constitution, Petroleum Industry Act 2021, Environmental Impact Assessment Act, Water Resources Act, NESREA Act, relevant subsidiary regulations, judicial decisions, and applicable international and African regional instruments. The research further made comparative reference to Canada and Norway. The paper finds that the laws of Nigeria recognise competing resource uses and several substantive protection criteria, but these laws remain dispersed across separate statutory and institutional frameworks. In particular, the framework does not provide a sufficiently structured method for translating the value of affected resources into oil authorisation or for determining when significant residual impairment is justified. The paper proposes some models which include but is not limited to an integrated resource reconciliation framework based on structured justification, and remedies for persons directly affected by permitted residual resource loss.

Keywords: Oil Exploitation, Resource Reconciliation, Environmental Justice, Sustainable Development, Water and Marine Resource Activities, Ecosystem.

1.0 Introduction

As at the 1st of January 2026, the Nigerian Upstream Petroleum Regulatory Commission placed crude oil and condensate reserves at 37.01 billion barrels and gas reserves at 215.19 trillion cubic feet, with reserve-life indices of 59 years for oil and 85 years for gas.²

The difficult question surrounding oil exploitation is how that value should be accommodated where oil activity diminishes the continuing utility of another resource that is also important to human welfare and ecological integrity. The ecosystem and interconnected water resources provide such competing interests. Fisheries, for example, provide food and income; water bodies

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² Nigerian Upstream Petroleum Regulatory Commission, 'Media Release on the National Annual Petroleum Reserves Position as at 1 January 2026' (1 April 2026).

are used for transportation and industrial activity; while mangroves and other aquatic ecosystems provide habitat and ecosystem services. The Food and Agriculture Organization reported in 2025 that Nigeria requires approximately 3.2 million metric tonnes of fish annually but produces about 1.2 million tonnes.³ The interaction between oil and these resources is physical as well as legal. Oil exploration and associated infrastructure affect water bodies and the communities whose activities depend upon these ecosystems.⁴ A geospatial analysis drawing on records of the National Oil Spill Detection and Response Agency identified 11,863 reported spill incidents between 2010 and 2022, involving an estimated 563,206 barrels of oil.⁵ The significance of this interaction is easily understated if the legal problem is framed only as development against environmental protection. Such a formulation treats oil produce as productive development, while treating water resources and ecosystems as passive environmental receptors. Whereas in the true sense a more protected ecosystem is good as productive for both economic and environmental development. For example, a clean and navigable water ensures agricultural and transportation activity. On the other hand, mangroves perform ecological functions while sustaining coastal livelihoods. In many cases, therefore, the real conflict is between one form of resource utilisation and the continuing productive use of another. The Nigerian law already recognises material parts of these interactions between oil exploitation and other resources within the ecosystem. One of such legal recognition is petroleum development which is mainly governed by the Petroleum Industry Act 2021. Section 79 of the Act requires a field development plan to satisfy technical and environmental requirements, including the objective of maximum economic recovery of crude oil and condensates, compliance with health and environmental standards, and an environmental management plan that complies with section 102 of the Act.⁶ The Environmental Impact Assessment Act as well requires consideration of environmental effects at the decision-making stage of oil projects, and contains provisions on cumulative effects and mitigation. One important provision to note in this Act is section 39, under which significant adverse environmental effects may be permitted where they can be mitigated or are otherwise justified in the circumstances, whereas a project should not proceed where such effects can neither be mitigated nor justified.⁷ The Environmental Impact Assessment Procedures and Charges Regulations 2021 reinforce this structure by providing for environmental sustainability and a No Project option where the final assessment remains unsatisfactory.⁸ However, the expression "justified in the circumstances"⁹ exposes the central problem of this paper. Where an assessment establishes that oil development will leave significant residual loss to water resource and use of ecosystem service after available

³ Food and Agriculture Organization, 'FISH4ACP launches input finance initiative to scale fish farming in Nigeria' (9 June 2025).

⁴ United Nations Environment Programme, Environmental Assessment of Ogoniland (UNEP 2011), see the chapters on vegetation, water and public health.

⁵ Seyi Adewale Adebangbe, Deborah Dixon and Brian Barrett, 'Geo-computation techniques for identifying spatio-temporal patterns of reported oil spills along crude oil pipeline networks' (2025) 18(1) International Journal of Digital Earth 2448218 <<https://doi.org/10.1080/17538947.2024.2448218>> accessed 31 August 2026. The study reports 11,863 reported spill incidents between 2010 and 2022 involving approximately 563,206 barrels; the underlying NOSDRA Oil Spill Monitor is continuously updated and records reported incidents rather than every pollution event.

⁶ Petroleum Industry Act 2021, s 79(2); see also s 102 on environmental management plans.

⁷ Environmental Impact Assessment Act, Cap E12 LFN 2004, ss 4, 12, 16 and 39.

⁸ Environmental Impact Assessment Procedures and Charges Regulations 2021, see regs 3, 6, 10, 11, 13 and 15 and the Schedule.

⁹ Environmental Impact Assessment Act Cap E12 LFN 2004, s 39

mitigation has been considered, what determines whether that loss is nevertheless justified? It requires a legal judgment on why continuing impairment of one legitimate resource should be accepted in order to facilitate exploitation of another.

Other domestic legislations show that this question is not foreign to Nigerian resource law. The Water Resources Act recognises multiple uses of water and requires coordinated planning and consideration of environmental consequences before approval of development.¹⁰

The National Environmental (Coastal and Marine Area Protection) Regulations 2011, require attention to factors such as long-term productivity of renewable-resource areas, and major or irreversible resource damage. Regulation 16 permits refusal of a coastal development permit where those concerns reach the stated threshold.¹¹ From the above, it shows that the major difficulty may not lie in the complete absence of relevant principles and laws. The issue is whether the principles are placed within legal and institutional regimes that effectively influence oil authorisation. The National Environmental Standards and Regulations Enforcement Agency Act excludes oil and gas from several central enforcement and permitting functions of the Agency, while the Coastal and Marine Area Protection Regulations expressly apply to coastal and marine users, and contain standards that contemplate oil and gas installations. The relationship creates a serious statutory and institutional interface question rather than a simple absence of regulation.¹² Many notable scholars have examined this relationship between oil development and environmental protection in Nigeria. For instance, Ole and Herbert examined whether the Petroleum Industry Act adequately addresses weaknesses in offshore petroleum risk governance and identifies the tension created by combining revenue maximisation and risk regulation within the regulatory structure.¹³ Olugbode identified institutional fragmentation and the developing role of marine spatial planning within the blue economy framework of Nigeria.¹⁴ However, the literatures did not develop a legal method for determining the trade-off where an effective assessment nevertheless leaves oil exploitation significantly incompatible with another independently valuable natural-resource use. The salient issue is therefore whether Nigerian law provides a coherent method for deciding the trade-off itself. The paper therefore proceeds through three connected questions. First, do the laws of Nigeria recognise ecosystems and dependent socioeconomic interests as resource interests in their own right? Second, are those interests translated into the oil authorisation process in a manner capable of altering the development objective rather than functioning only as impacts requiring mitigation? Third, where substantial incompatibility remains, what legal considerations determine whether oil exploitation should coexist with or prevail over the competing resource?

¹⁰Water Resources Act, Cap W2 LFN 2004, as amended by the Water Resources (Amendment) Act 2016, particularly ss 1, 2, 5, 6, 8 and 11.

¹¹ National Environmental (Coastal and Marine Area Protection) Regulations 2011, SI No 18, regs 2, 3, 8, 12, 16 and 17.

¹² National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, as amended in 2018, ss 7, 8, 23, 24, 29 and 30; compare the National Environmental (Coastal and Marine Area Protection) Regulations 2011.

¹³ Ngozi Chinwa Ole and Etti Best Herbert, 'The Nigerian Offshore Oil Risk Governance Regime: Does the Petroleum Industry Act 2021 Address the Existing Gaps?' (2022) 31(3) *Studia Iuridica Lublinensia* 143.

¹⁴ Opeyemi Yetunde Omutuyi, Olamide Mohammed and Adetola Paul Adebawo, 'A Review of the Legal Framework for Marine Environmental Protection and Sustainable Development in Nigeria: Case Study of the Niger Delta Region and Upstream Petroleum Development' (2024) 4(1) *Humanus Discourse*; Ayo Olugbode, 'Nigeria's Blue Economy and Ocean Governance' (2026) 32(1) *International Hydrographic Review*.

The argument and objective of this paper is not that the laws of Nigeria lack environmental regulation; of course, Nigerian laws contain environmental assessment requirements and separate statutory recognition of several competing resource uses. The concern is whether these dispersed mechanisms converge into an operative framework of resource reconciliation at the point of oil authorisation, and whether the legal framework in Nigeria adequately reconciles oil exploitation with the sustainable utilisation of marine and interconnected ecosystem resources. Whereas, environmental management is concerned with preventing and remedying environmental consequences. Resource reconciliation on the other hand is concerned with whether the continuing value of another resource should change how oil exploitation proceeds. The paper proposed an all-integrated framework through which competing resource interests may be resolved without treating oil development or environmental protection as an absolute interest.

The research adopts primarily a doctrinal legal methodology. It analyses the Constitution of the Federal Republic of Nigeria 1999, the Petroleum Industry Act 2021, the Environmental Impact Assessment Act, the Environmental Impact Assessment Procedures and Charges Regulations 2021, the Water Resources Act, the National Environmental Standards and Regulations Enforcement Agency Act, and relevant subsidiary environmental regulations. Supporting legislation governing inland waterways, maritime activity and oil-spill response were considered to establish wider legal recognition of affected resource interests. International and African regional law were also analysed in the course of the paper. Comparative analysis was drawn from Canada and Norway, with specific reference to Canada where the impact-assessment model in that jurisdiction, assists in explaining how an open-textured environmental justification test may be structured.

2.0 Conceptual Clarification and Theoretical Framework

2.1 Conceptual Clarification

The conceptual sequence adopted in this paper is resources, resource interdependence, resource conflict and resource reconciliation. The first identifies the interests that are being used or protected. Interdependence establishes the effect of one resource activity upon another. Conflict identifies the incompatibility that remains after reasonable mitigation. Reconciliation concerns the legal consequence of that incompatibility. The sequence is important because the problem examined in this paper is not simply the environmental effect of oil activity, but the legal treatment of competing resource interests when the exploitation of one diminishes the continuing utility of another.

2.1.1 Resources

There is no single meaning of a resource that is independent of the purpose for which the term is used. Hultman et al opine that a thing becomes a resource because value or a social purpose is attached to it.¹⁵ For the purpose of this paper, a resource therefore means a natural material or ecological system that possesses economic or ecological utility and is capable of being used or protected through law.

The resources considered in this paper fall into different categories. First, oil is a non-renewable extractive resource whose economic utility is substantially realised through extraction and

¹⁵ Johan Hultman et al, 'A Resourcification Manifesto: Understanding the Social Process of Resources Becoming Resources' (2021) 50(9) Research Policy 104297 <<https://doi.org/10.1016/j.respol.2021.104297>> accessed 29 August 2026.

production. Whereas water and other biological components of the ecosystem are renewable or regenerative resources, although pollution of habitat may substantially reduce their quality or capacity to regenerate. The distinction matters because exploitation of the non-renewable oil resource may create economic value while reducing the continuing productivity of resources whose value depends upon preservation of their quality and ecological functions.

It is also pertinent to make a distinction between a resource and the uses or benefits that flow from it. For instance, water bodies and mangroves are natural resources or parts of a natural-resource system. While water supply and agricultural use are made possible by those resources. Also, livelihoods are socioeconomic interest dependent upon them. Ecosystem services are also not the same as physical resource. Brown et al describe ecosystem services as results of ecosystem processes which sustain or improve human life or maintain ecosystem goods.¹⁶ Functions such as but not limited to flood regulation and coastal protection are therefore benefits generated by functioning ecosystems rather than separate physical resources.

The competing category of resources at the centre of the argument of this paper is oil on one side, which is a non-renewable extractive resource. On the other side are renewable or conditionally renewable marine and interconnected water resources, including water bodies, and associated ecological systems. Activities such as fishing activity and ecosystem services are relevant because they demonstrate the continuing utility produced by the latter category. The conflict examined in this paper is between the exploitation of one valuable natural resource and the continuing productive use of another. Although, existing resource literatures have provided the foundation for this distinction but does not answer the legal question pursued here. Hultman et al recognise that the creation and exploitation of resources may involve trade-offs and conflict.¹⁷ Schellens and Gisladdottir show why resource value should not be reduced to immediate economic importance.¹⁸ Their analysis helps to explain why oil exploitation should not be the only resource whose value is expressed positively in a regulatory decision. It does not determine how Nigerian oil or natural resources law should treat another resource when the two cannot fully coexist. This paper carries the conceptual inquiry into that legal question.

2.1.2 Resource Interdependence

Resource interdependence describes the circumstance in which exploitation or regulation of one resource affects the availability or quality use of another. The legal difficulty arises because resources which uses are ordinarily interconnected to each other may be governed through separate statutes and institutions. For example, Mooren et al discussed water, food and the ecosystems as interdependent domains in which progress in one domain should not impose an unexamined penalty upon another, and identified policy coordination and management of trade-offs as continuing governance problems.¹⁹

¹⁶ Thomas C Brown et al, 'Defining, Valuing, and Providing Ecosystem Goods and Services' (2007) 47(2) Natural Resources Journal 329 <<https://research.fs.usda.gov/treearch/29469>> accessed 29 August 2026.

¹⁷ Hultman et al (n 14).

¹⁸ Marie K Schellens and Johanna Gisladdottir, 'Critical Natural Resources: Challenging the Current Discourse and Proposal for a Holistic Definition' (2018) 7(4) Resources 79 <<https://doi.org/10.3390/resources7040079>> accessed 29 August 2026.

¹⁹ Caro Eline Mooren et al, 'Water-Energy-Food-Ecosystem Nexus: How to Frame and How to Govern' (2025) 20 Sustainability Science 2313 <<https://doi.org/10.1007/s11625-025-01691-x>> accessed 29 August 2026.

In the context of this paper, interdependence has four relevant dimensions. The ecological dimension concerns the transmission of the impacts of oil exploitation through habitats and biodiversity. The economic dimension arises where oil exploitation reduces another productive use such as agriculture or navigation. The livelihood dimension concerns persons and communities whose income or subsistence depends upon affected resources. The rights dimension arises where resource degradation affects interests protected through rights to life, health or livelihood.

Within the context of Nigeria, some scholarships have given their opinion on resource interdependence, albeit not encompassing to cover complex scenarios or circumstances. For instance, Ngene et al identify weak water governance and an unclear implementation framework as obstacles to integrated water-resource management in Nigeria.²⁰ Their inquiry is nevertheless concerned with management of water and competing demands within the water sector. It does not answer the inverse question examined in this paper; how the legal value attributed to water and other ecological resource uses should alter an oil development or exploitation decision taken under a separate statutory regime. This research therefore does not claim resource interdependence as a new concept. Its contribution lies in asking what legal consequence oil authorisation in Nigeria gives to an interdependence that the wider literature already establishes. This is because physical interaction does not itself amount to integrated legal governance, but the relevant inquiry should be whether recognition of the affected resource enters the oil decision in a form capable of changing the proposed activity.

2.1.3 Resource Conflict

Resource conflict arises where interdependence produces incompatibility between legitimate resource interests. However, it is not every environmental impact that amounts to resource conflict. For example, an impact may be avoided or restored through reasonable mitigation. The concept becomes relevant here where, after reasonable mitigation has been considered, oil exploitation would still cause substantial impairment of another resource or of the continuing uses and benefits derived from it. Many literatures commonly describe such relationships through the language of trade-offs. Mooren et al recognise that cross-sector resource governance requires management of trade-offs and different perspectives on resource use.²¹ Hultman et al similarly acknowledge that the exploitation of resources may involve unavoidable trade-offs and conflicts.²² These works establish the analytical existence of conflict, but an identified trade-off does not determine its legal consequence. Also, scientific or environmental assessment may establish that oil development will impair navigation or cause substantial loss of ecosystem services. That information does not, by itself, decide whether the project should proceed. Resource conflict therefore identifies the point at which impact assessment becomes a normative legal problem. The question changes from how severe the effect is to whether the remaining impairment of another resource is legally acceptable.

2.1.4 Resource Reconciliation

Resource reconciliation means a legally structured process through which competing legitimate resource interests are identified and accommodated and, where complete coexistence cannot be

²⁰ Ben U Ngene et al, 'Assessment of Water Resources Development and Exploitation in Nigeria: A Review of Integrated Water Resources Management Approach' (2021) 7(1) Heliyon e05955 <<https://doi.org/10.1016/j.heliyon.2021.e05955>> accessed 29 August 2026.

²¹ Mooren et al (n 18).

²² Hultman et al (n 14).

achieved, a reasoned determination is made concerning the consequence of the remaining conflict. It therefore goes beyond environmental mitigation. Mitigation asks how extreme consequences of a proposed activity can be reduced. Resource reconciliation additionally asks whether the value and continuing utility of the affected resource should change the proposed oil activity itself.

For the purpose of this paper, impact valuation and resource valuation are analytical rather than statutory terms. Impact valuation means the assessment of the nature and significance of the environmental effects of a proposed activity, reflecting the structure of the Environmental Impact Assessment Act.²³ Resource valuation means assessment of the continuing economic and ecological utility of the affected resource itself, rather than only the severity of the effect imposed upon it. This broader conception is consistent with the view of Schellens and Gisladdottir that resource value should not be confined to immediate economic importance.²⁴ The distinction is that impact valuation asks how serious the project effect is, while resource valuation asks what continuing resource value would be lost and whether that value should alter the project decision.

Some scholars have opined for reforms and measures to ensure resource reconciliation, preventing instances where the utility of one resource is hampered by another. For instance, Omotuyi et al examine upstream petroleum development against marine environmental protection and sustainable development, and identify gaps requiring legal and regulatory reform.²⁵ Their study establishes weaknesses in oil risk regulation and marine environmental protection, but it does not develop a device for deciding the trade-off where an effective assessment still leaves oil exploitation incompatible with another independently resource. Although existing literatures have written on resource reconciliation within the oil and petroleum development context but what remains insufficiently developed in the Nigerian oil context is the movement from information about a competing resource to legal consequence within the oil authorisation decision.

Resource reconciliation is therefore used in this paper to address the issue of resource conflict through three questions and categories; Recognition asks whether the competing resource and the benefits dependent upon it are legally visible. Translation asks whether that recognition is carried into oil authorisation in a form capable of changing the petroleum-development objective. Reconciliation asks what legal considerations determine the outcome where substantial incompatibility remains. For clarity, resource recognition in this sequence concerns the legal visibility of a competing resource and its dependent uses; it is distinct from the recognitional dimension of environmental justice in Part 2.2.2, which concerns whether affected persons and forms of knowledge are treated as legitimate. Accordingly, the conceptual contribution of this research is not the discovery that natural resources are interconnected. It is the development of a system for examining whether the laws of Nigeria move from recognised interdependence to a reasoned decision consequence, including temporal adjustment, or refusal where the competing resource cannot otherwise be adequately preserved. Thus, resource reconciliation translates into the specific legal issue of this paper: where oil exploitation and another independently important resource cannot fully coexist, what considerations must govern the decision before one resource interest is permitted to impair the other.

²³ Environmental Impact Assessment Act, Cap E12 LFN 2004, ss 4(d)-(e), 5 and 16.

²⁴ Schellens and Gisladdottir (n 17).

²⁵ Opeyemi Yetunde Omotuyi et al, 'A Review of the Legal Framework for Marine Environmental Protection and Sustainable Development in Nigeria: Case Study of the Niger Delta Region and Upstream Petroleum Development' (2024) 4(1) *Humanus Discourse* 1-22.

2.2 Theoretical Framework

2.2.1 Sustainable Development

Sustainable development provides the main theoretical basis for resource reconciliation. The Brundtland formulation requires development that meets present needs without compromising the ability of future generations to meet their own needs.²⁶ In contemporary usage, the concept is commonly associated with integration of economic and environmental considerations rather than pursuit of one dimension in isolation.

The theory is relevant because oil and the resources affected by oil exploitation activity may each possess developmental value. Oil contributes revenue and energy, while water resources and related ecosystems sustain food production and ecological functions. Sustainable development, thus, rejects a method which calculates oil benefit without considering the continuing productivity of the surrounding resource system. It equally does not require automatic rejection of oil exploitation. However, there are drawbacks and gaps if sustainable development is left at this level of generality. Purvis et al explained that the familiar economic and environmental conception of sustainability became widely accepted without a sufficiently settled theoretical account of the relationship among its elements.²⁷ This difficulty becomes more important where the elements do not merely complement each other but compete for priority.

Nigerian literatures apply sustainable development to the same factual setting considered in this research. For instance, Esavwede and Mukoro examine the application of sustainable development to oil exploration in Nigeria and conclude that, although the principle appears in relevant laws and policies, its practical application remains inadequate.²⁸ Faga and Uchechukwu consider petroleum degradation in the Niger Delta through intergenerational rights and sustainable development, including the problem of balancing economic development with environmental sustainability.²⁹

These works establish that oil exploitation cannot be assessed only through immediate economic gain. Their limitation for the present inquiry is that the language of integration or balance does not itself state how a regulator should decide an unresolved conflict between petroleum and another productive resource. This research fills that theoretical gap by using sustainable development as an integrative principle and resource reconciliation as the legal device through which integration is tested. The relevant inquiry includes but is not limited to, the continuing productivity of the affected resource, and the developmental significance of the oil project. Sustainable development therefore provides the reason for integration, while resource reconciliation provides the decision structure through which that integration can acquire legal consequence.

²⁶ World Commission on Environment and Development, *Our Common Future* (1987) ch 2 para 1.

²⁷ Ben Purvis et al, 'Three Pillars of Sustainability: In Search of Conceptual Origins' (2019) 14 *Sustainability Science* 681 <<https://doi.org/10.1007/s11625-018-0627-5>> accessed 29 August 2026.

²⁸ JP Esavwede and MA Mukoro, 'The Principle of Sustainable Development (SD) and Its Application to Oil Exploration in Nigeria' (2019) 1(1) *International Journal of Comparative Law and Legal Philosophy* 189 <<https://www.nigerianjournalonline.com/index.php/IJOCLEP/article/download/1192/1175>> accessed 29 August 2026.

²⁹ Hemen Philip Faga and Uguru Uchechukwu, 'Oil Exploration, Environmental Degradation, and Future Generations in the Niger Delta: Options for Enforcement of Intergenerational Rights and Sustainable Development Through Legal and Judicial Activism' (2019) 34 *Journal of Environmental Law and Litigation* 185 <<https://hdl.handle.net/1794/24686>> accessed 29 August 2026.

2.2.2 Environmental Justice

Environmental justice complements sustainable development because aggregate economic benefit does not answer how the benefits and burdens of resource exploitation are distributed or whose interests receive meaningful recognition in the decision. Blue et al identify distributive, recognitional and representational or participatory dimensions of environmental justice in impact assessment.³⁰ Distribution concerns who receives benefits and who bears environmental burdens. Recognition concerns whether affected persons and forms of knowledge are treated as legitimate. Participation concerns whether affected interests can meaningfully influence the process through which the decision is made. This theory is relevant where oil creates national economic benefits while environmental and resource losses fall heavily upon persons dependent upon activities from water bodies and the ecosystem services. Environmental justice thus questions a regulatory structure in which oil value is expressed as a positive commercial or national benefit while the value of another resource appears principally as an adverse impact requiring mitigation.

Some Nigerian literature applies environmental justice directly to the oil and environmental impact assessment context. Eni et al examine the Environmental Impact Assessment system as a framework for environmental justice in the petroleum sector and connect hydrocarbon extraction with destruction of aquatic resources and disproportionate environmental burdens. Their analysis identifies structural weaknesses in the Nigerian EIA system, including deficiencies of participation and enforcement.³¹ Faga and Uchechukwu likewise connect petroleum degradation with equity and the interests of present and future generations.³² Much of the Nigerian literatures are directed to environmental burdens, and remediation after or during harmful oil activity. The issue in this paper arises at the stage at which oil development is authorised: whether the productive value of the competing resource and the persons dependent upon it receive substantive decisional weight before significant residual impairment is accepted. Environmental justice contributes to resource reconciliation in two respects. First, it exposes a possible valuation asymmetry where oil enters the decision through quantified commercial and national economic benefits while clean water and ecosystem services enter primarily as impacts. Second, it disciplines the justification of residual harm. The conclusion that oil exploitation produces greater aggregate economic value does not alone determine whether a concentrated loss imposed upon another resource system or group is justified. The distribution of benefits and burdens, and the recognition of affected resource dependent interests remain relevant to that determination. The two theories perform different but complementary functions. Sustainable development requires a combination of environmental and intergenerational considerations. While environmental justice examines distribution, recognition and participation within that integration.

³⁰ Gwendolyn Blue et al, 'Beyond Distribution and Participation: A Scoping Review to Advance a Comprehensive Environmental Justice Framework for Impact Assessment' (2021) 90 Environmental Impact Assessment Review 106607 <<https://doi.org/10.1016/j.eiar.2021.106607>> accessed 29 August 2026.

³¹ Onyekachi Eni et al, 'Mapping the Weaknesses of Nigeria's Environmental Impact Assessment Mechanism as a Framework for Environmental Justice in the Petroleum Sector' (2024) 28(1) Human Ecology Review 7 <<https://doi.org/10.22459/HER.28.01.2024.02>> accessed 29 August 2026.

³² Faga and Uchechukwu (n 28).

3.0 Legal Framework for Oil Exploitation and Water Resources and Ecosystem Protection

3.1 Domestic Legal Framework

3.1.1 The Constitution of the Federal Republic of Nigeria 1999

The Constitution contains the basic tension between resource exploitation and environmental protection, although it does not provide an operational rule for resolving individual resources conflicts. Section 44(3) vests the control of oil and minerals, under or upon land, and territorial waters in the Government of the Federation. The provision establishes the constitutional foundation for federal oil entitlement and regulation.³³

Section 16 directs the State towards planned and balanced economic development and the harnessing of material resources for the common good. Section 17(2)(d) states that exploitation of human or natural resources for reasons other than the good of the community shall be prevented. While section 20 directs the State to protect and improve the environment, including the water and wildlife.³⁴ The community reading of these provisions reject a conception of resource control that is concerned only with extraction. They support both economic benefits and environmental protection. However, their direct enforcement is nevertheless affected by section 6(6)(c), which limits judicial enforcement of Chapter II objectives except to the extent otherwise provided by the Constitution or legislation. Also, the constitutional framework supplies normative direction but does not itself determine or provide specific circumstances when oil exploitation should give way for water resources or the sensitive ecosystem.

3.1.2 The Petroleum Industry Act 2021

The Petroleum Industry Act is the major statute governing the contemporary oil sector. Section 1 vests property and ownership of petroleum within Nigeria and its territorial and maritime zones in the Government of the Federation. The Act establishes the Nigerian Upstream Petroleum Regulatory Commission and assigns it functions concerning safety and environmental regulation of upstream petroleum operations.³⁵ Section 79 is applicable to resource reconciliation because it governs the field development plan through which a discovered petroleum field moves towards production. The Commission evaluates technical and commercial terms, and must be satisfied among other requirements, that the plan meets results in maximum economic recovery of petroleum and satisfies environmental standards. The Act includes an environmental management plan under section 102, and complies with applicable host-community requirements.³⁶

Section 102, however, prevents an interpretation of section 79 as purely commercial. A licensee or lessee must submit an environmental management plan, and the plan must comply with applicable environmental legislation. The regulator may require measures for rehabilitation and management of negative environmental impacts. Section 103 separately requires contributions to an environmental remediation fund.³⁷ However, the legal question under this Act still remains where maximum economic recovery is inconsistent with preservation of another resource, does the Act provide a sufficiently explicit method for determining the trade-off? Section 79 states the economic objective and environmental requirements but does not comparably identify water-

³³ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 44(3).

³⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 16, 17(2)(d) and 20.

³⁵ Petroleum Industry Act 2021, ss 1, 4, 6-8.

³⁶ Petroleum Industry Act 2021, s 79(2).

³⁷ Petroleum Industry Act 2021, ss 102-103; Upstream Petroleum Environmental Remediation Fund Regulations 2024, SI No 62.

resource productivity or ecosystem services as independent resource values within the field-development decision. The host-community framework provides additional social information but does not remove the timing problem. Section 251 requires a needs assessment addressing social and environmental conditions and the effects of petroleum operations. The assessment is important, but its operation within a petroleum entitlement already granted or being implemented is not equivalent to a prior decision rule determining whether the project should proceed in its proposed form.³⁸

3.1.3 Environmental Impact Assessment Act and the 2021 Regulations

The Environmental Impact Assessment Act makes provision for the strongest general procedural and substantive mechanism for integrating environmental information into development decisions. Section 4 requires consideration of environmental effects and mitigation, while section 16 requires examination of direct, indirect and cumulative effects, including feasible measures capable of mitigating significant adverse effects.³⁹

Section 12 creates an important legal connection with sectoral licensing. For projects requiring mandatory study, governmental authorities should not exercise a power that would permit the project to proceed until the environmental decision has been made. This prevents a description of environmental assessment as legally separate from oil licensing.

The 2021 Regulations provide for categorisation according to risks and mitigation; scoping of significant impacts and reasonable alternatives; continuing public participation; project justification and sustainability; and a No Project outcome where the final assessment remains unsatisfactory. Environmental unsustainability is expressly included among the grounds capable of supporting disapproval.⁴⁰ Nevertheless, section 39 of the Act leaves the decisive normative issue comparatively open. This provision enables projects with adverse effects to proceed where mitigable or justified in the circumstances. The statute does not itself state a detailed set of considerations for determining justification. This flexibility may be administratively useful, but where the residual effect is the impairment of another productive natural resource, the absence of express cross-resource criteria creates uncertainty over the content of the trade-off. The EIA process may accurately identify high impact and recommend mitigation. Resource reconciliation asks a subsequent question; if a significant residual loss remains, what makes that loss legally acceptable in light of oil or petroleum benefit?

3.1.4 Water Resources Act

The Water Resources Act shows that resource reconciliation is already present within Nigerian statutory law. Section 1 places specified interstate surface and groundwater under federal control for optimum coordination, and activities affecting use and management. Section 2 recognises fishing and navigation as lawful uses, while section 5 requires attention to agricultural water needs, pollution control, protection of inland and estuarine fisheries e.t.c.⁴¹

³⁸ Petroleum Industry Act 2021, ss 234-257, see also s 251 on host-community needs assessment.

³⁹ Environmental Impact Assessment Act, ss 4 and 16.

⁴⁰ Environmental Impact Assessment Procedures and Charges Regulations 2021, regs 3, 6, 10, 11, 13 and 15 and the Schedule.

⁴¹ Water Resources Act, Cap W2 LFN 2004, as amended by the Water Resources (Amendment) Act 2016, ss 1, 2 and 5.

However, this Act gives legal consequences to incompatibility. For instance, section 8 permits regulation or prohibition of activities likely to interfere with water quantity or quality. Section 11 requires attention to the amount of usable water and potential interference with quantity or quality, and enables refusal or modification of licences in appropriate circumstances, including accommodation of the needs of another user.⁴²

These provisions are important not because water law should replace relevant law, but because they show that Nigerian legislation already recognises multiple resource uses and empowers a regulator to adjust one use in order to protect another. The difficulty is whether such reasoning is translated into oil authorisation where oil activity materially affects the water uses protected by the Act.

3.1.5 NESREA Act and the Coastal and Water-Quality Regulations

The National Environmental Standards and Regulations Enforcement Agency Act gives NESREA broad environmental responsibilities but excludes the oil and gas sector from several central monitoring and enforcement functions. The exclusions appear in provisions dealing with but not limited to compliance monitoring of seas and water bodies, and pollution removal.⁴³

The subsidiary water and coastal regulations also contain some of the strongest resource reconciliation standards in Nigerian law. The National Environmental (Surface and Groundwater Quality Control) Regulations 2011 seek to preserve water integrity and existing uses. They expressly recognise agriculture, water supply and controlled waste assimilation, with waste assimilation permitted only to the extent compatible with other uses.⁴⁴

Further, the Coastal and Marine Area Protection Regulations apply in terms to users of coastal and marine areas, and require development to remain consistent with environmental protection within development approval and inter-agency cooperation. Regulation 16 requires denial of a permit where development significantly reduces long-term productivity of a renewable-resource area and causes major or irreversible damage to significant natural resources. Regulation 17 allows conditional approval where protective measures can address the concern.⁴⁵

The regulations also contemplate oil and gas activity, including nearshore installations. However, there exist difficulties in applying this law and regulations. It is the relationship between subsidiary coastal standards, the oil and gas exclusions contained in the parent NESREA statute, and the separate environmental jurisdiction now exercised within the oil regime. In the absence of a clear interpretation of the court or legislative amendment in resolving that interface, it is safer to describe the problem as one of statutory competence and institutional connectivity rather than to assume that the regulations are either fully operative against oil exploitation or entirely inapplicable.

3.2 International and African Regional Framework

3.2.1 United Nations Convention on the Law of the Sea

The United Nations Convention on the Law of the Sea supplies the basic international benchmark because it places resource entitlement and environmental responsibility within the same legal

⁴²Water Resources Act, Cap W2 LFN 2004, as amended by the Water Resources (Amendment) Act 2016, ss 8 and 11.

⁴³ National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007, as amended, ss 7, 8, 24, 29 and 30.

⁴⁴ National Environmental (Surface and Groundwater Quality Control) Regulations 2011, SI No 22, regs 1-4.

⁴⁵ National Environmental (Coastal and Marine Area Protection) Regulations 2011, regs 1-3, 8, 12, 16-17.

structure. Article 192 imposes the general obligation to protect and preserve the marine environment. Article 193 simultaneously recognises the sovereign right of States to exploit natural resources pursuant to environmental policies and in accordance with the duty of marine environmental protection.⁴⁶ Under these provisions, the right to exploit oil must operate within certain measures. Article 194 requires that there must be the existence of measures to prevent and control marine pollution from any source. Articles 204 to 206 address monitoring and assessment of activities that may cause substantial pollution or significant harmful changes.

Although, UNCLOS does not itself provide a detailed oil, water resource and ecosystem trade-off formula. Its essence lies in the normative architecture; sovereignty over natural resources and marine environmental obligations, which operate together. Nigerian reform can therefore structure resource reconciliation without contradicting the developmental entitlement that underlies oil exploitation.

3.2.2 African Charter on Human and Peoples Rights

The African Charter provides a broader regional conception. Article 21 protects the right of peoples to dispose of wealth and natural resources in their exclusive interest. Article 22 ensures the right to development. Article 24 provides for the right to a general satisfactory environment favourable to development.⁴⁷ The African Commission State Reporting Guidelines on articles 21 and 24 connect natural resource governance, environmental sustainability and human rights. The Guidelines require States to address the legal and institutional framework governing extractive activities and their implications for people and the environment.⁴⁸

The case of SERAC and CESR v Nigeria,⁴⁹ demonstrates the integrated character of the regional framework in the oil exploitation context. The African Commission considered environmental contamination and the benefits of oil development within one factual setting and found Nigeria in violation of several Charter obligations. The Commission called for environmental and social impact assessment of future oil developments and clean-up. This case reinforces the position of the Charter that natural resources and environmental quality should not be treated as unrelated legal compartments.

4.0 Resource Interdependence, Legal Reconciliation and Reform

4.1 Oil Exploitation and the Interdependence of Ecosystem and Water Resources

The empirical foundation of resource reconciliation is that oil activity could transfer costs across resource systems. Actual environmental assessments have shown that regulators and project proponents are capable of recognising these interactions. The Utapate Field Development EIA, for example, identified fishing and farming as primary livelihoods, treated disruption of fishing as a significant impact and separately considered interference with water transportation. The proposed mitigation factors included mapping of subsea infrastructure and management of vessel

⁴⁶ United Nations Convention on the Law of the Sea 1982, arts 192-193.

⁴⁷ African Charter on Human and Peoples Rights 1981, arts 21, 22 and 24.

⁴⁸ African Commission on Human and Peoples Rights, State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment (2018).

⁴⁹ Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria, Communication 155/96 (African Commission on Human and Peoples' Rights, 27 October 2001).

movements.⁵⁰ The import of the example lies in the decision structure between competing resources. Environmental assessment commonly proceeds from a proposed oil development and identifies affected resources, after which proposals for mitigation is done and then the evaluation of residual impacts. Resource reconciliation asks whether the affected waterway has a legal status capable of changing the oil objective where mitigation cannot adequately preserve the competing use. The EIA would ordinarily rate disruption to fishing or water transport by severity and residual significance, but resource valuation asks whether the continuing productivity and socioeconomic or ecological utility of the fishery and waterway were given substantive weight as resources in their own right. Resource reconciliation then asks whether any residual loss is justified by the oil benefit and what legal consequence should follow.

Additionally, the importance of cumulative effects follows from the same logic. A new field may impose a moderate additional burden when examined in isolation but may become legally significant when added to existing spills and ecosystem degradation. Nelson and Shirley showed that cumulative-effects concepts may be formally recognised within EIA systems, but the challenge remains incompletely implemented in practice.⁵¹ Our laws therefore need not merely cumulative assessment which already exists, but a decision rule explaining what cumulative pressure changes the approval outcome.

4.2 Sectoral Regulation and Legal Reconciliation Under the Framework in Nigeria

The Nigerian framework should be evaluated through three linked questions namely recognition, translation and reconciliation. Recognition asks whether the competing resource is legally visible. Translation asks whether that recognition is carried into the oil authorisation process in a form capable of altering the development objective. Reconciliation asks what rule determines the outcome where the resources cannot fully coexist.

On recognition, various water and marine related legislations recognise numerous marine and water activities such as fisheries and navigation. Fisheries legislation recognises fish stocks as resources requiring conservation. NIWA legislation recognises navigable waterways and shoreline uses. Coastal regulations recognise renewable resource productivity, and cumulative effects. The EIA law recognises the direct and indirect environmental or socioeconomic effects. Thus, the competing interests are therefore not legally invisible.

However, the harder problem arises at the stage of translation. The PIA imports environmental compliance through sections 79 and 102, while section 12 of the EIA Act prevents mandatory study projects from lawfully proceeding before the environmental decision. This merely creates a formal connectivity but not an integrated decision model. For instance, the PIA does not expressly require NUPRC to explain how the productive value of an affected water resource and activities altered the field-development decision.

The distinction is also seen in the structure of section 79 of the PIA. Oil enters the decision through a clear development objective, including maximum economic recovery, and the commercial regulations provide detailed metrics for assessing the project. Although competing resource values tend to enter through environmental assessment and mitigation, this does not prove that oil is invariably preferred. It does create a valuation asymmetry that deserves legal attention because the

⁵⁰ Draft Environmental Impact Assessment for the Utapate Field Development Project, OML 13, publicly displayed by the Federal Ministry responsible for environment in 2020.

⁵¹ Rebecca Nelson and LM Shirley, 'The Latent Potential of Cumulative Effects Concepts in National and International Environmental Impact Assessment Regimes' (2023) 12(1) Transnational Environmental Law 150.

final decision may compare a quantified oil benefit with resource losses described primarily as impacts. Environmental justice assists in testing the consequences of that valuation asymmetry. The relevant question would then become whether the decision-maker is required to recognise the economic productivity of the resource and the persons who depend upon it before accepting residual loss. Where that information remains merely descriptive, environmental participation may occur without producing substantive influence on the petroleum objective.

The second problem concerns the content of reconciliation. Section 39 of the EIA Act allows significant adverse effects where they are justified in the circumstances but does not offer a detailed set of factors for deciding justification. Although technical evidence may identify a substantial loss, it cannot alone decide whether the national oil benefit justifies that loss.

The framework in Nigeria already contains possible answers in other regulatory locations. Regulation 16 of the Coastal and Marine Area Protection Regulations asks whether development will cause a loss or significant reduction of continued long-range productivity of marine food and other resources, and major or irreversible damage to significant natural resources. Although these are substantive reconciliation criteria, the problem is that their legal connection to oil field-development approval is uncertain because the parent NESREA framework excludes oil and gas from several key functions. This creates what could be described as a connectivity and authority gap. The right rules may exist within Nigerian law without being located in the regulatory process where the oil entitlement is finally configured. Therefore, it is necessary that there should be a reform which will begin by connecting domestic law to itself.

The third difficulty is with regards to the need for multiple approvals. Urgent issues such as oil and maritime pollution should all apply around a single development. This is because multiple regulation is not the same as integrated regulation. Integrated decision making requires a common view of the affected resource system and a rule explaining how information produced by one authority changes the decision of another. Without that connection, each authority may perform its statutory task while the trade-off between resources remains institutionally unowned.

The jurisprudence of the law of Nigeria in this regard, shows the same divide. In *Gbemre v Shell*,⁵² it was shown that petroleum operations, environmental assessment and environmental rights can be considered together. Also, *Centre for Oil Pollution Watch v NNPC*⁵³ widened access to environmental public-interest litigation. These cases improve accountability and recognise interdependence, but they do not establish a developed ex ante doctrine for determining how a proposed oil field should be altered when another resource cannot be adequately protected.

The framework in Nigeria contains environmental management and resource recognition, but it does not enable a sufficiently coherent cross resource methodology that translates these elements into the oil authorisation process and assigns legal consequences to residual incompatibility.

4.3 Comparative Analysis of Similar Jurisdictions

Comparative laws and practices from other jurisdictions are useful for formulating reforms because they show specific mechanisms through which competing resource interests may be accommodated:

⁵² *Gbemre v Shell Petroleum Development Company Nigeria Ltd* FHC/B/CS/53/05 (Federal High Court, 2005).

⁵³ *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* SC 319/2013 (Supreme Court, 20 July 2018);

1. Spatial and Temporal Adjustment of Oil: Comparative Analysis of the Framework in Norway

Norway provides a useful comparative example of how an oil-producing State can reconcile oil activity with ecological and water resource interests without treating oil development as illegitimate. The integrated ocean-management approach in Norway provides a framework for oil and other marine activities, and uses environmental value and sensitivity to shape the geographical framework for oil activity. Norwegian practice includes seasonal restrictions on exploration drilling and conditions designed to protect spawning grounds and sensitive benthic environments.⁵⁴ The relevance of this practice to Nigeria is in the variety of available outcomes it offers. Reconciliation does not require an immediate choice between unrestricted oil development and complete prohibition. It may include but not limited to seasonal limitations or project refusal depending upon the sensitivity and importance of the competing resource.

2. Structuring the Justification Test: Comparative Analysis of the Framework in Canada

Canada is useful because its Impact Assessment Act similarly structures an express justification stage after significant adverse effects have been identified, although its statutory formulation differs from section 39 of the Nigerian EIA Act.⁵⁵ The contemporary Impact Assessment Act structures public-interest justification through stated statutory factors and requires a reasoned determination.⁵⁶ Nigeria may retain the flexibility of section 39 while identifying the considerations that must inform justification. This would preserve the possibility that a nationally important oil project may proceed despite some residual harm while preventing the justification inquiry from becoming an unstructured appeal to economic importance.

5.0 Providing an Integrated Resource Reconciliation Framework for Nigeria

Necessary reforms should proceed from the existing Nigerian framework rather than create a separate assessment process that duplicates EIA. The purpose is to make information already generated through environmental assessment and marine or water regulation more viable during oil authorisation. The first reform should clarify section 39 of the Environmental Impact Assessment Act. Where substantial residual effects affect another natural resource use, justification should require consideration of factors such as cumulative baseline degradation, ecological sensitivity, rights implications, distribution of benefits and burdens, and the developmental significance of the project. The second reform should strengthen the legal connection between the final environmental decision and the field development plan. Section 79 of the Petroleum Industry Act should require an affirmative resource-reconciliation determination where the EIA identifies a significant conflict with marine or interconnected water resources. The final environmental decision and material conditions should form part of the field-development approval, and NUPRC should state how the environmental findings affected the final configuration of the project.

⁵⁴Norwegian Ministry of Climate and Environment, Norway's Integrated Ocean Management Plans, Meld St 21 (2023-2024) (Report to the Storting, 2024), see the chapters on petroleum framework, fisheries interests and spatial management.

⁵⁵Environmental Impact Assessment Act, Cap E12 LFN 2004, s 39.

⁵⁶Canada, Impact Assessment Act, SC 2019, c 28, ss 62-65, as amended.

The third reform should use the existing Nigerian reconciliation criteria. The PIA or its binding subsidiary framework should expressly adopt criteria equivalent to regulation 16 of the Coastal and Marine Area Protection Regulations. Hence, NUPRC should consider matters such as the continued long-range productivity of marine resources, and major or irreversible damage to significant natural resources when approving oil development that may greatly affect coastal or aquatic resources. The fourth reform should address inter-agency coordination directly. Where an environmental assessment or proposed field development identifies a material effect on water resource or another resource regulated by a different public authority, NUPRC should be required to obtain and consider the written position of that authority before approving the field development plan. Nigerian law already contains elements of this approach through coordinated water-resource planning, collaboration with relevant public authorities in coastal regulation, the navigation and pipeline-crossing functions of NIWA, and the statutory connection between environmental assessment and later governmental authorisation.⁵⁷ The reform should convert those dispersed responsibilities into a single documented decision process in which major findings are exchanged and the final NUPRC decision explains how each sectoral position affected the configuration or conditions of the project. It would not give every authority a separate veto over oil development; but it would ensure that resource-specific findings produced by one authority are capable of influencing the decision of another. The fifth reform should be the adoption of a graduated hierarchy of outcomes. The first consideration should be coexistence. Where coexistence requires protection, conditions should follow. If conditions are insufficient, factors like temporal adjustment or reduced operational intensity should be considered. Where the conflict cannot adequately be reconciled, relocation should be considered before the final choice between approval and refusal. The hierarchy gives legal meaning to balance without assuming that either oil or environmental protection always prevails. The sixth reform should establish a remedial framework for persons who bear a direct loss where a resource on which they depend is impaired because a resource reconciliation decision permits another resource to prevail. Resource reconciliation should not end with a decision between oil and the competing resource while leaving the human consequences outside the decision. Where approval will cause substantial or colossal residual loss to another resource dependent activity, the approval should identify the persons or communities likely to bear that loss and state the remedy available to them. Depending on the circumstances, the remedy may include provision of an alternative or fair compensation. However, compensation should not substitute for avoidance or mitigation where the harm can reasonably be prevented.

5.2 Testing the Reforms Against a Concrete Case: The Utapate Field Development EIA

The reforms above can be tested against the Utapate Field Development EIA discussed in part 4.1. On the account given in that EIA, fishing and farming were identified as the livelihoods of the affected population. Disruption of fishing was treated as a significant impact, and interference with water transportation was separately considered. Mitigation consisted of mapping subsea infrastructure and managing vessel movements. The record of the EIA in this case, did not disclose that the assessment went further to weigh the value of the affected fishery and water transportation against the value of the oil project, nor did it disclose the terms of any final development approval.

⁵⁷Water Resources Act, Cap W2 LFN 2004, as amended by the Water Resources (Amendment) Act 2016, s 5(g); National Environmental (Coastal and Marine Area Protection) Regulations 2011, SI No 18, reg 8(4); National Inland Waterways Authority Act, Cap N47 LFN 2004, ss 8-9; Environmental Impact Assessment Act, Cap E12 LFN 2004, s 12.

Applied to that record, the first reform would have required the assessment to move beyond identifying fishing disruption as a significant impact and mitigating it through subsea mapping or vessel management, to a structured section 39 justification which addresses among other things, the cumulative baseline condition of the fishery and the developmental significance of the field. Nothing in the account of the Utapate EIA indicates that this further step was taken.

The second reform would have required the field-development approval to state affirmatively how the identified fishing and water-transportation impacts affected the final configuration of the project, rather than leaving the environmental assessment and the field development plan as formally connected but substantively separate documents.

The third reform would have brought Regulation 16 directly into the decision. Since fishing is a renewable resource use, the reform would have required NUPRC to consider whether the identified disruption reached the level of a significant reduction in long-term fishery productivity, a question the EIA account does not appear to have addressed in those terms.

Applied to Utapate, the fourth reform would have required an express coordination record for the waterway and navigation effects identified by the EIA. The Utapate EIA itself recognised the statutory role of NIWA. It even stated that NIWA permits were required for pipeline routes and dredging within declared waterways, and separately assessed interference with water transport.⁵⁸ The available EIA shows that the relevant institutional mandate was known, but it does not disclose whether the position of NIWA on navigation and waterway crossings was formally transmitted into and reconciled with the petroleum field-development decision. Under the proposed coordination reform, that connection would have to appear in the decision record.

The fifth reform would have required the EIA to show its place in a graduated hierarchy of outcomes. The EIA did consider project alternatives, including alternative crude-evacuation arrangements. But what it does not disclose is a graduated, conflict-triggered sequence in which coexistence is considered first, followed where necessary by temporal adjustment, and ultimately approval or refusal. The criticism is not that alternatives were wholly absent, but that the decision structure does not appear to organise them as distinct legal consequences of unresolved resource conflict.

Conclusion

The legal problem created by oil exploitation and water resource or ecological system protection in Nigeria is more complex than a shortage of environmental rules. Although, our laws already subject oil projects to environmental assessment, the weakness lies in the connection among those laws at the point where oil development is authorised. Environmental assessment may identify and mitigate those interests to be affected by oil exploitation, but the law is less explicit about the normative criteria that determine when significant residual impairment of another productive resource is justified by petroleum development.

An integrated framework of resource reconciliation should thus build upon existing domestic law. Section 39 of the EIA Act should be structured through explicit justification factors. Final environmental findings should acquire clearer legal effect within section 79 field-development decisions, while existing Nigerian coastal criteria should be extended into oil decision-making. A formal inter-agency mechanism should ensure that material findings from water-resource and

⁵⁸ Draft Environmental Impact Assessment for the Utapate Field Development Project, OML 13 (2020), s 1.5.17 on the National Inland Waterways Authority and the impact assessment of interference with water transport during mobilisation.

environmental authorities enter and influence the NUPRC field-development decision. The framework should also provide graduated decision outcomes and remedies for persons who bear direct residual loss. Comparative mechanisms from Norway and Canada can supply tested methods of temporal adjustment and reasoned public-interest justification.

Such a framework does not treat oil exploitation as inherently unlawful and does not assume that water or ecological interests must always prevail. Its purpose is to ensure that lawful resource exploitation does not operate through a valuation asymmetry in which the value of one resource is fully institutionalised while the continuing utility of another is treated only as a mitigable impact. That is the basis upon which oil exploitation and the wider resource systems upon which communities and the economy depend can be reconciled within a coherent domestic governance framework.