

**Resource Governance and Indigenous Rights in Nigeria: Protecting Host Communities in
Natural Resource Management**

Abstract:

This research article explores the challenges faced by host communities in Nigeria with particular emphasis on the rights of indigenous peoples over natural resources. Although Nigeria is endowed with vast oil and mineral wealth, many indigenous communities continue to experience environmental degradation, poverty, displacement, and socio-economic exclusion resulting from resource extraction activities. The study critically examines the legal and institutional frameworks governing indigenous rights, including constitutional provisions, environmental laws, international human rights instruments, and local regulations, in order to assess their effectiveness in safeguarding community interests. By analyzing selected case studies and existing literature, the research identifies persistent gaps between legal protections and their practical implementation, highlighting issues of unequal resource distribution, inadequate compensation, and limited participation of host communities in decision-making processes. The article argues for stronger legal reforms, inclusive governance, and sustainable development policies that recognize the rights, dignity, and cultural identity of indigenous populations. It concludes that meaningful participation and equitable benefit-sharing are essential for achieving social justice, environmental sustainability, and long-term peace in Nigeria's resource-rich regions.

Keywords: *Indigenous Rights, Resource Governance, Host Communities, Environmental Justice, Nigeria, Natural Resource Management, Sustainable Development.*

Introduction

International law comprises principles and agreements that regulate interactions among nations, with some legally enforceable and others persuasive. Enforceable instruments bind states and can also apply to regional organizations, associations, and individuals. Many conventions and treaties grant rights to individuals, irrespective of their states or locations,

reflecting a recent shift toward recognizing individual and group rights against the state in international human rights law.¹ Instruments such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the African Charter on Human and Peoples' Rights (ACHPR)², and various UN declarations and resolutions, including UNGA Resolution 1803 (1962) and Resolution 3281 (1974), ensure rights for indigenous communities over natural resources within their territories. Additionally, the ILO's Indigenous and Tribal Population Convention 1957 (Convention 107) and the Indigenous and Tribal Peoples Convention 1989 (Convention 169) reinforce these rights, highlighting the importance of indigenous sovereignty and resource management.

On the other hand, in the context of the Nigerian federation, the ownership and management of natural resources are governed by the country's Constitution. However, the Nigerian Constitution allocates the right of ownership and control of all natural resources within the sovereign territory of Nigeria to the central government, known as the Federal Government.³ This constitutional stance has not been accepted by the communities that host these natural resources and the composite states of Nigeria.⁴ This has led to what is now known as the resource control agitation, characterized by debates, suspicion, militancy, destruction of oil facilities, abduction of expatriate oil workers, and continued unrest and military responses by the federal government.⁵ The host oil communities argue that resources are extracted from their lands without adequate compensation for the environmental damage caused by exploration and exploitation. They also claim loss of livelihood due to oil spillage, damage to their farmlands and

¹Amah Emmanuel Ibiam, Hemen Philip Faga, Indigenous Peoples' Rights Over Natural Resources: An Analysis of Host Communities Rights in Nigeria, *available at*: [file:///E:/Mofidul/LLMIstsem,USTM/crime/Analyzing Host Communities' Rights in Nigeria Indigenous Peoples' Claims to Natural Resources.pdf](file:///E:/Mofidul/LLMIstsem,USTM/crime/Analyzing%20Host%20Communities'%20Rights%20in%20Nigeria%20Indigenous%20Peoples'%20Claims%20to%20Natural%20Resources.pdf), (last visited on Mar 15, 2026)

²Amechi Okolo, "The Political Economy of the Nigeria Oil Sector and the Civil War," 15 (1, 2) *Quarterly Journal of Administration* 107-27 (1981)

³For example, section 44 (3) of the 1999 Constitution provides: "Notwithstanding the preceding provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone for Nigeria shall vest in the government of the federation and shall be managed in such manner as may be prescribed by the National Assembly"; Section 4 (2) and part 1 of the Second Schedule to the CFRN, the Petroleum Act 1969 cap. Amechi Okolo, "The Political Economy of the Nigeria Oil Sector and the Civil War," *Quarterly Journal of Administration* 15, no. 1-2 (1981): 107-26

⁴Emmanuel Shebbs and Ray Njoku, "Resource Control in Nigeria - Issues of Politics, Conflict and Legality as Challenge to Development of the Niger Delta Region," 3 (3) *Journal of Good Governance and Sustainable Development in Africa (JGGSDA)* (2016)

⁵John Adewale Abolurin, *Democratisation, Conflict Management and the Amnesty Question in Nigeria* 78 (John Archers, Ibadan, 2010)

fishing grounds, the subsequent decline of their local economy, and increased poverty.⁶ Furthermore, they assert that they face unemployment and political alienation due to their minority status. These claims have spurred discussions on the rights of natural resource host communities over the resources found in their territories.

International law regulates state behavior regarding citizens' rights as defined by conventions, customary law, and dispute resolution decisions, without prescribing a specific government system. This paper examines the extent to which communities collectively hold internationally guaranteed rights over natural resources, particularly focusing on host communities in Nigeria.⁷

Objectives

- To analyze existing legal frameworks to determine their effectiveness in safeguarding the rights of indigenous peoples and host communities concerning natural resource claims.
- To assess the socio-economic impacts of resource extraction on indigenous communities, focusing on poverty, health, education, and overall quality of life.
- To document specific instances of rights violations faced by indigenous peoples in Nigeria, highlighting exploitation, environmental degradation, and exclusion from decision-making processes.
- To gather and present perspectives from indigenous communities regarding their natural resource claims, emphasizing their governance needs and rights to equitable resource distribution.
- To propose actionable policy reforms aimed at strengthening the rights of host communities, promoting sustainable resource management, and ensuring equitable participation in governance.

Research Problem

The research problem centers on the persistent marginalization of host communities and indigenous peoples in Nigeria regarding their claims to natural resources. Despite being the custodians of these resources, indigenous groups often face exploitation, environmental degradation, and violations of their rights, leading to socio-economic challenges. Existing legal

⁶Sylvester Chibueze Izah, "Ecosystem of the Niger Delta Region of Nigeria: Potentials and Threats," 2 (4) *Biodiversity International Journal* 334- 45 (2018): 338–45

⁷*Supra*, note 1

frameworks inadequately address these issues, resulting in a gap between policy and practice. The lack of meaningful participation in decision-making processes further exacerbates their plight, leaving them vulnerable to the adverse effects of resource extraction activities. This research seeks to investigate the complexities surrounding indigenous claims to natural resources, highlighting systemic injustices and the need for legal reforms. Ultimately, it aims to contribute to the broader discourse on social justice, environmental equity, and sustainable development in Nigeria, advocating for the rights of marginalized communities in natural resource management.

Review of Literature

- **Jennifer Gitiri, *Protection of Cultural Rights of Indigenous Peoples under the ICCPR/ICESCR and the African Charter: A Comparative Study* (Central European University, European , 2015)**

In *Protection of Cultural Rights of Indigenous Peoples under the ICCPR/ICESCR and the African Charter: A Comparative Study*, Jennifer Gitiri examines the mechanisms available for safeguarding the cultural rights of indigenous communities through international human rights instruments. Focusing on the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the African Charter on Human and Peoples' Rights, Gitiri analyzes how each framework addresses cultural rights, highlighting their strengths and limitations. Her comparative study underscores the importance of a tailored approach that respects indigenous identities and autonomy, and it emphasizes the need for robust legal protections to prevent cultural marginalization. This work provides a valuable understanding of international efforts to uphold the cultural rights of indigenous peoples within diverse legal contexts.

- **A. Jane Hofbauer, “*The Principle of Permanent Sovereignty over Natural Resources and Its Modern Implications*” (University of Iceland, Iceland, 2009)**

In *The Principle of Permanent Sovereignty over Natural Resources and Its Modern Implications*, A. Jane Hofbauer explores the enduring relevance and evolving applications of the principle that nations have sovereign rights over their natural resources. Originating as a concept to support self-determination and economic independence, particularly for developing nations, Hofbauer examines how this principle has been integrated into international law and its

implications in modern environmental and economic contexts. She highlights tensions between resource sovereignty and global environmental responsibilities, particularly regarding sustainable development and climate change. Hofbauer's analysis sheds light on the complexities that arise when balancing national sovereignty with collective ecological stewardship, offering insight into the challenges of managing natural resources in a globalized world.

- **Kalana Senaratne, "Internal Self-Determination in International Law: Critical Third World Perspective," 3(2) *African Journal of International Law* 305–39 (2013)**

In *Internal Self-Determination in International Law: Critical Third World Perspective*, Kalana Senaratne discusses the concept of internal self-determination, focusing on its application within the context of post-colonial states and marginalized communities. Senaratne critiques traditional international law frameworks, arguing that they often overlook the unique socio-political challenges faced by Third World countries. He examines how internal self-determination, which emphasizes autonomy and political rights within an existing state, can address issues like ethnic inequality, oppression, and social justice. By adopting a critical Third World perspective, Senaratne emphasizes the need for international law to support genuine autonomy and address power imbalances that hinder meaningful self-governance. This work challenges dominant perspectives, advocating for more inclusive interpretations of self-determination.

- **Matthew Saul, "The Normative Status of Self-Determination in International Law: A Formula for Uncertainty in the Scope and Content of the Right?," 11 (4) *Human Rights Law Review* 609–10 (2011)**

In *The Normative Status of Self-Determination in International Law: A Formula for Uncertainty in the Scope and Content of the Right?*, Matthew Saul examines the ambiguities surrounding the right to self-determination within international law. Saul discusses how the principle's broad formulation creates challenges in defining its scope and content, leading to inconsistent applications across cases involving independence, autonomy, and minority rights. He argues that while self-determination is a fundamental right, its vagueness often results in interpretative uncertainties that complicate its implementation. This analysis highlights the tension between self-determination's moral appeal and its practical limitations, questioning

whether a more structured approach might enhance the right's consistency and effectiveness in addressing the aspirations of diverse groups worldwide.

- **Amah Emmanuel Ibiam, Hemen Philip Faga, Indigenous Peoples' Rights Over Natural Resources: An Analysis of Host Communities Rights in Nigeria, available at: Analyzing Host Communities' Rights in Nigeria Indigenous Peoples' Claims to Natural Resources.pdf, (last visited on Oct 15, 2024)**

In *Indigenous Peoples' Rights Over Natural Resources: An Analysis of Host Communities' Rights in Nigeria*, Amah Emmanuel Ibiam and Hemen Philip Faga explore the legal rights of indigenous communities in Nigeria to access and manage natural resources within their territories. The authors analyze the challenges indigenous communities face in asserting their rights against governmental and corporate interests that often exploit these resources without fair compensation or adequate environmental protections. They argue that Nigerian law inadequately protects indigenous claims, highlighting a need for stronger legal frameworks that respect indigenous autonomy and resource control. This work underscores the importance of recognizing indigenous rights to promote equitable resource management, sustainable development, and environmental justice in Nigeria's resource-rich regions.

Research Methodology

The research article titled "Examining Host Communities' Rights in Nigeria: Indigenous Peoples' Claims to Natural Resources" adopts a methodology grounded in Doctrinal Legal Research. This approach entails a comprehensive analysis of legal propositions through the examination of statutory provisions and judicial precedents, utilizing logical reasoning to identify relevant legal principles. The study primarily relies on primary legal sources, including Acts of Parliament and decisions from higher courts. To enhance the research, it also employs content analysis and gathers data from various secondary sources, such as books, academic journals, newspapers, trade publications, and organizational reports. Furthermore, the research incorporates insights from scholars, academic institutions, government documents, international organizations, and online resources, offering a well-rounded perspective on the subject matter. This multifaceted methodology aims to provide a thorough understanding of the rights of host communities and indigenous peoples in relation to natural resource claims in Nigeria.

International Legal Regime and Natural Resources Ownership

Ownership of resources is recognized globally through various international legal frameworks. A significant instrument is the United Nations General Assembly (UNGA) Resolution 1803 of 1962, which addresses Permanent Sovereignty over Natural Resources (RPSNR). This resolution justifies states' appropriation of natural resources, including the nationalization of foreign-owned oil industries.⁸

The UN General Assembly's Resolution on Permanent Sovereignty over Natural Resources (RPSNR), passed on December 14, 1962, aimed to ensure sovereignty for newly decolonized and less-developed Third World nations, allowing them to benefit from their natural resources. The RPSNR recognized host states' rights to nationalize and expropriate foreign investments, provided compensation is given. It affirmed each country's right to choose its economic system and exercise sovereignty over its resources, and the principle of permanent sovereignty is now considered a peremptory norm, binding on all states.⁹

The Rio Declaration on Environment and Development of 1992 serves as another significant international legal framework for natural resources governance, affirming nationalization as a key aspect of state sovereignty. Article 2 recognizes states' rights to exploit their resources in accordance with their environmental and developmental policies. The declaration highlights that these rights are acknowledged by the UN Charter and form core principles of international law. Additionally, human rights conventions such as the ICCPR and ICESCR also address issues related to natural resources,¹⁰ which provide for the right of selfdetermination¹¹ and the rights of peoples over their natural resources; the right of the peoples to an adequate standard of living, food, clothing, housing and continuous improvement of their living conditions;¹² the right of the peoples to environmental and industrial hygiene¹³ and the

⁸Ricardo Pereira, *The Exploration and Exploitation of Energy Resources in International Law* 199-224 (Wiley-Blackwell, London, 2012)

⁹Nico Schrijver, *Sovereignty over Natural Resources: Balancing Rights and Duties* 79 (Cambridge University Press, Cambridge, 1997)

¹⁰Article 2 of the Rio Declaration provides inter-alia; "States have...the sovereign right to exploit their resources according to their own environmental and developmental policies..."; UNEP, "Rio Declaration on Environment and Development" (Rio de Janeiro, 1992), available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf, (last visited on Mar 15, 2026)

¹¹E.g. Article 1(2) of the ICESCR states, "All peoples may, for their ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its means of subsistence"

¹²Article 11 of the ICESCR

¹³Article 12 of the ICESCR

peoples' inherent right to the full enjoyment and free utilization of their natural wealth and resources. A further guarantee of enforceable rights is found in the two ILO Conventions. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007 though not legally binding, has demonstrated a significant understanding of the right to self-determination in a manner that could help strengthen the natural resources right of indigenous peoples.¹⁴ Both proponents of state ownership and management of natural resources and advocates for host indigenous communities' claims rely on differing provisions of international law. Advocates for state control emphasize state sovereignty, now regarded as a peremptory norm. In contrast, supporters of community ownership argue that this sovereignty extends to citizens, supported by various human rights instruments that grant indigenous communities rights over local resources. Explore these conflicting claims within international law to achieve a clearer understanding of natural resources ownership and management.¹⁵

State Sovereignty versus the right of 'peoples' over Natural Resources

Sovereignty is the ability of a state to decide for itself unrestrained by external influences. It connotes the right of a state to make its decisions about its affairs, including the management of its resources unencumbered by external interference.¹⁶ The unreserved legal right and authority to own and control the management and development of her natural resources can be inferred from Customary International Law, Declarations and Treaties. Therefore, the trend has shifted away from investor authority over resources to the authority of the host state.

Before the 1960s, the trend was for foreign investors to engage in petroleum extraction to carry out their activities in unrestrained host states because they were believed to possess ownership rights over the resources. However, the decolonization process and political independence embolden newly independent states to demand their economic independence and sovereignty rights, culminating in UN intervention.¹⁷ Thus, on December 14, 1962, the General Assembly adopted the United Nations Resolution 1803 of 1962 RPSNR.¹⁸ Which acknowledged

¹⁴ Dorothee Cambou, "The UNDRIP and the Legal Significance of The Right of Indigenous Peoples to SelfDetermination: A Human Rights Approach with a Multidimensional Perspective," *Rights* 23 (1-2) *The International Journal of Human* 34-50 (2019)

¹⁵ *Supra*, note 1

¹⁶ *Ibid*

¹⁷ *Ibid*

¹⁸ UN, "Permanent Sovereignty over Natural Resources General Assembly Resolution 1803 (XVII)" (New York, 1962), *available at*: https://legal.un.org/avl/ha/ga_1803/ga_1803.html, (last visited on Mar 16, 2026)

the inherent rights of states to their natural resources. It further recognized the rights of host states to take over the management of their resources and determine and adopt whatever management system best suits them for the interest of their citizens. Further, compensation should be regulated by the law of the host states. By this resolution, the newly independent state scored a huge political victory, as they gained the right of control and ownership of natural resources following the principle of state sovereignty.¹⁹

However, this victory faces challenges from emerging arguments regarding community rights over resources in their territories versus state control. A critical question arises: do communities have rights against the state concerning natural resources within their areas? Recently, the idea that permanent sovereignty over natural resources is solely a state matter, restricting communities from claiming additional benefits from resources produced on their land, has been increasingly contested.²⁰ The understanding has grown to the notion that the right to permanent sovereignty is accruable to “people” or “indigenous people”. It has been accepted that the right to permanent sovereignty does not grant immunity to the national government on their responsibility under international law. It neither operates to absorb them of their obligation under human rights norms and conventions, especially in natural resources.²¹ A good number of Conventions on human rights grant some fundamental rights in connection to natural resources on states citizens and communities are produced. For example, Article 1 of both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic,

¹⁹On December 12, 1974, the General Assembly adopted resolution No 3281 (XXIV) entitled ‘Charter of Economic Rights and Duties of State’. This resolution which inter-alia stated; (a) Every state shall freely exercise full permanent sovereignty including possession, use and dispose over all of its wealth, natural resources and economic activities; (b) Each state has the right to nationalize, expropriate or transfer ownership of foreign property in which case appropriate compensation shall be paid by the state adopting such measure taking into account any relevant laws and regulations and all circumstances that the state considers pertinent. In any case, where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing states and by its tribunals, unless it is freely and mutually agreed by all states concerned that other peaceful means be sought based on the sovereignty of states and following the principle of the choice of means.

²⁰Schrijver, Aileen McHarg, *et al.*, “Sovereignty over Natural Resources: Balancing Rights and Duties; Anita Rønne, “Public and Private Rights to Natural Resources and Differences in Their Protection?,” in *Property and the Law in Energy and Natural Resources*, 77-98 (Oxford University Press, Oxford, 2010)

²¹Protocol to the Convention for the Protection of HRs and Fundamental Freedoms, ETS NO. 9, as amended by Protocol no. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, ETS no. 155, November 1 1998) article 1 herein recognize the right to property as a fundamental human right; “Every natural or legal person is entitled to the peaceful enjoyment of their (or their) possessions. No one shall be deprived of his or her possessions except in the public interest and subject to the condition provided for by the law and by the general principles of international law”; UN, “Permanent Sovereignty over Natural Resources General Assembly Resolution 1803 (XVII).”

Social and Cultural Rights (ICESCR) provides for the right of self-determination of peoples over their natural resources. Article 47 of the ICCPR states that “nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources”, while Article 1 (2) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) states; “All peoples may, for their ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit and international law. In no case may a person be deprived of their means of subsistence”.²²

The implication of permanent sovereignty over natural resources to “peoples” of a state is that it could arguably form the basis of a challenge to a government’s decision to authorize multinational companies to operate in the natural resources sector in a state’s territory against the will of the citizens in general or the natural resources host community in particular. Secondly, governments would also be bound to utilize natural resources to benefit the whole population. Hence, the realization of the right to permanent sovereignty as belonging also to peoples add new relevancy to the “RPSNR” in the post-colonial period, directing sovereign states to use resources for ‘the wellbeing of their peoples’.²³

The principle of permanent sovereignty has evolved to a peremptory norm of international law. It is said to be sharing the same status with the prohibition of the use of force.²⁴ Therefore, it is binding on states and will amount to illegality for any state to violate the principle therein

The Rights of Indigenous Peoples to Natural Resources under International Conventions

Numerous conventions and treaties support the assertion that international law favors the ownership and management of natural resources by indigenous peoples and communities. Key documents providing international protections include the Indigenous and Tribal Population Convention 1957 (Convention 107) and the Indigenous and Tribal Peoples Convention 1989 (Convention 169) from the International Labour Organization, as well as the United Nations

²²This recognizes the right of people to self-determination. (ICESCR, opened for signature December 16 1966, 993 UNTS 3 (entered into force))

²³A. Jane Hofbauer, “*The Principle of Permanent Sovereignty over Natural Resources and Its Modern Implications*” 132 (University of Iceland, Iceland, 2009)

²⁴Ricardo Pereira and Orla Gough, “Permanent Sovereignty over Natural Resources in the 21st Century: Natural Resource Governance and the Right to Self-Determination of Indigenous Peoples under International Law,” 14 (2) *Melbourne Journal of International Law* 451–95 (2013)

Declaration on the Rights of Indigenous Peoples. According to Martinez Cobo, a widely accepted definition of indigenous peoples emphasizes their unique historical and cultural ties to their territories, distinguishing them from the dominant national population²⁵ “Indigenous communities, peoples, and nations have a historical continuity with preinvasion and pre-colonial societies that developed on their territories or parts of them. They form as present non-dominant sectors of society. They are determined to preserve, develop and transmit to future generations their ancestral territories and their ethnic identity as the basis of their continued existence as peoples, following their cultural pattern, social institutions, and legal systems.

The 2003 Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities defines “indigenous people” in Africa as those communities whose cultures and lifestyles significantly differ from the dominant society, facing threats to their existence. Their survival relies on access to traditional lands and natural resources. Indigenous peoples often experience discrimination, being perceived as less developed compared to the dominant sectors of society. They frequently inhabit remote regions, facing social and political marginalization, and are subjected to exploitation within national political and economic frameworks that prioritize the interests of the majority. Additionally, they self-identify as indigenous, suggesting that “indigenous people” and “peoples” can also be considered “minorities”.²⁶ The UN Declaration guarantees “indigenous people” or indigenous communities to maintain their unique cultures and traditions. It further guarantees the right of indigenous peoples to freely determine their political status and the right to just and fair compensations in cases of expropriation of their lands.

Indigenous peoples have been referred to as tribes, aborigines, first people, first nations, ethnic groups, Adivasi, Janajati, etc. the phrase has also been used to refer to occupational groups with ancestral ties like hunter-gatherers, nomads, peasants, hill people, etc. Therefore “people” or indigenous peoples or tribal peoples under the UNDRIP, the ILO Conventions and

²⁵Martínez Cobo, “Study on the Problem of Discrimination against Indigenous Populations,” 1983, *available at*:http://www.un.org/esa/socdev/unpfii/documents/MCS_xxi_xxii_e.pdf, (last visited on Mar 16, 2026)

²⁶Oswaldo Ruiz Chiriboga, “The Right to Cultural Identity of Indigenous Peoples and National Minorities: A Look from the Inter-American System,” 3 (5) *SUR: Revista Internacional de Direitos Humanos* (2006)

other international legal instruments could rightly apply to indigenous or ancestral communities of the Niger-Delta of Nigeria who share common ancestral ties with their traditional lands.²⁷

Indigenous peoples, including Nigeria's Niger Delta communities, are known as tribes, aborigines, or first nations, often linked to ancestral lands through occupations like hunting, nomadism, and farming. These communities face threats to their land, livelihood, and self-determination, suffering military occupation and violations of their rights to cultural heritage, self-development, and resource sovereignty.²⁸ It is worth reiterating that as far back as 1996, the Human Rights Council had directed the Nigerian government to immediately carry out legal reforms to guarantee human rights protection in line with the provisions of the ICCPR and in particular, to take appropriate legislative and policy steps to secure the rights of indigenous peoples and indigenous minorities in Nigeria.²⁹ The Nigerian government has not implemented these recommendations to date. The rights over natural resources provided in favor of indigenous peoples inure to the NigerDelta of Nigeria.

The Right to Self-Determination and Indigenous Peoples' Control Over Natural Resources

The right to self-determination is a core human rights principle, enabling people to determine their political, economic, social, and cultural development. Linked to decolonization, particularly for Indigenous peoples, it is considered a *jus cogens* norm under international law. Courts, including South Africa's Constitutional Court, have upheld Indigenous rights to land and resources based on historical occupation.³⁰

This principle is enshrined in the International Labour Organization (ILO) Convention 169 on the indigenous and tribal peoples in independent countries, and this convention has two vital attributes: 1) The right of individuals to participate in the use, management, and conservation of natural resources derived from their lands. 2) The government's consultation with the people to establish or ascertain to what degree the people's interest would be prejudiced. The above attributes can also be found in the Aarhus Convention on the Access to

²⁷Jennifer Gitiri, *Protection of Cultural Rights of Indigenous Peoples under the ICCPR/ICESCR and the African Charter: A Comparative Study* 68 (Central European University, European , 2015)

²⁸Tim Elombah, *Indigenous Peoples Of Niger Delta Commence Earnest Self-Determin*, Elombah, 2017, *available at*: <https://elombah.com/indigenous-peoples-of-niger-delta-commence-earnest-self-determination/>, (last visited on Mar16, 2026)

²⁹Human Rights Council, "Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee" (Geneva, 1996), CCPR/C/79/Add.65

³⁰Matthew Saul, "The Normative Status of SelfDetermination in International Law: A Formula for Uncertainty in the Scope and Content of the Right?," 11 (4) *Human Rights Law Review* 609–10 (2011)

Environmental Information and Public Participation in Environmental Decision-Making.³¹ Self-Determination is a principle enabling people to determine their internal political status without being subjected to any form of external or outside interference.³² The right to political self-determination will not be sustainable without the correlative right of the beneficiaries to use and manage their natural resources. Thus, Articles 3 and 26 of the United Nations Declaration on the Right of Indigenous Peoples provided for the right of self-determination of indigenous peoples and, more specifically, indigenous peoples' right to lands, territories, and resources they have traditionally occupied.³³

Indigenous peoples should be able to exercise a measure of control over their lands. In a broader context, land rights mean the right to partition, own, develop, utilization and decision-making on issues concerning the land. Therefore, indigenous peoples' land rights shall include preserving their ancestral shrines and their subsistence living. The state is obliged not only to respect these rights but also to protect them. The right to self-determination of indigenous peoples provides the basis within which the political, economic, and social rights of indigenous peoples can be realized within the framework of a sovereign state. While the right could not form the basis for the secession of indigenous peoples living within an independent state, it guarantees self-government in the form of autonomy in matters affecting them locally. Though the principles of "PSNR" are not legally binding, it is an essential element of the right of self-determination, which has attained the status of customary international law. Further, the "PSNR" principle has received wider acceptance, having been incorporated in many legally binding treaty laws like the ICCPR, ICESCR, ILO Conventions and even the African Charter on Human and Peoples Rights.³⁴

Admittedly, the principle of "PSNR" does not transfer "sovereign" rights to peoples as against the state's government; the right accruable to indigenous peoples under the Declaration is a "participatory rights". Consequently, indigenous peoples cannot be alienated in matters

³¹UNECE, "Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters" (1998), available at: <https://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>, (last visited on Mar 16, 2026)

³²Kalana Senaratne, "Internal Self-Determination in International Law: Critical Third World Perspective," 3(2) *African Journal of International Law* 305–39 (2013)

³³Frank Dietrich, "Natural Resources, Collective Self-Determination, and Secession," 6 *Law, Ethics and Philosophy* 36 (2018)

³⁴Land rights as Human rights, available at: <https://sur.conectas.org/en/land-rights-human-rights/>, (last visited on Mar 12, 2026)

touching on their lands. Thus, Article 4 provides that the autonomy or self-government of indigenous peoples relates to their internal or local affairs. In contrast, Article 46 (1) prohibits any interpretation of the Declaration that suggests supporting the right to secession. The ICJ has defined the self-determination principle as the “need to pay regard to the freely expressed will of the people...in matters concerning their condition”.³⁵ In the East Timor case, the Court acknowledged the principle of self-determination as one of the “essential principles of international law” and a right with “erga omnes character”. Also, in the Endorois case³⁶ the African Commission acknowledged the right of self-determination as available for a community of people living in an independent state.

The African Commission's advisory opinion on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) upholds the right to internal autonomy for Indigenous communities, emphasizing their participation in land-use decisions, known as free, prior, and informed consent. The Inter-American Court of Human Rights and the African Commission have supported these rights, notably for Kenya's Ogiek people and Nigeria's Ogoni people, ensuring protection of their land, environmental, and resource rights.³⁷

Communities in Nigeria's Niger Delta are increasingly advocating for constitutional recognition of self-determination, seeking greater control over local resource extraction. Decades of exclusion from decision-making and lack of benefit from hydrocarbon resources have fueled ongoing tensions, as indigenous inhabitants push for equitable participation and access to the proceeds from their lands.³⁸

Findings

- UNGA Resolution 1803 of 1962, known as the Resolution on Permanent Sovereignty over Natural Resources, justifies the appropriation of natural resources by states, particularly through the nationalization of foreign-owned industries. The rights of host states to control and manage their natural resources.

³⁵ICJ, Western Sahara: Advisory Opinion (1975)

³⁶HRW, *Kenya: Landmark Ruling on Indigenous Land Rights* 98 (Human Rights Watch, New York, 2010)

³⁷B. Lorenza Fontana and Jean Grugel, “The Politics of Indigenous Participation through ‘Free Prior Informed Consent: Reflections from the Bolivian Case,” 77 *World Development* 249-61 (2016)

³⁸Terry Mission Bagia and Samuel Chisa Dike, “The Principle of Permanent Sovereignty over Natural Resources (PSNR) How Far with Nigeria's Petroleum Industry?,” 1 *The Journal of Jurisprudence, International Law and Contemporary Issues* 14 (2020)

- There has been a significant transition in the control of natural resources from foreign investors to host states, driven largely by the decolonization process and the quest for economic independence.
- International law recognizes the rights of indigenous peoples and communities over their natural resources through various conventions and treaties. These rights are guaranteed in key documents such as the International Labour Organization (ILO) Conventions, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and other international legal instruments.
- The right to self-determination, a fundamental principle of human rights, empowers individuals and collectives to define their political, economic, social, and cultural development. This principle is closely linked to indigenous peoples' rights to control and manage their natural resources.
- International bodies, including the African Commission on Human and Peoples' Rights, have acknowledged the rights of indigenous communities and emphasize the necessity of free, prior, and informed consent regarding decisions that impact the use of their lands.
- In the Niger Delta region of Nigeria, long-standing tensions have emerged as indigenous inhabitants confront challenges related to the extraction of hydrocarbons and other resources from their territory. These communities have been deprived of their economic livelihoods, with threats to their traditional cultures and identities.
- The principle of permanent sovereignty over natural resources (PSNR) has evolved into a peremptory norm of international law, binding on states. It has been incorporated into various legally binding treaty laws, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), ILO Conventions, and the African Charter on Human and Peoples' Rights.

Conclusion

International law offers a framework for communities seeking justice in natural resource allocation, outlining rights for indigenous populations and state responsibilities to protect these rights. In Nigeria, indigenous communities in the Niger Delta face severe challenges from oil extraction, including environmental degradation and poverty. Reforming Nigeria's legal

framework to grant these communities ownership and control over their resources is crucial for sustainable development and peace, enabling meaningful participation in decision-making processes and safeguarding their rights.

Suggestions

- To achieve a comprehensive understanding of the complex issue of natural resource ownership and management, further research is essential. This research should examine the specific legal frameworks at both international and domestic levels that govern the rights of indigenous communities concerning natural resources.
- A detailed legal analysis could investigate how international conventions and treaties affect the rights of indigenous peoples over natural resources in various countries. This analysis should also address the enforcement mechanisms and the challenges associated with these legal instruments.
- Examining specific case studies from different regions or countries where disputes or conflicts have arisen over natural resource ownership can provide valuable insights. These case studies could include instances of successful conflict resolution as well as those where conflicts remain unresolved.
- Governments and international organizations should consider revisiting and updating policies and regulations related to natural resource ownership and indigenous rights. Engaging with indigenous communities in this process is crucial to ensure that their rights are protected and their voices are included in decision-making.
- In regions with tensions and conflicts over natural resource ownership, it is important to promote peaceful dialogue and mediation processes. This could involve the participation of international organizations, non-governmental organizations, or other neutral parties.
- Supporting indigenous communities in building their capacity to engage in negotiations and effectively manage the natural resources in their territories is essential.

References

- 5 John Adewale Abolurin, *Democratisation, Conflict Management and the Amnesty Question in Nigeria* (John Archers, Ibadan, 2010)
- A. Jane Hofbauer, “*The Principle of Permanent Sovereignty over Natural Resources and Its Modern Implications*” (University of Iceland, Iceland, 2009)

- Amechi Okolo, “The Political Economy of the Nigeria Oil Sector and the Civil War,” 15 (1, 2) *Quarterly Journal of Administration* 107-27 (1981)
- B. Lorenza Fontana and Jean Grugel, “The Politics of Indigenous Participation through ‘Free Prior Informed Consent: Reflections from the Bolivian Case,” 77 *World Development* 249-61 (2016)
- Dorothee Cambou, “The UNDRIP and the Legal Significance of The Right of Indigenous Peoples to SelfDetermination: A Human Rights Approach with a Multidimensional Perspective,” Rights 23 (1-2) *The International Journal of Human* 34-50 (2019)
- Emmanuel Shebbs and Ray Njoku, “Resource Control in Nigeria - Issues of Politics, Conflict and Legality as Challenge to Development of the Niger Delta Region,” 3 (3) *Journal of Good Governance and Sustainable Development in Africa (JGGSDA)* (2016)
- Frank Dietrich, “Natural Resources, Collective Self- Determination, and Secession,” 6 *Law, Ethics and Philosophy* 36 (2018)
- HRW, *Kenya: Landmark Ruling on Indigenous Land Rights* (Human Rights Watch, New York, 2010)
- Jennifer Gitiri, *Protection of Cultural Rights of Indigenous Peoples under the ICCPR/ICESCR and the African Charter: A Comparative Study* (Central European University, European , 2015)
- Kalana Senaratne, “Internal Self-Determination in International Law: Critical Third World Perspective,” 3(2) *African Journal of International Law* 305–39 (2013)
- Matthew Saul, “The Normative Status of SelfDetermination in International Law: A Formula for Uncertainty in the Scope and Content of the Right?,” 11 (4) *Human Rights Law Review* 609–10 (2011)
- Nico Schrijver, *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge University Press, Cambridge, 1997)
- R. Gurakuqi, *Introduction to Public Law* (Camaj-Pipa, Tirana, 2009)
- R. Lukiq, *Philosophy of Law* (Oxford university press, Prishtina, 2008)
- Ricardo Pereira and Orla Gough, “Permanent Sovereignty over Natural Resources in the 21st Century: Natural Resource Governance and the Right to Self-Determination of

Indigenous Peoples under International Law,” 14 (2) *Melbourne Journal of International Law* 451–95 (2013)

- Ricardo Pereira, *The Exploration and Exploitation of Energy Resources in International Law* (Wiley-Blackwell, London, 2012)
- Schrijver, Aileen McHarg, *et al.*, “Sovereignty over Natural Resources: Balancing Rights and Duties; Anita Rønne, “Public and Private Rights to Natural Resources and Differences in Their Protection?,” in *Property and the Law in Energy and Natural Resources* (Oxford University Press, Oxford, 2010)
- Simiti, Marilena, “Rage and Protest: The Case of the Greek Indignant Movement,” 3(2) *Contention* 33–50 (2015)
- Sonu Trivedi, *Human Rights and Democrac,y' 12 Mainstrem* 52 (2003)
- Sylvester Chibueze Izah, “Ecosystem of the Niger Delta Region of Nigeria: Potentials and Threats,” 2 (4) *Biodiversity International Journal* 334- 45 (2018)
- Van Biezen, Ingrid, *et.al.*, “Going, Going, ... Gone? The Decline of Party Membership in Contemporary Europe,” 51(1) *European Journal of Political Research* 24–56 (2012)
- Article 2 of the Rio Declaration provides inter-alia; “States have...the sovereign right to exploit their resources according to their own environmental and developmental policies...”; UNEP, “Rio Declaration on Environment and Development” (Rio de Janeiro, 1992), available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.1_51_26_Vol.I_Declaration.pdf, (last visited on Mar 15, 2026)
- Curriculum and expected learning outcomes, available at: <https://learningportal.iiep.unesco.org/en/issue-briefs/improve-learning/curriculum-and-expected-learning-outcomes>, (last visited on Mar 12, 2026)
- Europe and right-wing nationalism: A country-by-country guide, available at: <https://www.bbc.com/news/world-europe-36130006>, (last visited on Mar 11, 2026)
- Incorporating Diversity, available at: <https://teaching.cornell.edu/teaching-resources/designing-your-course/incorporating-diversity#:~:text=Incorporating%20diversity%20involves%20designing%20your%20co>

urse%20with%20varied,range%20of%20learning%20modalities%2C%20abilities%2C%20experiences%2C%20and%20cultures., (last visited on Mar 12, 2026)

- Jagtar Singh, Media and Information Literacy, *available at:* https://www.researchgate.net/publication/353658952_Media_and_Information_Literacy, (last visited on Mar 12, 2026)
- Left–right political spectrum, *available at:* https://en.wikipedia.org/wiki/Left%E2%80%93right_political_spectrum, (last visited on Mar 11, 2026)
- Manju Kanwar Rathore, Integration of technology in education and its impact on learning of students, *available at:* https://www.researchgate.net/publication/330076047_Integration_of_technology_in_education_and_its_impact_on_learning_of_students, (last visited on Mar 12, 2026)
- Marcelo Rosa, Political education as a problem and solution, *available at:* https://www.researchgate.net/publication/353658952_Media_and_Information_Literacy, (last visited on Mar 10, 2026)
- Martínez Cobo, “Study on the Problem of Discrimination against Indigenous Populations,” 1983, *available at:* http://www.un.org/esa/socdev/unpfii/documents/MCS_xxi_xxii_e.pdf, (last visited on Mar 16, 2026)
- Rainer Quitzow, Understanding Socio-economic and Political Factors to Impact Policy Change, *available at:* https://www.researchgate.net/publication/305215480_Understanding_Socio-economic_and_Political_Factors_to_Impact_Policy_Change, (last visited on Mar 10, 2026)
- Tim Elombah, Indigenous Peoples Of Niger Delta Commence Earnest Self-Determin, Elombah, 2017, *available at:* <https://elombah.com/indigenous-peoples-of-niger-delta-commence-earnest-self-determination/>, (last visited on Mar 16, 2026)
- UN, “Permanent Sovereignty over Natural Resources General Assembly Resolution 1803 (XVII)” (New York, 1962), *available at:* https://legal.un.org/avl/ha/ga_1803/ga_1803.html, (last visited on Mar 16, 2026)

- UNECE, “Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters” (1998), *available at*: <https://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>, (last visited on Mar 16, 2026)