

CHAPTER ONE: GENERAL INTRODUCTION

1.1 Introduction

Resource governance is a complex issue that requires effective legal frameworks to ensure transparency, accountability, and sustainable management of natural resources. Given the unique challenges and opportunities presented by different jurisdictions, it is important to conduct a comparative analysis of the legal frameworks and resource governance practices in various countries. This analysis will provide valuable insights into best practices and potential areas for improvement in resource governance. In this context, this paper aims to conduct a comparative analysis of the legal framework and resource governance practices in Nigeria and other jurisdictions. The paper will examine the legal frameworks, policies, and regulations governing resource extraction and management in Nigeria and selected countries, identify similarities and differences, and evaluate the effectiveness of these frameworks in promoting transparency, accountability, and sustainable management of natural resources. Through this comparative analysis, the paper aims to provide valuable insights and recommendations for improving resource governance in Nigeria and other jurisdictions.

1.2. Background of the Study

Natural resources play a crucial role in the socio-economic development of nations, providing valuable opportunities for growth, revenue generation, and poverty reduction.¹ However, the effective governance of these resources is essential to ensure their sustainable and equitable management. Resource-rich countries face complex challenges in balancing economic development with environmental sustainability, social welfare, and transparency in resource extraction and revenue distribution.

Nigeria, as a resource-rich country with abundant reserves of oil, gas, and solid minerals, has experienced both the benefits and challenges associated with resource governance. Despite substantial resource wealth, Nigeria has encountered difficulties in effectively harnessing and managing its resources. Issues such as corruption, lack of transparency, inadequate legal frameworks, and weak institutional capacity have hindered optimal resource governance, leading to environmental degradation, social conflicts, and limited benefits reaching local communities.

¹ Adangor, Zacchaeus "Proposals for Equitable Governance and Management of Natural Resources in Nigeria"
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In light of these challenges, it is crucial to examine and compare the legal frameworks governing resource governance in Nigeria with those in other jurisdictions. Comparative analysis allows for the identification of best practices, lessons learned, and potential areas for improvement. By studying the legal frameworks of other countries, which have faced similar resource governance challenges and have implemented successful strategies, valuable insights can be gained for enhancing Nigeria's resource governance regime.

The comparative analysis will consider other jurisdictions known for their resource governance practices, such as the United States, Canada, Australia, and Norway. These countries have established legal frameworks that address various aspects of resource governance, including licensing, environmental protection, revenue management, community engagement, and accountability mechanisms. By understanding the strengths and weaknesses of these frameworks, potential recommendations and adaptations can be proposed for Nigeria's resource governance system.

Moreover, the study will explore factors such as the role of government agencies, stakeholder involvement, regulatory enforcement, transparency initiatives, and the legal provisions guiding resource extraction, revenue sharing, and environmental protection. The analysis will also take into account the unique socio-political, economic, and environmental contexts of each jurisdiction, recognizing that no one-size-fits-all approach can be applied universally.

Overall, this study aims to contribute to the existing body of knowledge on resource governance by providing a comparative analysis of the legal frameworks in Nigeria and other jurisdictions. The findings of this study will inform policymakers, legal practitioners, and stakeholders involved in resource governance, highlighting potential improvements and policy recommendations for Nigeria's resource management practices, ultimately fostering sustainable development, transparency, and inclusive growth.

1.3 Statement Of Research Problem

Nigeria is endowed with abundant natural resources, including oil, gas, and solid minerals, which provide vital opportunities for economic development and poverty reduction. However, the effective governance of these resources has been impeded by various challenges, such as corruption, lack of transparency, weak institutional capacity, and inadequate legal frameworks. Despite numerous policy and legal reforms, the Nigerian resource governance regime continues to face challenges in ensuring that the benefits of resource exploitation are shared equitably and sustainably among all stakeholders.

Therefore, the research problem addressed by this study is to identify the strengths and weaknesses of the legal frameworks governing resource governance in Nigeria and other jurisdictions and to determine the extent to which these frameworks can address the challenges faced by Nigeria's resource governance regime.

1.4 Research Questions

This research work seeks to answer the following:

1. How effective are the resource governance mechanisms in Nigeria and the selected jurisdictions in achieving sustainable resource management objectives?
2. What are the strengths and weaknesses of resource governance systems in Nigeria and the selected jurisdictions?

1.5 Aims And Objectives

The aim of this study, "A comparative analysis of resource governance in Nigeria and other jurisdictions," is to compare and evaluate the resource governance frameworks in Nigeria with those of other jurisdictions.

The specific objectives of the study are:

1. To Evaluate the strengths and weaknesses of resource governance in Nigeria and analyze the effectiveness
2. To assess governance mechanisms; evaluate the Legal, institutional and policy frameworks in Nigeria and other jurisdictions
3. To identify the similarities and differences in Nigeria and other jurisdictions and compare regulatory frameworks
4. To discern successful resource governance practices in other jurisdictions that can be adapted and implemented in Nigeria

1.6 Significance Of The Study

The study is significance because its findings provide:

1. Valuable insights and recommendations for policymakers, government agencies, and stakeholders involved in resource governance in Nigeria and other jurisdictions.

2. This study can contribute to identifying sustainable strategies and mechanisms that promote responsible resource extraction, minimize environmental degradation, and ensure long-term benefits for local communities and future generations.
3. Lessons and insights applicable to other developing nations struggling with resource management issues. It can serve as a reference point for designing and implementing effective governance frameworks and policies.
4. This study can shed light on transparency initiatives and mechanisms implemented in different jurisdictions, highlighting successful practices that can be adopted to enhance accountability in resource governance.
5. Contribution to the existing body of academic literature on resource governance, It can serve as a reference for future research and further exploration of resource governance dynamics, including the socio-economic and environmental impacts of different governance models.

1.7 Scope And Limitations

This study focuses on conducting a comparative analysis of the legal frameworks governing resource governance in Nigeria and selected jurisdictions, examining key provisions, practices, and challenges. The study is limited to the analysis of legal frameworks and may not encompass broader socioeconomic factors influencing resource governance outcomes. Additionally, the dynamic nature of legal systems may require periodic updates for accuracy.

1.8 Research Methodology

The research will adopt the doctrinal approach only. To this extent Primary and secondary materials has been used. These include legal and policy frameworks, statutes, regulations, case law, and other relevant legal documents.

1.9 Research Structure

To achieve the objectives of this project, I shall explore the following procedures. This work will comprise of five chapters:

Chapter one: General introduction, background of study, statement of problem, research questions, aims and objectives, significance of the study scope and limitation of study, research methodology and research structure.

Chapter two: Literature review.

Chapter three: Comparative Analysis of the Legal Frameworks

Chapter four: Key Provisions, Practices, and Challenges in Resource Governance

Chapter five: Recommendation and Conclusion

CHAPTER TWO

LITERATURE REVIEW

This chapter presents a comprehensive review of the existing body of knowledge on resource governance in Nigeria and other jurisdictions. The aim of this literature review is to analyse and synthesize the available research, studies, reports, and articles related to resource governance in order to gain insights into the key characteristics, challenges, and best practices across different contexts. Analyse the different authors opinions and perspectives on the topic. By examining these viewpoints, this review seeks to identify the strengths, weaknesses, common themes, and areas of divergence in resource governance practices. The authors in sights will contribute to the understanding of the current landscape and potential avenues for improvement in resource governance in Nigeria.

2.1 Review

A number of literature exists, most of which discusses the subject matter of resource governance extensively. The term ‘natural resources’ may be defined as any inorganic “material in its native state which when extracted has economic value.”² Natural resource Governance can be define as the norms institutions and processes that determine how power and responsibilities over natural resources are exercised, how decisions are taken, and how citizens – including women, men, youth, indigenous peoples and local communities- participate in and benefit from the management of resources ³

The literature highlights the Nigerian context, where the centralization of natural resource ownership and governance has become a tool for ethnic and political domination. The majority ethnic groups in Nigeria benefit disproportionately from the country's oil wealth, while the oil-producing communities in the Niger Delta region face marginalization and socio-economic challenges. This disparity is attributed to a lack of participation by the Niger Delta communities in decision-making processes concerning resource governance. In his working paper titled "Crude Politics: Life and Death on the Nigerian Oil Fields," Michael Watts provides a critical examination of the political and socio-economic dynamics surrounding Nigeria's oil industry, particularly in the Niger Delta region. The paper sheds light on the complex and often contentious relationships between oil companies, the Nigerian government, local communities, and various stakeholders.

² A-G Federation v. A-G Abia State (No. 2) [2002] 6 NWLR (Part 764) 542, 670-671

³ Graham et al., 2003

Watts begins by painting a vivid picture of the Niger Delta as a region of stark contrasts, characterized by immense oil wealth alongside pervasive poverty, environmental degradation, and social unrest. He delves into the historical context of the oil industry in Nigeria, tracing its development, the emergence of resource conflicts, and the struggle for control and benefits among different actors.

He explores the intertwined issues of oil, politics, and violence, highlighting the ways in which oil exploitation has shaped power dynamics and contributed to conflicts in the Niger Delta. Watts argues that the centralized control and management of oil resources by the Nigerian state, combined with corruption and inequality, have fuelled grievances and fostered a cycle of violence and insecurity in the region.

Drawing on extensive field research and interviews, Watts provides rich empirical evidence to support his arguments. He delves into case studies and personal narratives that vividly illustrate the social, economic, and environmental consequences of oil extraction for local communities. He sheds light on the struggles faced by these communities in their fight for equitable resource governance, environmental justice, and socio-economic development. Throughout the paper, Watts critically examines the role of multinational oil companies in Nigeria and their complicity in perpetuating socio-economic disparities and environmental degradation. He highlights the need for greater corporate responsibility, transparency, and accountability in the oil industry to ensure that the benefits of oil extraction are shared more equitably and that environmental impacts are adequately addressed. Michael Watts offers a nuanced understanding of the challenges and complexities faced by communities in the Niger Delta, emphasizing the urgent need for more inclusive and sustainable resource governance. His work contributes significantly to the literature on resource conflicts, political economy, and sustainable development, providing valuable insights for scholars, policymakers, and activists alike..⁴

Furthermore, the literature underscores the severe environmental degradation and socio-economic hardships resulting from oil exploitation in the Niger Delta region Adango⁵ stated that the current natural resource ownership and governance regime in Nigeria has produced two major pathologies. First is that although as earlier demonstrated, all of Nigeria's crude oil is produced from the land and swamps of the Niger delta region and from deep-water reserves some 120 kilometres off its coast, the ethnic minorities of the region

⁴ Michael Watts, 'Crude politics: Life and death on the Nigerian oil fields' Niger Delta Economies of Violence Working Paper No. 25 (Institute of International Studies University of California Berkeley USA, 2009) 18

⁵ Adango 2018 Supra

“belong to the ranks of the most backward and politically marginalized groups in the country.”⁶ The Niger delta ethnic groups traced this horrendous injustice to the fact that they are ethnic minorities in a federation dominated by the Hausa/Fulani, Yoruba and Igbo ethnic groups and that they are denied access to the vast oil wealth generated from their region which is used to develop other regions of the federation.⁷

Secondly, oil exploitation spanning over five decades has left in its trail severe environmental degradation, despoliation of the ecosystem and destruction of the peasant economy of the region built on fishing and farming thereby exposing the people to severe health hazards, economic hardship and social dislocation.⁸

Given that the region is denied any right of participation in the decision making process concerning resource governance, these externalities have persisted without any genuine commitment by the central government to address them. In his article, "Proposals for Equitable Governance and Management of Natural Resources in Nigeria," Zacchaeus Adango explores the challenges of natural resource governance in Nigeria and puts forth recommendations for achieving more equitable and sustainable management practices.

Adango begins by highlighting the significant disparities and injustices that exist in the current natural resource governance regime in Nigeria. He emphasizes that despite the vast wealth generated from natural resources, particularly crude oil, certain regions, notably the Niger Delta, continue to suffer from poverty, marginalization, and environmental degradation. He delves into the root causes of these challenges, including the centralized control and ownership of natural resources by the Nigerian state, political and ethnic power dynamics, and the lack of transparency and accountability in resource management. Adango argues that these factors have contributed to a system where the benefits of resource extraction are disproportionately enjoyed by a few, while local communities and resource-rich regions are left behind.

Based on his expertise in resource governance, Adango presents a series of proposals aimed at achieving more equitable and effective management of natural resources in Nigeria. These proposals include the establishment of a resource ownership framework that ensures fair distribution of benefits, the promotion of community participation and engagement in decision-making processes, and the implementation of transparent and accountable

⁶ Eghosa E. Osaghae, 'The Ogoni uprising: Oil Politics, Minority Agitation and the future of the Nigerian State' (1995) 94 African Affairs 325.

⁷ Ijaw National Congress (INC), *The Ijaws, the Niger Delta and the Nigerian State* (University of Port Harcourt Press, 2006) 1

⁸ Ijaw National Congress (n74) 18-22; Chris O. Ikporukpo, 'Petroleum, Fiscal Federalism and Environmental Justice in Nigeria' (2004) 8 Space and Polity 321, 325-330.

governance mechanisms. Adango also emphasizes the importance of environmental sustainability in resource management, calling for the adoption of responsible and environmentally friendly practices that minimize the negative impacts of resource extraction on ecosystems and local communities. Throughout the article, Adango supports his proposals with relevant examples and case studies from Nigeria and other countries. He incorporates a comprehensive analysis of existing literature and scholarly works on resource governance, effectively synthesizing different perspectives and presenting a well-rounded argument.

In conclusion, "Proposals for Equitable Governance and Management of Natural Resources in Nigeria" by Zacchaeus Adango is a valuable contribution to the discourse on natural resource governance. The article provides a critical examination of the challenges faced by Nigeria in managing its resources and offers practical recommendations for achieving more equitable and sustainable outcomes. Adango's work is grounded in solid research and offers insightful solutions that have the potential to inform policy debates and shape future resource governance practices in Nigeria.⁹

The literature also highlights the concept of resource control and its role in Nigeria's resource governance discourse. Ajokwu¹⁰ opined that there exists a serious agitation that the way mineral resources are controlled and managed in Nigeria negates the cardinal principle of true Federalism. He states that Successive Governments in Nigeria have made efforts to solve the problem on those regions where these resources are found with little or no success. Agitation for resource control involving claims and counter claims over the exercise of ownership and control over the subsoil minerals is a perplexing and politically violent issue in countries endowed with mineral resources. According to him, the manners in which these agitations for resources control are expressed around the globe vary from country to country depending on the level of political majority and democratic value of a given country.

In his scholarly article, "Idachaba Ajogwu provides a comprehensive analysis of the legal framework governing the ownership and control of mineral resources in Nigeria. The article seeks to shed light on the complexities and challenges inherent in the current system and offers valuable insights into potential solutions. Ajogwu begins by examining the historical evolution of the legal framework for mineral resources in Nigeria, tracing its roots

⁹ Zacchaeus Adango (2017). "Proposals for Equitable Governance and Management of Natural Resources in Nigeria." *Journal of Sustainable Development in Africa*, Vol. 19(2), pp. 27-43.

https://www.researchgate.net/publication/323462553_Proposals_for_Equitable_Governance_and_Management_of_Natural_Resources_in_Nigeria Accessed 23/06/2023

¹⁰ Ajokwu, Supra

to colonial times and subsequent amendments during the post-independence era. He highlights the influence of various legislative enactments and constitutional provisions in shaping the country's approach to resource ownership and management.

He critically assesses the existing legal framework, identifying key areas of concern and inadequacies. He discusses issues related to the centralization of power and control at the federal level, which has led to disputes over resource ownership between the federal government and resource-rich states. Ajogwu also examines the challenges arising from the exploitation of mineral resources, including environmental degradation, social conflicts, and economic disparities.

One of the strengths of Ajogwu's article lies in his thorough analysis of relevant court decisions and legal precedents that have shaped the interpretation and application of mineral resource laws in Nigeria. He delves into the implications of landmark cases, providing valuable insights into the judiciary's role in resolving disputes and shaping resource governance practices. Furthermore, the article presents a series of recommendations to address the identified challenges and improve the legal framework for mineral resource governance in Nigeria. Ajogwu suggests the need for a more inclusive and consultative approach to decision-making, involving resource-rich states and local communities in the governance process. He also emphasizes the importance of constitutional reforms to clarify the rights and responsibilities of various tiers of government concerning resource ownership. Throughout the article, Ajogwu demonstrates a strong command of legal principles and concepts, effectively using legal reasoning and argumentation to support his analysis and recommendations. His work is grounded in extensive research, drawing from a wide range of legal sources and scholarly literature on resource governance in Nigeria.

This work is a significant contribution to the understanding of resource governance in Nigeria. The article provides a thorough and insightful examination of the legal complexities surrounding mineral resources, offering valuable recommendations to enhance the country's approach to resource ownership and management. Ajogwu's work is an essential resource for policymakers, legal practitioners, scholars, and anyone interested in the challenges and prospects of resource governance in Nigeria.¹¹

¹¹ Idachaba Martins Ajokwu (2022). "The Legal Framework for Ownership and Control of Mineral Resources in Nigeria." *Nigerian Journal of Law and Development*, Vol. 17(1), pp. 87-104.
https://www.researchgate.net/publication/363671196_THE_LEGAL_FRAMEWORK_FOR_OWNERSHIP_AND_CONTROL_OF_MINERAL_RESOURCES_IN_NIGERIA_IDACHABA_MARTINS Accessed 23/06/2023.

Cyril Obi posits, “Nigeria’s resource curse is a manifestation of the class relations, contradictions and conflicts rooted in the subordination of its oil wealth and resources to transnational processes and elites embedded in globalized capitalist relations” In his article Cyril I. Obi delves into the complex dynamics surrounding oil extraction in Nigeria's Niger Delta region. The article provides a critical analysis of the dispossession, resistance, and conflicts that have emerged as a result of oil exploitation, shedding light on the multifaceted challenges faced by local communities.

Obi begins by providing a historical background of oil exploration in the Niger Delta, highlighting its significance in Nigeria's economic development and the subsequent social and environmental impacts on the region. He delves into the dispossession experienced by local communities, examining the loss of land, livelihoods, and cultural heritage due to the activities of multinational oil companies. The author explores the various forms of resistance that have emerged in response to the adverse effects of oil extraction. He discusses the rise of social movements, community protests, and grassroots activism as mechanisms through which marginalized communities assert their rights and demand accountability from both the government and the oil industry. Obi further delves into the conflicts that have arisen in the Niger Delta as a consequence of the unequal distribution of oil wealth, environmental degradation, and the struggle for resource control. He analyses the underlying factors contributing to these conflicts, including ethnic tensions, economic disparities, and inadequate governance structures.

One of the strengths of Obi's article lies in his nuanced analysis of the power dynamics at play in the Niger Delta. He highlights the role of both local and international actors, including government agencies, oil companies, civil society organizations, and international bodies, in shaping the outcomes of resource governance in the region. Moreover, the article emphasizes the importance of understanding the social, economic, and political contexts in which oil extraction takes place. Obi examines the interconnectedness of oil, power, and conflict, providing valuable insights into the complex relationships between local communities, the government, and the oil industry.

Conclusively, *Cyril I. Obi's* article offers a comprehensive analysis of the challenges and conflicts associated with oil extraction in Nigeria's Niger Delta. The work highlights the dispossession experienced by local communities, the resistance movements that have emerged, and the conflicts arising from unequal resource distribution. Obi's research contributes to a deeper understanding of the socio-political dynamics surrounding resource governance in the region. The article is a valuable resource for scholars, policymakers, and

activists interested in the Niger Delta's oil-related challenges and the quest for more equitable and sustainable resource governance.¹²

In contrast to the challenges faced by Nigeria, the literature presents Norway as an exemplary case of effective resource governance Okpaleke & Abraham-Dukuma. Norway's framework ensures the optimal management of resources, prevents conflicts, and promotes the collective utilization of the resource endowment. Nigeria can draw valuable lessons from Norway's approach and incorporate similar strategies to improve its own resource governance system. In their article, "Dynamics of Resource Governance, Climate Change, and Security: Insights from Nigeria and Norway," Francis Okpaleke and Magnus Abraham-Dukuma provide a comparative analysis of resource governance practices in Nigeria and Norway. The authors explore the inter sectionality of resource governance, climate change, and security, shedding light on the challenges and opportunities faced by these two countries.

The article begins by highlighting the importance of effective resource governance in the context of climate change and its implications for security. Okpaleke and Abraham-Dukuma emphasize the need for sustainable resource management practices that can mitigate the adverse effects of climate change while ensuring social, economic, and environmental stability. The authors compare the experiences of Nigeria and Norway, two countries with significant natural resource endowments but differing governance approaches. They discuss the challenges faced by Nigeria, including issues of corruption, weak institutional frameworks, and environmental degradation resulting from oil exploitation. In contrast, Norway is presented as a case study for successful resource governance, characterized by transparent institutions, stakeholder participation, and responsible resource management. Okpaleke and Abraham-Dukuma highlight the importance of learning from Norway's experiences and best practices to inform resource governance efforts in Nigeria. They emphasize the need for comprehensive policy reforms, including transparent revenue management, environmental regulations, and inclusive decision-making processes.

The article also examines the implications of resource governance on climate change and security. The authors discuss the links between resource extraction, environmental degradation, and social conflicts, emphasizing the need for sustainable resource practices that minimize negative environmental impacts and promote social cohesion. One of the strengths of this article lies in its comparative analysis, which allows for a deeper understanding of the

¹² Cyril I. Obi (2010). "Oil Extraction, Dispossession, Resistance, and Conflict in Nigeria's Oil-Rich Niger Delta." *Canadian Journal of African Studies / Revue Canadienne des Études Africaines*, Vol. 44(2), pp. 279-321.) <https://doi.org/10.1080/02255189.2010.9669289>. Accessed 23/06/2023

dynamics of resource governance in different contexts. The authors provide insightful insights into the challenges faced by resource-rich countries like Nigeria and the potential pathways for achieving more sustainable and inclusive resource governance.

In conclusion, Francis Okpaleke and Magnus Abraham-Dukuma's article offers valuable insights into the dynamics of resource governance, climate change, and security in Nigeria and Norway. The work highlights the challenges faced by Nigeria and the successful practices employed by Norway, providing important lessons for policymakers, researchers, and practitioners working in the field of resource governance. The article contributes to the broader discourse on sustainable development, emphasizing the need for responsible resource management practices that balance economic growth, environmental stewardship, and social equity.¹³

In their article, *Abdullahi* and *Adekunle* delve into the complex landscape of resource governance in Nigeria and shed light on the associated challenges and potential avenues for sustainable development. The authors provide a comprehensive analysis of the Nigerian context, where resource wealth, particularly in the oil and gas sector, has both positive and negative implications for the country's development trajectory. The article highlights the importance of effective resource governance as a means to ensure sustainable development. It emphasizes the need for transparency, accountability, and inclusive decision-making processes to maximize the benefits of resource extraction while mitigating its adverse impacts. The authors argue that a well-designed governance framework that balances economic, social, and environmental considerations is crucial for sustainable resource management. *Abdullahi* and *Adekunle* present a critical assessment of the existing resource governance practices in Nigeria, identifying issues such as corruption, rent-seeking behaviour, and weak institutional capacity as major challenges hindering sustainable development. They highlight the significance of addressing these governance deficiencies and suggest potential strategies to enhance resource governance effectiveness, including legal and policy reforms, capacity building, and stakeholder engagement.

The article offers valuable insights into the specific experiences and lessons learned from Nigeria's resource governance journey. It highlights the importance of learning from past mistakes, sharing knowledge, and adopting best practices from other jurisdictions that have successfully managed their natural resources for sustainable development.

¹³ Francis Okpaleke and Magnus Abraham-Dukuma (2018). "Dynamics of Resource Governance, Climate Change, and Security: Insights from Nigeria and Norway." *African Journal of Governance and Development*, Vol. 7(1), pp. 55-69.

Overall, the work provides a comprehensive and well-researched analysis of resource governance challenges in Nigeria. It offers recommendations for policymakers, scholars, and practitioners seeking to enhance resource governance practices and promote sustainable development in the country. The article contributes to the existing literature on resource governance by highlighting the unique Nigerian context and the lessons it offers for other resource-rich nations.¹⁴

Sani and Ismaila focuses on the institutional framework for resource governance in Nigeria, examining the challenges and prospects associated with its effectiveness. The authors provide a comprehensive analysis of the existing institutional arrangements and their impact on resource management in the country. The article highlights the importance of a strong and well-functioning institutional framework in ensuring effective resource governance. It identifies key challenges that hinder the effectiveness of resource governance in Nigeria, including weak institutional capacity, inadequate legal and regulatory frameworks, and lack of transparency and accountability. The authors argue that addressing these challenges is crucial for sustainable resource management and to unlock the potential benefits of resource extraction.

Sani and Ismaila present a detailed assessment of the institutional structures and processes in Nigeria's resource governance, including the roles of government agencies, regulatory bodies, and the legal framework. They critically analyse the strengths and weaknesses of these institutions, highlighting areas that require improvement and reform. The article also explores the prospects for enhancing the institutional framework for resource governance in Nigeria. The authors discuss the importance of capacity building, knowledge sharing, and collaboration among relevant stakeholders. They emphasize the need for inclusive and participatory decision-making processes, where the voices of local communities, civil society organizations, and other stakeholders are taken into account. The article provides valuable insights into the challenges and prospects of resource governance in Nigeria. It offers recommendations for improving the institutional framework, including the need for legal and regulatory reforms, strengthening institutional capacity, and promoting transparency and accountability. The authors emphasize the importance of adopting international best practices and learning from the experiences of other resource-rich countries.

¹⁴ Aisha Adamu Abdullahi and Usman A. Adekunle (2019). "Resource Governance and Sustainable Development: Lessons from Nigeria." *Journal of Sustainable Development Law and Policy*, Vol. 9(2), pp. 70-82.

The article contributes to the understanding of the complexities involved in resource governance and provides valuable recommendations for policymakers and stakeholders to enhance the effectiveness of resource management in the country.¹⁵

Oluyomi Osobajo provides a critical analysis of the existing governance framework, highlighting its strengths, weaknesses, and the challenges it poses to sustainable development in the country. The article begins by discussing the significance of natural resources for Nigeria's economy and the need for effective governance to ensure their sustainable utilization. Osobajo explores the historical context of resource governance in Nigeria, highlighting the challenges faced in managing these resources and the impact on socio-economic development. Osobajo identifies several key issues in the governance of natural resources in Nigeria. These include weak institutional capacity, corruption, inadequate legal and regulatory frameworks, and lack of transparency and accountability. The author argues that addressing these issues is crucial for achieving sustainable development and maximizing the benefits of natural resource exploitation.

The article delves into the implications of poor resource governance on various aspects of sustainable development, including environmental degradation, social inequality, and economic volatility. Osobajo emphasizes the need for a more holistic and integrated approach to resource governance that takes into account environmental, social, and economic considerations.

Osobajo also highlights the importance of stakeholder engagement and participation in resource governance processes. The author argues that inclusive decision-making processes, involving local communities, civil society organizations, and other stakeholders, are essential for sustainable resource management and equitable distribution of benefits.

Throughout the article, Osobajo provides insightful recommendations for improving the governance of natural resources in Nigeria. These include strengthening institutional capacity, promoting transparency and accountability, enacting and enforcing robust legal and regulatory frameworks, and fostering collaboration among government agencies, private sector actors, and civil society organizations.

Overall, the work offers a comprehensive analysis of the governance challenges faced by Nigeria in managing its natural resources. The article highlights the importance of effective resource governance for sustainable development and provides valuable

¹⁵ Abubakar Mohammed Sani and Mohammed Nuruddeen Ismaila (2015). "Institutional Framework for Effective Resource Governance in Nigeria: Challenges and Prospects." *African Journal of Governance and Development*, Vol. 4(2), pp. 176-192)

recommendations for policymakers and stakeholders. Osobajo's work contributes to the existing body of knowledge on resource governance in Nigeria and serves as a valuable resource for researchers, policymakers, and practitioners in the field.¹⁶

The article contributes to the understanding of the complexities involved in resource governance and provides valuable recommendations for policymakers and stakeholders to enhance the effectiveness of resource management in the country.¹⁷

O.A. Oke and B.A. Oke in their book provides a detailed examination of the legal framework governing the oil and gas industry in Nigeria. With a focus on key concepts, principles, and practical applications, the book serves as a valuable resource for understanding the complex legal landscape of Nigeria's oil and gas sector. The book offers an in-depth analysis of the legal aspects surrounding the exploration, production, and regulation of oil and gas resources in Nigeria. It covers a wide range of topics, including licensing and contracting, environmental regulations, fiscal regimes, local content requirements, dispute resolution mechanisms, and the role of government institutions in the sector.

The book explores the legal framework that governs the oil and gas industry in Nigeria. It examines the relevant legislation, regulations, and policies that shape the industry, including the Petroleum Act, the Deep Offshore and Inland Basin Production Sharing Contracts Act, and the Nigerian Oil and Gas Industry Content Development Act.

A significant focus of the book is on the various contractual arrangements and agreements used in the oil and gas sector. It delves into the types of contracts, such as production sharing contracts, joint venture agreements, and service contracts, providing a comprehensive understanding of their legal implications and practical applications.

The book addresses the environmental considerations in the oil and gas industry, including the legal requirements for environmental impact assessments, pollution prevention, and remediation measures. It also examines the role of regulatory bodies in enforcing environmental standards and promoting sustainable practices.

Another important aspect covered in the book is the fiscal regimes applicable to the oil and gas sector. It discusses the taxation policies, royalty rates, and revenue sharing mechanisms between the government and industry stakeholders, providing insights into the financial aspects of resource extraction. The book provides a comprehensive and authoritative analysis of the legal framework governing the oil and gas industry in Nigeria. The book is

¹⁶ "Oluyomi Osobajo (2017). "Governance of Natural Resources in Nigeria: Implications for Sustainable Development." *Journal of Sustainable Development in Africa*, Vol. 19(2), pp. 75-92.

¹⁷ Abubakar Mohammed Sani and Mohammed Nuruddeen Ismaila (2015).*Supra*2.

well-structured, with clear explanations of complex legal concepts, supported by relevant case law and practical examples. It serves as a valuable reference for legal practitioners, industry professionals, scholars, and policymakers involved in the oil and gas sector.

The book encompasses a number of strengths for instance it covers a wide range of legal topics related to the oil and gas industry, ensuring a comprehensive understanding of the legal framework governing the sector in Nigeria. The authors provide practical insights and examples, making the book applicable to real-world scenarios and facilitating the understanding of legal principles in practice. The authors, O.A. Oke and B.A. Oke, are well-respected experts in the field of oil and gas law, adding credibility and reliability to the content.

As the book was published a few years ago, it may not cover the most recent developments and emerging issues in the oil and gas industry. Supplementing it with up-to-date sources is recommended for a more comprehensive understanding.¹⁸

B.O. Nwabueze also explores the legal framework governing natural resources and environmental issues in Nigeria. In his book he delves into various aspects of resource governance, providing a thorough analysis of the country's legal and regulatory framework. He begins by setting the context for natural resource governance in Nigeria, highlighting the significance of the country's rich endowment of resources and the challenges associated with their exploitation. It then delves into the legal framework governing natural resources, examining key legislation, regulations, and policies that shape resource governance in Nigeria.

The book explores the legal concepts of ownership and control of natural resources in Nigeria. It analyses the rights and responsibilities of different stakeholders, including the government, communities, and private entities, and discusses the allocation of resource benefits.

An important aspect of the book is the examination of environmental laws and regulations in Nigeria. It explores the legal mechanisms for environmental protection, addressing issues such as pollution control, biodiversity conservation, and sustainable development.

The book delves into the management of revenues generated from natural resources in Nigeria. It examines the legal framework for revenue allocation, fiscal policies, and

¹⁸ O.A. Oke and B.A. Oke (2019). "Oil and Gas Law in Nigeria: Concepts, Principles, and Practice." Lagos: Oak & Ban Associates Limited. Princeton & Associates Publishing company.

mechanisms for ensuring transparency and accountability in the management of resource revenues

A significant focus of the book is the role of communities in resource governance. It discusses the legal provisions for community participation, including mechanisms for consultation, benefit sharing, and dispute resolution.

He provides a valuable resource for scholars, practitioners, and policymakers interested in resource governance and environmental law in Nigeria. The book offers a comprehensive and in-depth analysis of the legal framework, covering a wide range of topics and addressing the key challenges and opportunities in resource governance.

The book covers a wide range of topics related to resource governance, providing a holistic understanding of the legal and regulatory framework in Nigeria. The author offers detailed legal analysis, citing relevant legislation and case law to support the arguments and explanations presented. The book is specifically focused on Nigeria, making it highly relevant for researchers and practitioners working in the Nigerian context. It takes into account the unique challenges and dynamics of resource governance in the country.

It is important to note that the book was published in 2005, and therefore may not incorporate recent developments and legislative changes in the field of resource governance in Nigeria. Supplementing it with updated sources is recommended.

While the book primarily focuses on Nigeria, a comparative analysis with other jurisdictions or international best practices could have provided a broader perspective on resource governance.

His research is a valuable resource for understanding the legal framework governing natural resources and environmental issues in Nigeria. It offers a comprehensive analysis of resource governance, emphasizing the ownership, control, environmental protection, revenue management, and community participation aspects. Researchers, policymakers, and practitioners will find this book informative and insightful, providing a solid foundation for further exploration of resource governance in Nigeria.¹⁹

.A.B. Salisu explores the intersection of resource governance and sustainable development in the Nigerian context. The book provides a comprehensive analysis of the challenges and opportunities in managing natural resources in a manner that promotes sustainable economic growth, social equity, and environmental conservation.

¹⁹ B.O. Nwabueze *"Natural Resources and Environmental Law in Nigeria."* Lagos: Malthouse Press Limited 2012.

The book begins by setting the context for resource governance and sustainable development in Nigeria, highlighting the importance of effective management of natural resources for long-term development. It delves into various dimensions of resource governance, discussing key policy frameworks, legal mechanisms, and institutional arrangements.

The book analyzes the policy and legal frameworks that shape resource governance in Nigeria. It examines the key legislation, regulations, and national development plans that guide decision-making in the extraction, management, and utilization of natural resources.

An important aspect of the book is the exploration of the linkages between resource governance and the SDGs. It examines how effective resource management can contribute to achieving the SDGs, particularly in areas such as poverty alleviation, job creation, and environmental sustainability. The book emphasizes the importance of stakeholder engagement in resource governance. It discusses the roles and responsibilities of various actors, including the government, communities, civil society organizations, and the private sector, in ensuring inclusive decision-making processes and equitable benefit sharing. Another significant focus of the book is the integration of environmental considerations into resource governance. It examines strategies for mitigating environmental impacts, promoting biodiversity conservation, and transitioning towards sustainable and low-carbon development pathways. The book provides a comprehensive and interdisciplinary analysis of resource governance, incorporating legal, policy, economic, and environmental perspectives. The book presents a balanced view, discussing both the challenges and potential solutions for promoting sustainable resource management in Nigeria.

It integrates multiple disciplines, providing a holistic understanding of the complex issues surrounding resource governance and sustainable development. It draws on legal, economic, and environmental perspectives, offering a comprehensive analysis. It also explores the practical implications of resource governance for sustainable development in Nigeria. It provides policy recommendations and case studies that highlight best practices and lessons learned from both national and international contexts. The author pays specific attention to the Nigerian context, taking into account the country's unique challenges and opportunities in resource governance. This makes the book highly relevant for policymakers, researchers, and practitioners working in Nigeria.

As the book was published a few years ago, it may not cover the most recent developments and emerging issues in resource governance in Nigeria. Supplementing it with up-to-date sources is recommended to ensure comprehensive coverage. Furthermore, While

the book primarily focuses on Nigeria, a comparative analysis with other jurisdictions or international case studies could have provided additional insights and perspectives.

A.B. Salisu's book is a valuable resource for understanding the complex dynamics of resource governance and its relationship to sustainable development in Nigeria. The book offers a comprehensive analysis of the policy, legal, and institutional frameworks that shape resource management. It highlights the importance of stakeholder engagement, environmental conservation, and alignment with the SDGs for achieving sustainable development outcomes. Policymakers, researchers, and practitioners will find this book insightful, providing valuable insights and practical recommendations for promoting sustainable resource governance in Nigeria.²⁰

²⁰ "Resource Governance and Sustainable Development in Nigeria" by A.B. Salisu

CHAPTER THREE

COMPARATIVE ANALYSIS OF THE LEGAL FRAMEWORKS

3.1 Selection of Jurisdictions

In order to conduct a comprehensive comparative analysis of resource governance legal frameworks, careful consideration was given to the selection of jurisdictions. The chosen jurisdictions were carefully evaluated based on specific criteria to ensure their comparability with Nigeria and their potential to contribute valuable insights to this study. The following criteria were employed in the selection process:

3.2.1 Criteria for Jurisdiction Selection:

1. **Resource Endowment:** Select jurisdictions that are rich in natural resources, particularly those that share similarities with Nigeria's resource profile, such as oil, gas, minerals, or forests. This ensures that the comparisons made are relevant to Nigeria's resource governance context.
2. **Legal System:** Choose jurisdictions with legal systems that are comparable to Nigeria's legal framework. This allows for meaningful comparisons and identification of potential legal reforms that can be adapted to Nigeria's context.
3. **Governance Challenges:** Consider jurisdictions that have faced similar challenges in resource governance as Nigeria. This could include issues related to revenue management, environmental protection, community engagement, or transparency. By examining how other jurisdictions have addressed these challenges, valuable insights can be gained.
4. **Best Practices:** Look for jurisdictions that are recognized for their effective resource governance practices. These jurisdictions can serve as benchmarks for Nigeria, offering insights into successful approaches and lessons learned.

The selected jurisdictions for this comparative analysis of resource governance legal frameworks encompass a diverse range of countries that share similarities with Nigeria while offering valuable insights from their unique experiences. These jurisdictions were chosen based on their resource endowments, comparability of legal systems, governance challenges, and success in resource management. The following jurisdictions were included in this study: Norway, Canada, Australia, Ghana, Brazil, and the United States. Each jurisdiction brings distinct perspectives and lessons learned to enrich our understanding of resource governance.

3.2.2 Justification for Jurisdiction Inclusion:

Norway: Norway is renowned for its successful resource governance practices, particularly in the oil and gas sector. Its legal framework, including sovereign wealth funds and strict environmental regulations, can provide valuable insights and best practices for Nigeria to consider. Norway is one of the world's most prosperous countries, and the production of oil and gas accounts for 20 percent of its economy

The diversified and modern Norwegian economy benefits from high levels of flexibility and institutional strengths that include strong protection of property rights and an efficient legal framework. Together with openness to global commerce, prudent and transparent regulations sustain economic dynamism and a commercial environment that is both innovative and resilient.²¹

Canada: Canada is a resource-rich country with a well-developed legal framework for resource governance. It has experience in managing diverse resources and addressing environmental concerns. Comparing Canada's legal provisions can offer valuable perspectives and potential strategies for Nigeria.

Canada's oil and natural gas industry is active in 12 of 13 provinces and territories. Canada is the fourth largest producer of oil in the world and is the sixth largest producer of natural gas in the world. Canada's oil and natural gas production contributes billions of dollars to the country's GDP and creates thousands of jobs each year. Explore the diversity of Canada's oil and natural gas industries by province.²²

Australia: Australia has a strong presence in the mining sector and has implemented various policies and legislation to govern resource extraction and environmental protection. In 2021, Australia's oil and gas extraction industry had a gross value added (GVA) of approximately 53.8 billion Australian dollars. In recent years, the GVA of this industry had steadily increased across the country.²³

Australia's legal framework for oil and gas is generally regarded as effective in ensuring safety, environmental protection, and revenue management. It serves as a valuable case study

²¹ The Heritage Foundation. (n.d.). Norway Economy: Population, GDP, Inflation, Business, Trade, FDI. Retrieved from <https://www.heritage.org/index/country/norway> Accessed 24/06/2023

²² Canadian Association of Petroleum Producers (CAPP). (n.d.). Canada Oil Production | The Industry across Canada. Retrieved from <https://www.capp.ca/economy/canadas-oil-and-natural-gas-production/> Accessed 24/06/2023

²³ Granwal, L. (2022, August 9). Oil and gas extraction industry gross value added Australia 2012-2021. Statista. Retrieved from <https://www.statista.com/statistics/874434/australia-gross-value-added-oil-and-gas-extraction-industry/> Accessed 24/06/2023

for other jurisdictions seeking to enhance their own legal frameworks for oil and gas governance.

Studying Australia's legal framework can provide insights into effective regulatory mechanisms and community engagement practices.

United States: The United States has a decentralized approach to resource governance, allowing for variations in legal frameworks and practices across different states. With its abundance of natural resources, complex legal system, and diverse socio-economic landscape, the USA offers valuable insights. Its resource endowment highlights the importance of effective governance. The intricate legal framework allows for an examination of policy coordination and decision-making. The decentralized approach enables variations in regulatory frameworks and environmental strategies across states. Stakeholder engagement emphasizes transparency and accountability. The USA's environmental and social challenges demonstrate the need for balancing economic development with sustainability. Lastly, its international influence impacts global resource governance discussions. Overall, the USA's context provides rich insights for understanding and improving resource governance. Comparing the legal frameworks of specific states, such as Alaska or Texas, can offer insights into regional variations and governance approaches within a single country.

3.3 Analysis of the Legal Frameworks

In this section, a comparative analysis of the legal frameworks governing resource management in Nigeria and the selected jurisdictions will be conducted. The analysis aims to evaluate the key components of the legal frameworks, assessing their effectiveness in promoting transparency, accountability, environmental sustainability, and socio-economic development.

3.3.1 Legal Framework of Nigeria

The ownership of natural resources in Nigeria precedes the 1999 constitution of the Federal republic of Nigeria (as amended). During the colonial era and prior to the independence in 1960, both Nigeria and its Natural resources were regarded as property of Great Britain.

In 1914, Lord Lugard, enacted the Mineral Oil Ordinance “to secure easy administration over mining and oil rights ... and making it a wholly British concern”.²⁴ The 1914 Mineral Oil

²⁴Lord Lugard enacted the Mineral Oils Ordinance.

Ordinance provides that No lease or license shall be granted except to a British subject or to a British company registered in Great Britain or in a British colony and having its principal place of business within her majesty's dominion, the chairman and managing director (if any) and the majority of the directors of which are British subject".²⁵

The enactment of the Mineral Oil Ordinance in 1914 by Lord Lugard had a significant impact on the ownership and control of mineral resources in Nigeria. The ordinance aimed to centralize control under the British government, making mining and oil rights a British concern. It imposed strict requirements for leasing or licensing, limiting privileges to British subjects or British companies with ties to the Empire. By restricting ownership and decision-making power to British entities, the ordinance reinforced colonial power dynamics and limited the participation of Nigerians in the exploitation of their own resources.

The Mineral Ordinance 1916 provided that

"The entire property in and control of the minerals, and mineral oils, in, under or upon any land in Nigeria, and of all rivers, streams and water courses, throughout Nigeria, is and shall be vested in the crown, save in so far as such rights may in any case have been limited by express grant made before the commencement of this Ordinance"²⁶

To this effect it failed to recognize the interest of Nigerians.

The Minerals Act of 1958 however, vest the ownership of, and all on-shore and off-shore revenue from petroleum resources derivable from in the Federal Government and for all other incidental matters. In the words of the Act:

- (1) The entire ownership and control of all petroleum in, under, or upon any lands to which this section applies shall be vested in the state.
- (2) This section applies to all land (including land covered by water) which –
 - (a) is in Nigeria; or
 - (b) is under the territorial waters of Nigeria; or
 - (c) forms part of the continental shelves; or
 - (d) forms part of the Exclusive Economic Zone of Nigeria.
- (3) In this section references to "territorial waters" are references to the expression as defined in the Territorial Waters Act.

In 1906 and 1907, Legal Guidelines on mining were enacted to govern the operations of the mining and oil companies in Nigeria.

²⁵ Section 6 (1), 1914 Mineral Oils Ordinance, Laws of the Federation of Nigeria and Lagos (In Force 1 June, 1958 (1959))

²⁶ See sections 22 and 34 (1) of the 1916 Mineral Ordinance on Mining Rights.

The Minerals Act of 1958 marked a significant shift in the ownership and control of petroleum resources in Nigeria. Under this act, the Federal Government was vested with the complete ownership and control of all petroleum found onshore, offshore, within territorial waters, on the continental shelf, and within the Exclusive Economic Zone of Nigeria. This provision extended the state's authority over petroleum resources beyond just the land and encompassed various maritime areas. By vesting ownership and control in the state, the act established a centralized framework that allowed the government to regulate and manage petroleum resources for the benefit of the nation as a whole. This provision played a crucial role in shaping the legal and governance framework for the petroleum industry in Nigeria, granting the government authority over exploration, extraction, and revenue generation from petroleum resources.

The existing statutes and law regulating the ownership and control of Natural resources in Nigeria are the Constitution of the Federal Republic of Nigeria 1999 (as amended); The Land Use Act 1978; Nigerian Minerals and Mining Act 2007; and the Petroleum Act 2021.

The Constitution of the Federal Republic of Nigeria 1999 (as amended) vests the ownership and control of natural resources on the federal government. Section 44 (3) provides that:

“Notwithstanding the foregoing provision 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 territorial waters and the Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly”

By vesting ownership and control in the government, this constitutional provision establishes a framework for the centralized management and utilization of natural resources in Nigeria, ensuring that they are managed in the best interests of the nation as a whole. It provides the legal basis for the federal government's role in regulating the exploration, extraction, and revenue generation from these resources, promoting effective resource governance and sustainable development.

The Land Use Act²⁷ vests all land comprised in the territory of each State (except land vested in the Federal Government or its agencies) solely in the Governor of the State, who hold such land in trust for the people and would be responsible for allocation of land in

²⁷ Cap. L5, Laws of the Federation of Nigeria, 2004.

all urban areas to individuals.²⁸ Thus, though title to land vests in the Governor, he cannot lay claim to lands which belong to the federal government and its agencies.²⁹ The Governor cannot also lay claim to lands that contain natural resources, neither can he “have any direct control over the exploration and exploitation of minerals”³⁰

The landmark decision of the Supreme Court of Nigeria in the case of *Attorney General of the Federation v. Attorney General of Abia State (No. 2)*.³¹ Is also significant in the establishment of Nigeria’s legal position in the ownership and control of oil and Gas.

The focal point of the case is resource control rights concerning whether ownership right and control of mineral resources located off-shore of the eight shoreline states of Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Lagos, Ondo and Rivers vest in the states or the Federal Government of Nigeria. The Supreme Court stated that by virtue of section 44 (3) of the Constitution of the Federal Republic of Nigeria, the Federal Government has exclusive resource control and ownership rights over the mineral resources.

In the case of *Attorney –General of the Federation v. Attorney – General of Abia State & 35 Ors. (No. 1)*³² The plaintiff’s contended that the territory of a state in Nigeria extends to all areas over which a local government council within that state has power to administer and to make byelaws. In other words, the territory of a state is exactly co-extensive with the totality of the local government areas within its territory.

The following statutes were cited for consideration by the Supreme Court, sections 3, 4, 232 (1), 162 (1), (2), (3) 153 (1) (n), and 315 of the 1999 constitution, the Territorial Waters Act,³³ the Petroleum Act,³⁴ the Sea Fisheries Act,³⁵ and the Exclusive Economic Zone Act,³⁶ all Laws of the Federation of Nigeria, 2004. The Supreme Court stated, rightly it is submitted that the above enactments must be treated as valid until a court of law decides otherwise.³⁷

The licensing and exploration procedures for oil and as are critical components of the regulatory framework that governs these valuable resources. These procedures establish the

²⁸ sections 1 and 2, Land Use Act 1978, Cap. L5, Laws of the Federation of Nigeria, 2004.

²⁹ Section 49, Land Use Act 1978, *ibid*.

³⁰ Aladeitan, L. (2013) 'Ownership and Control of Oil, Gas, and Mineral Resources in Nigeria: Between Legality and Legitimacy', *Thurgood Marshall Law Review*, Vol. 38, pp. 159-160.

³¹ (2002) 96 LRCN, 559; (2002) 6 NWLR (Part 764), 542 – 905; AG Fed. v. AG Abia State & 35 Ors. (2001) 11 NWLR, (Part 725). 689; (2001) 89 LRCN, 2413.

³² *ibid*

³³ Cap. 5, Laws of the Federation of Nigeria (LFN) 2004.

³⁴ Cap. P10 LFN 2004.

³⁵ CAP S4 LFN 2004.

³⁶ Cap E17 LFN 2004.

³⁷ Okonkwo, T. (2017) 'Ownership and Control of Natural Resources under the Nigerian Constitution 1999 and Its Implications for Environmental Law and Practice', *International Law Research*, Vol. 6, No. 1.

guidelines and requirements for companies seeking to engage in exploration activities and obtain licenses for resource extraction. Understanding the intricacies of these legal processes is essential for evaluating the effectiveness of the legal frameworks in promoting responsible and sustainable resource development.

The Petroleum Industry Act³⁸ in section 2 provides for Oil exploration licences, oil prospecting licences and oil mining leases

(1) Subject to this Act, the Minister may grant- (a) a licence, to be known as an oil exploration licence, to explore for petroleum;

(b) a licence, to be known as an oil prospecting licence, to prospect for petroleum; and

(c) a lease, to be known as an oil mining lease, to search for, win, work, carry away and dispose of petroleum.

(2) A licence or lease under this section may be granted only to a company incorporated in Nigeria under the Companies and Allied Matters Act or any corresponding law. [Cap. C20.]

(3) The provisions of the First Schedule to this Act shall, in so far as they are applicable, have effect in relation to licences and leases granted under this section.³⁹

According to the Act, the Minister is empowered to grant an oil exploration licence for the purpose of exploring for petroleum, an oil prospecting licence for prospecting activities, and an oil mining lease for various activities related to petroleum search, extraction, operation, transportation, and disposal. However, these licences and leases can only be granted to companies that are incorporated in Nigeria under the Companies and Allied Matters Act or any corresponding law. The Act also stipulates that the provisions outlined in the First Schedule of the Act shall apply to the licences and leases granted under this section, ensuring that the activities related to oil exploration and production adhere to the prescribed regulations and guidelines. This provision establishes a legal framework for the licensing and leasing process in the petroleum sector, ensuring compliance with regulatory requirements and promoting responsible and regulated operations in Nigeria's oil industry.

This license is required for construction and operation of refineries, control of petroleum products which includes the importation, storage, sale and distribution of

³⁸ CAP LFN 2021

³⁹ Ibid

petroleum products. The administration and management of petroleum resources and their derivation is conducted in accordance with the Petroleum industry act⁴⁰

Section 70 (i) of the Act⁴¹ provides that there shall be the following licenses and lease under this Act:-

- (a) Petroleum exploration license, which may be granted to qualified applicants to explore petroleum on a speculative and non-exclusive basis;
- (b) Petroleum prospecting license, which may be granted to qualified applicants to carry out petroleum exploration operations on an exclusive basis; and
- (c) Petroleum mining lease, which may be granted to qualified applicants to search for, win, work, carry away and dispose of crude oil, condensates and natural gas.

The Act provides for the issuance of petroleum exploration licenses, petroleum prospecting licenses, and petroleum mining leases. A petroleum exploration license can be granted to qualified applicants for speculative and non-exclusive exploration of petroleum resources. A petroleum prospecting license, on the other hand, is granted on an exclusive basis to qualified applicants to conduct petroleum exploration operations. Lastly, a petroleum mining lease is granted to qualified applicants for the search, extraction, operation, transportation, and disposal of crude oil, condensates, and natural gas. These licenses and leases are integral to the regulation and management of petroleum activities in Nigeria, ensuring that qualified entities have the necessary permissions to explore, prospect, and mine petroleum resources in compliance with the stipulated regulations and guidelines.

The licenses and leases that may be granted by the Commission are:- Petroleum Exploration License (PEL),⁴² Petroleum Prospecting License (PPL),⁴³ and Petroleum Mining lease (PML)⁴⁴

In the Nigerian oil and gas sector, several revenue management mechanisms are employed to govern the collection, allocation, and utilization of revenues generated from resource extraction. Some notable revenue management mechanisms in the Nigerian oil and gas sector are:

1. Royalties: Royalties are payments made by oil and gas companies to the government for the right to extract resources. In Nigeria, royalties are typically calculated based on

⁴⁰ CAP LFN 2021

⁴¹ Petroleum Industry Act CAP LFN 2021

⁴² Section 71

⁴³ Section 72

⁴⁴ Section 81

production volume or the value of the extracted resources. These funds contribute to the government's revenue stream and are often allocated for national development projects.

2. **Production Sharing Contracts (PSCs):** PSCs are agreements between the Nigerian government and oil and gas companies, specifying the sharing of production revenues. Under PSCs, the government and the companies share the production output based on predetermined terms and conditions, including profit oil or gas sharing ratios.

3. **Signature Bonuses:** Signature bonuses are one-time payments made by companies to the government upon signing exploration or production contracts. These bonuses serve as upfront payments for securing the rights to explore and exploit oil and gas resources.

4. **Petroleum Profit Tax (PPT):** PPT is a tax levied on the profits earned by companies engaged in the oil and gas sector in Nigeria. It is a significant revenue generator for the government and is imposed in addition to other taxes and levies applicable to businesses.

5. **Nigerian Content Development Fund (NCDF):** The NCDF is a mandatory contribution made by oil and gas companies operating in Nigeria. The fund is aimed at promoting the development of local content, skills, and capabilities within the industry. It is utilized for training, research, and development initiatives to enhance the participation of Nigerian companies in the oil and gas value chain.

6. **Excess Crude Account (ECA):** The ECA is a savings account established to manage excess revenues generated from oil sales when oil prices exceed the budget benchmark. It serves as a stabilization fund to cushion the economy during periods of revenue volatility and is intended to support budgetary allocations for infrastructure development and other priority sectors.

These revenue management mechanisms play a vital role in ensuring the proper collection and utilization of funds derived from the Nigerian oil and gas sector. However, it is important to note that challenges and areas for improvement exist in effectively managing and allocating these revenues to maximize their impact on national development.

The legal framework also includes laws that aid the participation and inclusion of local communities and indigenous populations

For instance, the NDDC Act, sets up the Niger Delta Development Commission (NDDC).⁴⁵ The functions of the NDDC are stated in section 7 of the NDDC Act. The commission's essential concern is with the infrastructural development of the nine states under the commission. Some infrastructural development programs by the NDDC will benefit some

⁴⁵ Part 1 S1 (1-3) Niger Delta Development Commission Act 2000

host communities in the nine states under the Commission. However, this does not meet the yearnings of host communities who still suffer from underdevelopment.

Also as a way of providing funds for the development of oil producing areas, Section 162(1) of the 1999 Constitution as amended provides:

(1) The Federation shall maintain a special account to be called "the Federation Account" into which shall be paid all revenues collected by the Government of the Federation ...

(2) The President, upon the receipt of advice from the Revenue Mobilisation Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account the allocation principles especially those of population, equality of States, internal revenue generation, land mass, terrain as well as population density;

Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen per cent of the revenue accruing to the Federation account directly from any natural resources.

The purpose of section 162(2) of the 1999 Constitution as amended is to provide some benefits to the oil producing areas of the Niger Delta. This provision serves as a means of generating funds for the development of oil-producing areas in Nigeria. Additionally, Section 162(2) outlines the process of revenue allocation from the Federation Account. The President, with advice from the Revenue Mobilisation Allocation and Fiscal Commission, presents proposals to the National Assembly for revenue allocation. In determining the allocation formula, the National Assembly considers various principles, including population, equality of states, internal revenue generation, land mass, terrain, and population density. Importantly, the principle of derivation is to be reflected in the approved formula, ensuring that not less than thirteen percent of the revenue directly derived from natural resources accrues to the Federation Account. This provision aims to ensure a fair distribution of revenue and the inclusion of the interests of oil-producing regions in the country's economic development.

3.3.2 Other jurisdictions

The other jurisdictions for examination in the research are Norway, Canada, Australia, and the United states. The legal frameworks for resource governance of all these countries, have one common factor. They all practice the domain theory of petroleum ownership and control. However, due to their legal system, governance challenges and successful management of resource, their legal frameworks will be examined in this research.

NORWAY

The petroleum resources are vested in the Norwegian state, and a sophisticated licensing system with mandatory participation in an unincorporated joint venture with standard joint operating agreement and accounting agreement enable private and state-owned companies to explore, develop and produce petroleum in accordance with the principles laid down in licences and applicable acts and regulations.⁴⁶

Legal and regulatory framework

The main statute relevant for petroleum activities is the Petroleum Act No. 72 of 29 November 1996 (the Petroleum Act)

Petroleum Act No. 72 of 29 November 1996

“Resource management Resource management is executed by the King in accordance with the provisions of this Act and decisions made by the Storting (Parliament)”.⁴⁷

Resource management of petroleum resources shall be carried out in a long-term perspective for the benefit of the Norwegian society as a whole. In this regard the resource management shall provide revenues to the country and shall contribute to ensuring welfare, employment and an improved environment, as well as to the strengthening of Norwegian trade and industry and industrial development, and at the same time take due regard to regional and local policy considerations and other activities.⁴⁸

The more detailed rules are set out in various regulations, including the following pertaining to resource management:

1. the Petroleum Regulations No. 653 of 27 June 1997 (the Petroleum Regulations);
2. the Resource Management Regulations No. 749 of 18 June 2001;
3. the Regulations Relating to the Use of Facilities by Others No. 1625 of 20 December 2005; and
4. the Regulations Relating to the Stipulation of Tariffs, etc. No. 1724 for Certain Facilities of 2 December 2002 (the Tariff Regulations).

The Petroleum Act provides the general legal basis for petroleum activities on the Norwegian Continental Shelf. According to the Act and the Petroleum Regulations, licences can be awarded for exploration, production and transport of petroleum, meaning that the proprietary right to the petroleum deposits on the NCS is vested in the state. Official

⁴⁶ Kvale Advokatfirm. (n.d.) 'A general introduction to oil and gas law in Norway'. Lexology. Available at: <https://www.lexology.com/library/detail.aspx?g=48fbc767-62de-4f84-9510-d26572687f03> Accessed 27/06/2023.

⁴⁷ Section 1-2 Petroleum Act No. 72 of 29 November 1996

⁴⁸ Norwegian Petroleum Directorate Act 29 November 1996 No. 72 relating to petroleum activities.

approvals and permits are necessary in all phases of the petroleum activities, from award of exploration and production licences, in connection with the acquisition of seismic data and exploration drilling, to plans for development and operation, production and decommissioning.

The main governmental offices responsible for petroleum activities on the NCS are the Ministry of Petroleum Energy, the Ministry of Finance (MoF), the Ministry of Labour and Social Affairs, the Ministry of Climate and Environment, and the Ministry of Trade, Industry and Fisheries⁴⁹.

The MPE has the overarching responsibility for managing the petroleum resources and is also responsible for the state-owned companies Petoro and Gassco AS. Gassco is the operator for the integrated pipeline system for transporting gas from the NCS to other European countries. The NPD is subordinated to the MPE and its paramount objective is to make sure that the resource management of the Norwegian petroleum resources are conducted in the best possible manner.

The MoF has the main responsibility of ensuring that the state collects the applicable taxes and fees from the petroleum activities, including corporate tax, special tax, CO₂ tax and NO_x tax. The Petroleum Taxation Office is part of the Norwegian Tax Administration, reporting directly to the MoF, and is responsible for ensuring correct levying and payment of taxes and fees adopted by the political authorities.

Moreover, the Petroleum Safety Authority (PSA), under the Ministry of Labour and Social Affairs, has the regulatory responsibility for technical and operational safety, including emergency preparedness and working environment in petroleum activities.⁵⁰

The Norwegian Environment Agency, under the Ministry of Climate and Environment, is responsible for all environmental issues pertaining to the petroleum activities, such as granting the requested permissions to pollute.⁵¹

Another governmental body involved is the Norwegian Coastal Administration, under the Ministry of Transport, and is responsible for the state's oil spill preparedness.

⁴⁹ Thommessen Law Firm. "Legal Framework of Petroleum Activity on the Norwegian Continental Shelf." Available at: <https://www.thommessen.no/en/news/legal-framework-of-petroleum-activity-on-the-norwegian-continental-shelf> Accessed 23/06/2023

⁵⁰ Petroleum Safety Authority Norway Chapter iii (17-19) <https://www.ptil.no/en/technical-competence/main-issue-2023/> Accessed 23/06/2023

⁵¹ Norwegian Environment Agency. "The Norwegian Environment Agency." Available at: <https://www.regjeringen.no/en/dep/kld/organisation/Subordinate-agencies/the-norwegian-environment-agency/id85642/> Accessed 23/06/2023

Finally, the Norwegian Maritime Authority (NMA) is the administrative and supervisory authority in matters related to safety of life, health, material values and the environment on maritime vessels involved in the petroleum activities. The NMA is, among others, issuing certificates/letters of compliance to mobile drilling units used in petroleum activities, and is also following up on whether such units are in compliance with the applicable maritime regulations. The NMA has entered into a cooperation agreement with the PSA, dividing responsibility as to the follow-up of mobile offshore units.⁵² The NMA is subordinate to the Ministry of Transport.⁵³

CANADA

Canada's resource governance framework involves federal, provincial, and territorial laws, including the Canadian Environmental Assessment Act, the Mining Act, and the Indian Oil and Gas Act.

Canada's federal and provincial governments share jurisdiction over Canadian energy policy, as well as the legal and regulatory framework for the exploration of Canadian oil and natural gas reserves. Accordingly, there is no single energy policy or regulatory body governing the development of oil and natural gas reserves in Canada.⁵⁴

In Canada, mineral rights are owned by either the federal and provincial governments or private freehold owners.⁵⁵ The Federal Government's ownership of mineral rights is much smaller in comparison to the provincial governments' ownership of mineral rights, with most of the Federal Government's ownership rights made up of oil and gas rights in Canada's national parks and Indigenous lands.

Federally owned oil and gas rights are governed by the *Canada Petroleum Resources Act* (Canada) and the *Canada Oil and Gas Operations Act* (Canada).

Provincially owned oil and gas rights are governed by each province's respective legislation governing the exploration and production of oil and natural gas.

The CER, formerly the National Energy Board, is the federal agency that handles the majority of the responsibilities regarding the regulation of interprovincial pipelines, and

⁵² Norwegian Maritime Authority. "The Norwegian Maritime Authority." Available at: <https://www.regjeringen.no/en/dep/nfd/organisation/etater-og-virksomheter-under-narings--og-fiskeridepartementet/Subordinate-agencies-and-institutions/the-norwegian-maritime-directorate/id435117/> ." Accessed 23/06/2023

⁵³ Norwegian Maritime Authority (NMA). "Norwegian Seafarer Certifications - Norwegian Maritime Authority (NMA)." Available at: <https://www.edumaritime.net/nma-norway> Accessed 23/06/2023

⁵⁴ ICLG. "Oil and Gas Regulation in Canada." Available at: <https://iclg.com/practice-areas/oil-and-gas-laws-and-regulations/canada> Accessed 23/06/2023

⁵⁵ ICLG *supra*

energy development and trade, while each province has its own regulatory body with jurisdiction over interprovincial projects⁵⁶

There are hundreds of privately owned and publicly listed companies engaged in the exploration and production of oil and natural gas in Canada. These companies obtain the right to explore, drill and produce oil and natural gas primarily from provincial governments through licence and leasehold arrangements.

Although the majority of Canada's oil and natural gas rights are owned by the federal and provincial governments, some oil and gas rights are freehold mineral rights. For example, in the province of Alberta, approximately 8% of Alberta's oil and gas rights are privately owned, 81% are owned by the Provincial Government and the remaining portion is owned by the Federal Government. Of the freehold mineral rights, 90% are held by corporations or trusts. Companies can obtain the right to explore, drill and produce oil and natural gas from private landowners by way of a privately negotiated oil and gas lease (source: Government of Alberta).⁵⁷

AUSTRALIA

Australia's legal framework for resource governance includes various statutory laws, such as the Offshore Petroleum and Greenhouse Gas Storage Act, the Minerals Resource Rent Tax Act, and the Native Title Act.

Petroleum and Gas (Production and Safety) Act 2004⁵⁸ provides that Petroleum the property of the State, it states that All petroleum as follows is, and always has been, the property of the State— (a)petroleum on the surface of land, if it was produced in the State; (b)petroleum in a natural underground reservoir in the State, other than petroleum in the reservoir produced outside the State and injected or reinjected into the reservoir.

To remove any doubt, it is declared that— (a)a person does not acquire any property in petroleum merely because the person discovers petroleum in a natural underground reservoir; and (b)subsection (2)(a) applies whether or not the land is freehold or other land; and (c)subsection (2)(b) applies whether or not the natural underground reservoir is in or under freehold or other land.

⁵⁶ ICLG *supra*

⁵⁷ ICLG. (2023). 'Oil & Gas Laws and Regulations Canada 2023'. International Comparative Legal Guides. Available at: <https://iclg.com/practice-areas/oil-and-gas-laws-and-regulations/canada> Accessed 27/06/2023

⁵⁸ S 26 Petroleum and Gas (Production and Safety) Act 2004

This section⁵⁹ applies despite any other Act, grant, title or other document in force from the commencement of this section.

In this section— *the State* does not include any of the adjacent area under the [*Petroleum \(Submerged Lands\) Act 1982*](#).⁶⁰

Gas Supply Act 2003 (GS Act)

The Gas Supply Act sets out the processes by which a distributor is able to install, operate and maintain natural gas or liquefied petroleum gas infrastructure on a publicly controlled place such as a road.⁶¹

The United States

The resource governance framework in the United States is governed by various federal laws, including the Mineral Leasing Act, the Federal Land Policy and Management Act, and the National Environmental Policy Act.

The nature of oil and gas in the United States is one whereby most lands and mineral rights belong to certain states, each state has the power to make laws and regulate exploitation, operation and production practices.⁶² Ownership rights vary from state to state. A common trend in most of the states is that a land owner has exclusive right to drill a well upon his land to produce oil and gas. The states control on this is on taxes, royalties, land lease bonuses and rentals. While private property rights are firmly entrenched in the United States system, it is important to note that in 1945, the federal government in the United States appropriated for itself the natural resources of the subsoil and bed of the continental shelf beneath the high seas but contiguous to its coast,⁶³

Federal and state governments can also be owners of mineral estates, both onshore and offshore. Under the Submerged Lands Act, each coastal state owns the land extending three nautical miles (5.6 km) from the shore at mean low tide, and has jurisdiction to decide whether or not, and under what terms, to lease the area for oil and gas. Exceptions include Texas and the west coast of Florida, which for historical reasons, own the seabed out to

⁵⁹ S 26 *ibid*

⁶⁰ Petroleum and Gas (Production and Safety) Act 2004, Chapter 2, Part 1, 21 November 2022 to date. Available at: <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2004-025> Accessed 27/06/2023

⁶¹ Queensland Government Business website "Gas Supply and Infrastructure" <https://www.business.qld.gov.au/industries/mining-energy-water/energy/gas/regulation/supply-infrastructure> Accessed: 27/06/2023

⁶² Abba, F.A. "An introduction to coastal states rights over resources of the continental shelf." Gamji.com. [Online]. Available [http://www.gamji.com/article4000/NEWS4729.htm Accessed: 23/06/23.

⁶³ F Abba. *supra*

approximately ten nautical miles (16 km) from the shore. The OCSLA provides federal jurisdiction for all offshore lands beyond the state limit. In 1983, a Presidential proclamation extended federal jurisdiction out to 200 nautical miles from shore, the boundary for the US Exclusive Economic Zone.⁶⁴

Generally, exploration and production activities on onshore federal lands are regulated by the:

1. Mineral Leasing Act of 1920.
2. Mineral Leasing Act for Acquired Lands of 1947.

Development of oil and gas on federal offshore property is handled by the Outer Continental Shelf Lands Act (OCSLA). In addition, there are specific federal statutes relating to upstream oil and gas activities, such as the:

1. Oil and Gas Royalty Management Act, which governs lease and royalty agreements.
2. Petroleum Marketing Practices Act, which sets certain requirements for contracts between gasoline refiners or distributors and their retailers. State laws and agencies, such as the Texas Natural Resources Code, the Colorado Oil and Gas Conservation Commission, and North Dakota's Industrial Commission, Oil and Gas Division, govern development, exploration, and production of oil and gas on state-owned and privately-owned lands.⁶⁵

The Mineral Leasing Act (MLA) is a United States federal law that authorizes the leasing of public domain lands for exploring and developing coal, oil, natural gas, and other minerals. Enacted in 1920, it has undergone numerous amendments.⁶⁶

The Mineral Leasing Act for Acquired Lands of 1947 extended the mineral leasing laws (the Mineral Leasing Act, etc.) to all lands acquired by the United States. The Act allowed the United States to maintain title to the land and establish lease terms for all minerals found on acquired land. MMS collects and disburses royalties on these types of minerals.⁶⁷

⁶⁴"Oil and Gas Regulation in the United States: Overview." [Online]. Available https://www.acc.com/sites/default/files/resources/vl/membersonly/InfoPAK/1384132_1.pdf Accessed: 27/06/2023

⁶⁵ Supra

⁶⁶ "Mineral Leasing Act." [Online]. Available <https://www.iea.org/policies/15000-mineral-leasing-act> Accessed: 23/06/23.

⁶⁷ Office of Congressional and Legislative Affairs. "Mining Law Revision (2)." [Online]. Available: <https://www.doi.gov/ocl/hearings/110/MiningLawRevision> Accessed: 23/06/23.

3.4 Similarities and Differences

After a meticulous examination of the respective jurisdictions, a discerning analysis reveals a tapestry of noteworthy similarities and nuanced differences in their legal frameworks of resource governance.

Similarities:

1. **Regulatory Agencies:** All five jurisdictions have established regulatory agencies responsible for resource governance. These agencies oversee activities related to resource exploration, extraction, and production. They enforce compliance with laws and regulations, monitor environmental impacts, and ensure safety standards are met.

2. **Licensing and Permits:** Each jurisdiction has established processes for granting licenses and permits for resource activities. These processes involve assessing the technical and financial capabilities of applicants, as well as considering the potential environmental and social impacts. Applicants are required to meet specific criteria and adhere to regulations to obtain the necessary licenses and permits.

3. **Environmental Protection:** Environmental regulations are a significant aspect of resource governance in all jurisdictions. They aim to minimize the environmental impacts of resource activities, promote sustainable practices, and ensure proper handling and disposal of hazardous materials. Environmental impact assessments, mitigation plans, and monitoring mechanisms are commonly employed to safeguard the environment.

4. **Revenue Management:** Effective revenue management is a shared objective across these jurisdictions. They have mechanisms in place to regulate the collection, distribution, and utilization of revenue generated from resource extraction. These mechanisms typically involve taxation, royalty payments, and the establishment of funds dedicated to community development, environmental protection, or future generations.

5. **Transparency and Accountability:** Recognizing the importance of transparency and accountability in resource governance, all five jurisdictions have taken measures to enhance transparency in decision-making processes, disclosure of information, and public participation. They aim to prevent corruption, promote fair allocation of resources, and ensure that stakeholders are adequately informed and engaged.

Differences:

1. **Ownership and Control:** The legal frameworks differ in terms of ownership and control of natural resources. In Norway, Australia, and Canada, a significant portion of natural resources is owned and managed by the state or federal government. In Nigeria, ownership is a mix of state, federal, and private, while the United States has a combination of

private, state, and federal ownership. These ownership structures influence the rights and responsibilities of different stakeholders in resource governance.

2. **Indigenous Rights:** The recognition and protection of indigenous rights in resource governance vary among jurisdictions. Canada and Australia have specific legal frameworks that address indigenous rights and provide for consultation and participation in resource management decisions. These frameworks aim to protect indigenous culture, traditional lands, and ensure that indigenous communities benefit from resource activities.

3. **Revenue Sharing:** The mechanisms for revenue sharing between different levels of government and stakeholders differ among the jurisdictions. Some countries have well-defined revenue-sharing arrangements that outline the distribution of resource revenues among governments at various levels and other stakeholders. However, other jurisdictions are still developing or reforming their revenue-sharing frameworks, which can lead to disputes and challenges in resource governance.

4. **Local Content Requirements:** Some jurisdictions, such as Nigeria, have specific provisions to promote local participation and the development of local industries within the resource sector. These provisions aim to enhance local employment, technology transfer, and capacity building. They require companies to prioritize local content in their operations and provide opportunities for local businesses to participate in the supply chain.

5. **Environmental Standards:** While all jurisdictions have environmental regulations, the specific standards and enforcement mechanisms may differ. The stringency of environmental requirements and the approaches to monitoring and enforcement vary based on jurisdiction-specific priorities and circumstances. Some jurisdictions may have more stringent regulations and stricter enforcement measures to protect sensitive ecosystems, while others may have a more flexible approach that takes into account economic considerations.

CHAPTER FOUR

KEY PROVISIONS, PRACTICES AND CHALLENGES IN RESOURCE GOVERNANCE

4.1 Overview of Resource Governance Frameworks Nigeria

Nigeria's resource governance framework primarily focuses on the exploration and production of oil and gas resources, which are vital to the country's economy. The legal framework governing the sector includes the Petroleum Act, the Petroleum Profit Tax Act, and the Nigerian Oil and Gas Industry Content Development Act. The Nigerian Constitution vests ownership and control of mineral resources in the federal government.⁶⁸ This centralized control ensures that the government has authority over the exploration, extraction, and management of natural resources.

Nigeria's petroleum sector has a Regulatory framework; The Nigerian Minerals and Mining Act and the Petroleum Industry Act establish the regulatory framework for resource governance. These laws outline licensing requirements, environmental protection measures, fiscal terms, and community participation in resource-related activities.⁶⁹

The legal framework also emphasizes the importance of environmental protection in resource extraction and management. The Environmental Impact Assessment Act mandates the assessment of potential environmental impacts before project approval, ensuring that environmental concerns are addressed. Furthermore, the Environmental Guidelines and standards for the petroleum industry in Nigeria (EGASPIN) 1999, which gains its legal status from the Petroleum act,⁷⁰ allows the minister of petroleum to Exercise general supervision over all operations carried on under licenses and leases granted under the Act. The objectives of this law are to establish guidelines and standards for the quality control of the Petroleum Industry while considering existing local conditions and planned monitoring programmes; To provide a comprehensive document on pollution abatement technology, guidelines and strategies for the Nigerian Petroleum Industry; and to standardise the environmental pollution and monitoring procedures including analytical methods.⁷¹

A plethora of statutes also exist for this purpose including the Petroleum Production and Distribution (Anti- sabotage) Act⁷², the Niger Delta Development Commission (NDDC) Act⁷³; and the Oil Pipelines Act (OPA) 1959⁷⁴.

⁶⁸ S 44(3) 1999 Constitution

⁶⁹ Ibid

⁷⁰ S 8 Petroleum Act CAP LFN 2020

⁷¹ Paragraph 4 (a)-(c), EGASPIN

⁷² S 1 (1) (a)- (c) Petroleum Production and Distribution (Anti- sabotage) Act

Nigeria has a revenue sharing formula that determines the distribution of resource revenues among the federal, state, and local governments. These revenue heads are backed by the force of law, such revenues collected could be in the form of Royalties, rents, fees (for licenses) taxes and bonuses. The most outstanding Legislation amongst others is the Petroleum Income Tax Act⁷⁵

This formula aims to promote equitable sharing of resource wealth and development across different levels of government.

Another outstanding characteristic in the Legal framework in Nigeria is that Nigeria is a member of the Extractive Industries Transparency Initiative (EITI), which promotes transparency in the extractive sector. The legal framework encourages the disclosure of payments made by companies to the government, ensuring transparency in revenue flows and combating corruption.

The legal framework recognizes the importance of stakeholder engagement in resource governance. It encourages consultation and participation of local communities, traditional leaders, and other relevant stakeholders in decision-making processes. The groups that have a stake in Nigeria's oil and gas industry are the Host Communities, the International oil companies (IOCs), organised labour, regional interests and the government

The legal framework promotes the development of local content in the resource sector. Nigerian Oil and Gas Industry Content Development Act requires that the Nigerian Content be considered as an important element in the overall project development and management philosophies of regulatory petroleum firms.⁷⁶⁷⁷ The development of Local Content encourages the participation of Nigerian companies and individuals in resource-related activities, fostering economic growth and job creation.

Various government institutions and agencies are responsible for implementing and enforcing the resource governance framework. These include the Mining Cadastre Office, regulatory bodies for the oil and gas sector, and environmental agencies that oversee compliance with environmental regulations.

⁷³ See s7 (1) (h) Niger Delta Development Commission Act

⁷⁴ Section 33 (4) empowers the Minister of Petroleum to make a regulation to prevent pollution of land and waters as regards oil pipelines.

⁷⁵ CAP LFN 2004

⁷⁶ S.2 Nigerian Oil and Gas Industry Content Development Act CAP LFN 2010

⁷⁷ Subai, Pereowei. "The Nigerian Oil and Gas Industry Content Development Act." In *Laws on Oil and Gas Exploration and Production in Nigeria: A Text in Honour of Austin Avuru*, edited by Michael Ogwezzu, 714. Princeton and Associates, 2020.

While Nigeria's legal framework for resource governance has these key characteristics, challenges persist in its implementation. These challenges include corruption, inadequate enforcement of regulations, environmental degradation, and conflicts over land and community rights. Efforts are being made to address these challenges through reforms, capacity building, and increased transparency and accountability measure

NORWAY

Norway is widely recognized for its effective resource governance framework, particularly in the oil and gas sector. The country has established a comprehensive legal framework, including the Petroleum Act and the Resource Management Regulations. Norway's resource governance model emphasizes transparency, environmental stewardship, and long-term planning. Notably, the government plays a significant role through state ownership and control of oil and gas resources. This approach ensures sustainable development, maximizes value for its citizens, and establishes a sovereign wealth fund, the Government Pension Fund Global, for future generations.

Norway, a country, rich in natural resources, has maintained a surplus in merchandise trade for over two decades. Its exports of crude oil and natural gas have contributed to a surplus on the current account. Norway has effectively managed its wealth by saving a significant portion of it in the Government Pension Fund – Global, invested abroad.

Norway's resource governance framework is shaped by its abundant natural resources, particularly crude oil and natural gas. The country has implemented a comprehensive system to effectively manage and benefit from its resource wealth.

Norway saves a substantial portion of its oil and gas revenue in the Government Pension Fund – Global. The Government Pension Fund Global, also known as the Oil Fund, was established in 1990 to invest the surplus revenues of the Norwegian petroleum sector. In 2023, it has over US\$1,370 billion in assets,⁷⁸ and held 1.4% of all of the world's listed companies in 2019, making it among the world's largest sovereign wealth fund.⁷⁹ In December 2021, it was worth about \$250,000 per Norwegian citizen.⁸¹ It also holds portfolios of real estate and fixed-income investments. Many companies are excluded by the fund on ethical grounds.

⁷⁸ SWFI. "Norway Government Pension Fund Global (Norway GPF) - Sovereign Wealth Fund, Norway." Retrieved 23/06/2023. Available at: <https://www.swfinstitute.org>

⁷⁹ The Economist. "Norway's sovereign-wealth fund passes the \$1trn mark." 21 September 2017.

⁸⁰ Hanna Ghaderi, Martin Hagh Høgseth, and Kjetil Malkenes Hovland. "Milepæl: Oljefondet passerer 10.000 milliarder kroner." e24.no (in Norwegian), 25 October 2019. Archived from the original on 25 October 2019. Accessed 23/06/2023.

⁸¹ NBIM. "Home page." nbim.no. Accessed 23/06/2023..

This sovereign wealth fund is invested entirely in assets abroad, ensuring long-term preservation and responsible management of the country's resource wealth.

The Norwegian government has maintained a surplus in its central government budget since 1995. The Norwegian Government Petroleum Fund was formally established in 1990 when the Norwegian parliament adopted the Act on the Government Petroleum Fund (Act of June 22, 1990, No. 36).⁸²

The petroleum fund was as a fiscal management tool to ensure transparency in the use of petroleum revenues. When the Fund was established it was therefore emphasized that the accumulation of assets in the Petroleum Fund should reflect actual budget surpluses⁸³ This prudent fiscal policy helps to safeguard the country's financial position and supports stable economic growth.

Norway demonstrated resilience during the global financial crisis by implementing measures to stimulate the domestic economy and ensure financial stability. These actions included interest rate cuts and expansionary fiscal budgets, which helped the country rebound and maintain low unemployment rates.

The European Union (EU) remains Norway's most significant trading partner, accounting for a substantial portion of its merchandise exports and imports.

As a member state of the European Economic Area, Norway fully applies the whole EU *acquis communautaire* relevant to the four freedoms (free movement of goods, persons, services and capital), along with that pertinent to flanking policies (i.e. transport, competition, social policy, consumer protection, environment, statistics and company law).

As a result, the EEA agreement provides for a high degree of economic integration, common competition rules, rules for state aid and government procurement.⁸⁴

However, Norway has also been diversifying its trade relationships, particularly with Asian countries, benefiting from improved terms of trade for its energy exports. Norway is currently negotiation free trade agreements with the People's Republic of China, India, Malaysia, Moldova, Mercosur, and Vietnam.⁸⁵

Norway supports a strong multilateral trading system and actively participates in trade policy negotiations. It aligns its trade regulations with EU rules, particularly in areas such as

⁸² Skancke, Martin. "Fiscal Policy and Petroleum Fund Management in Norway." eLibrary IMF. Accessed 23/06/2023.

⁸³ *ibid*

⁸⁴ European Commission. "EU Trade Policy." European Union. Accessed 23 June 2023. [URL: <https://policy.trade.ec.europa.eu/e5u-tr>] Accessed 23/06/2023

⁸⁵ U.S. Department of Commerce. "Norway - Trade Agreements." Trade.gov. <https://www.trade.gov/country-commercial-guides/norway-trade-agreements> Accessed 23 June 2023

customs, technical barriers to trade, services, competition policy, and government procurement.

Norway's legal framework emphasizes transparency and accountability in its resource governance practices. It discloses relevant information on its resource management, including revenue flows, contracts, and environmental impact assessments, to ensure responsible and sustainable resource extraction.

The Petroleum Fund law states that the Ministry of Finance is responsible for the management of the Petroleum Fund. When setting up the system for management of the fund, there were three major requirements to be met. One of which is Transparency.

Martin stated thus:

“If there is a need to build a consensus around saving over 100 percent of GDP in financial assets, policymakers should be prepared to tell the public exactly how they are going to invest the money, and what the returns on the investments are. As the formal owner of the fund, the Ministry is responsible for defining the long-term investment strategy. This includes the strategic choices made in the management of the Fund regarding currency and country distribution and the distribution between asset classes and between securities in different market segments”.⁸⁶

The statement by Martin highlights the importance of transparency and accountability in managing the significant financial assets of the fund. It emphasizes the need for policymakers to communicate to the public the investment strategy and expected returns on the investments. The Ministry is responsible for defining the long-term investment strategy, which involves making strategic choices regarding currency and country distribution, as well as asset class and market segment allocation. The incident underscores the significance of ensuring that the management of the fund aligns with the overall goals and objectives, while also considering factors such as risk and diversification.

Norway places a strong emphasis on environmental sustainability in resource governance. It implements strict regulations to mitigate the environmental impact of resource extraction activities and promotes sustainable practices in the industry.

Norway and its Nordic neighbours are considered world leaders in the use of renewable energy, green technologies, and sustainable resource handling. Norway has accepted,

⁸⁶ Ibid

matched, or exceeded international commitments to reduce emissions (including from carbon dioxide, sulphur, and NOX).⁸⁷

The Accounting Act requires Norwegian public companies and other large companies to publish annual reports on ESG factors, health, safety and the working environment as well as corporate social responsibility. The statute is in line with the current EU Directive on the disclosure of non-financial information (Directive 2014/95/EU). The non-financial part of the report may be incorporated in the annual report, or presented as a separate, publicly available document referenced in the annual report.

The Transparency Act entered into force in July 2022 and aims to promote enterprises' respect for fundamental human rights and decent working conditions and ensure that the general public have access to information regarding how enterprises address adverse impacts on fundamental human rights and decent working conditions. The Transparency Act is based on the United Nations Guiding Principles on Business and Human Rights and Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises. The Act applies to large companies that are domiciled in Norway and offer goods and services in or outside Norway, as well as larger foreign companies that offer goods and services in Norway and that are liable to pay tax to Norway pursuant to internal Norwegian legislation.⁸⁸

Norway maintains a considerable level of state ownership in key industries, including the petroleum sector. The government believes that state ownership can contribute positively to industrial development. While privatizations have slowed in recent years, individual stakes may be divested when it benefits the profitability and growth of enterprises.

Norway adheres to international trade rules and agreements, including the Agreement on the European Economic Area (EEA). It aligns its trade regulations with the evolving EU acquis communautaire, ensuring equal conditions of competition and non-discrimination.

AUSTRALIA

Australia has a diverse resource governance framework that encompasses various sectors, including mining, oil and gas, and renewable energy.⁸⁹ The regulatory framework is primarily governed by federal and state legislation, such as the Offshore Petroleum and Greenhouse

⁸⁷ U.S. Department of Commerce. "Norway - Green Technologies." Trade.gov. <https://www.trade.gov/country-commercial-guides/norway-green-technologies>

⁸⁸ ICLG. "Environmental, Social & Governance Law Norway 2023." ICLG.com: <https://iclg.com/practice-areas/environmental-social-and-governance-law/norway> . Accessed 23/ 06/ 2023

⁸⁹ International Energy Agency (IEA). Australia 2023 Energy Policy Review. Available at: <https://iea.blob.core.windows.net/assets/02a7a120-564b-4057-ac6d-cf21587a30d9/Australia2023EnergyPolicyReview.pdf> Accessed 23/06/2023

Gas Storage Act⁹⁰ and the Minerals Resource Rent Tax Act.⁹¹ Australia's resource governance approach prioritizes resource development while upholding environmental protection and community engagement.

Australia has a well-established legal framework for resource governance, which encompasses various aspects of resource extraction, management, and environmental protection. Its legal framework encompasses some characteristics one of which is that; The Australian Constitution and Petroleum Act grants powers to both the federal and state governments regarding resource governance.⁹² The division of responsibilities between the two levels of government influences the regulatory framework for resource extraction and management.

In Australia, all six states and the Northern Territory have their own legislative power to govern onshore petroleum exploration and production activities within their boundaries. State legislation also regulates activities within coastal waters extending up to three nautical miles from the coastal baseline.⁹³

In Australia, the ownership of mineral and petroleum resources typically rests with the state or territory governments.⁹⁴ Private companies or individuals can obtain rights to explore and extract these resources through licenses or leases granted by the government.

This means that the government has the legal authority to grant exploration and mining rights to companies or individuals for the extraction and development of these resources. The ownership and control of resources vary between states and territories, and they have their own legislative frameworks governing resource ownership and management. The government's role is to regulate and manage the exploration, extraction, and utilization of these resources in a manner that balances economic development with environmental and social considerations. The legal framework ensures that resource extraction activities adhere to environmental regulations, promote sustainable development, and provide fair compensation to landowners and indigenous communities. Additionally, revenue generated from resource extraction is often shared between the government and relevant stakeholders, contributing to economic growth and social welfare.

⁹⁰ Offshore Petroleum and Greenhouse Gas Storage Act 2010

⁹¹ Minerals Resource Rent Tax Act 2012

⁹² Petroleum and Gas (Production and Safety) Act 2004

⁹³ Allnutt, Liz. "Australia: Rules and regulation of the oil and gas industry: navigating the governance maze." Mondaq.: <https://www.mondaq.com/australia/oil-gas--electricity/434234/rules-and-regulation-of-the-oil-and-gas-industry-navigating-the-governance-maze> Accessed 23/06/2023

⁹⁴ Petroleum and Gas (Production and Safety) Act 2004 s26

The exploration and extraction of mineral and petroleum resources in Australia require licenses and permits. These permits define the rights, obligations, and conditions for resource activities, including exploration, development, and production.⁹⁵

Australia has robust environmental regulations that govern resource extraction activities to ensure sustainable practices and minimize environmental impact. Environmental impact assessments, rehabilitation plans, and monitoring requirements are essential components of the regulatory framework.

Australia has recognized the land rights of Indigenous peoples, and the legal framework incorporates provisions for consultation and negotiation with Indigenous communities regarding resource projects that may impact their land and cultural heritage.

Resource extraction in Australia is subject to the payment of royalties, which are financial contributions made by resource companies to the government based on the value or volume of resources extracted. Additionally, the fiscal regime includes taxation arrangements specific to the resource sector.

Several regulatory agencies at the federal and state levels oversee resource governance in Australia. These agencies are responsible for granting licenses, monitoring compliance, enforcing regulations, and ensuring the sustainable and responsible management of resources.

Australia's legal framework encourages stakeholder engagement and public consultation throughout the resource governance process. This includes engaging with local communities, landholders, environmental groups, and industry stakeholders to address concerns, gather input, and ensure transparency.

Australia has mechanisms in place to enforce compliance with resource governance regulations. Regulatory authorities conduct inspections, audits, and investigations to monitor compliance with environmental standards, licensing conditions, and other regulatory requirements.

Australia is a signatory to various international agreements and commitments related to resource governance and environmental protection. These agreements influence Australia's legal framework and its approach to resource management in line with international best practices.

Overall, Australia's legal framework for resource governance emphasizes sustainable practices, environmental protection, stakeholder engagement, and compliance with regulatory

⁹⁵ Petroleum Products Regulation Act 1995 Part 2 S8

requirements. It aims to balance resource development with environmental conservation and the interests of Indigenous communities and other stakeholders.

The United States

The United States employs a decentralized resource governance framework, where federal, state, and tribal governments play significant roles. The legal framework comprises various laws and regulations, including the Mineral Leasing Act, the Clean Water Act, and the National Environmental Policy Act. Resource governance practices in the US vary across states, reflecting the diverse resource landscapes and regulatory approaches. The government ensures responsible resource development through permitting processes, environmental assessments, and revenue-sharing mechanisms.

The United States has a comprehensive resource governance framework that encompasses various sectors, including energy, minerals, water, and forests. The framework involves multiple federal and state agencies, as well as a combination of legislation, regulations, and administrative processes.

In the United States, the federal government plays a significant role in resource governance. Different agencies oversee specific resources, such as the Department of the Interior, which manages federal lands and resources, including oil, gas, and minerals. The Environmental Protection Agency (EPA)⁹⁶⁹⁷ is responsible for environmental regulations, while the Department of Energy focuses on energy-related policies and initiatives.⁹⁸

At the state level, individual states have authority over certain resources within their borders. This includes managing state-owned lands and resources and regulating resource exploration, extraction, and development activities. State agencies often collaborate with federal agencies to ensure effective resource management.

The legal framework for resource governance in the United States includes various laws and acts. For example, the Mineral Leasing Act governs the leasing and development of mineral resources on federal lands, while the Clean Air Act and Clean Water Act provide regulations for environmental protection in resource extraction activities. Other legislation, such as the National Environmental Policy Act (NEPA), requires environmental impact assessments for major projects.

Public participation and stakeholder engagement are key elements of the resource governance framework in the United States. The government provides opportunities for

⁹⁶ United States Environmental Protection Agency. [<https://www.epa.gov/>] Accessed 23/06/2023

⁹⁷ S 5 FEDERAL ENVIRONMENTAL PROTECTION AGENCY ACT

⁹⁸ Ibid

public input during decision-making processes, conducts public hearings, and seeks feedback from affected communities and indigenous groups. This ensures transparency and inclusivity in resource management decisions.

Overall, the resource governance framework in the United States aims to ensure responsible resource development, environmental protection, and equitable distribution of benefits. It combines federal and state authorities, legal frameworks, and public engagement to promote sustainable resource management practices across various sectors.

CANADA

Canada is known for its well-established resource governance framework, which balances economic development with environmental protection and Indigenous rights. The legal framework includes federal laws, provincial regulations, and Indigenous land rights agreements. Key legislation, such as the Canadian Environmental Assessment Act and the Mining Act, governs resource exploration, extraction, and environmental management. Canada's resource governance model emphasizes stakeholder consultation, sustainable practices, and revenue-sharing arrangements with Indigenous communities.

Canada has a robust resource governance framework that encompasses a wide range of sectors, including energy, minerals, forestry, and water resources. The governance of these resources involves federal, provincial, and territorial governments, as well as Indigenous communities.

In Canada, the federal government plays a significant role in resource governance, particularly in areas such as natural resources extraction and export. Federal departments and agencies, such as Natural Resources Canada, Environment and Climate Change Canada, and the Canadian Environmental Assessment Agency, are responsible for developing policies, regulations, and oversight mechanisms related to resource management and environmental protection.

Provincial and territorial governments also have significant authority over resource governance within their respective jurisdictions. They regulate resource development activities, issue permits and licenses, and manage land and water resources. Each province and territory may have its own specific legislation and regulatory frameworks to govern resource extraction and environmental protection.

Indigenous communities in Canada have constitutionally protected rights and play an important role in resource governance. Through consultation and engagement processes, the government seeks to accommodate Indigenous interests and involve them in decision-making processes related to resource development on traditional lands.

Canada's resource governance framework is supported by various laws and acts at both the federal and provincial levels. For instance, the Canadian Environmental Assessment Act ensures that environmental impacts of major projects are evaluated and mitigated. The Fisheries Act protects fish habitats and ensures sustainable resource management, while the Mining Act regulates mineral exploration and extraction.

The country also emphasizes sustainable development and responsible resource extraction practices. This includes measures to minimize environmental impacts, promote Indigenous participation and benefit sharing, and support the transition to a low-carbon economy. Canada has implemented initiatives such as the Impact Assessment Act, the Pan-Canadian Framework on Clean Growth and Climate Change, and the Indigenous Resource Development Initiative to advance sustainable resource governance.

Canada's resource governance framework is characterized by a multi-level governance approach that involves federal, provincial, territorial, and Indigenous authorities. The framework aims to promote responsible resource development, environmental sustainability, and meaningful engagement with stakeholders for the benefit of present and future generations.

4.3 Analysis of Key Provisions

Nigeria:

Nigeria's legal framework for resource governance includes the Nigerian Minerals and Mining Act, the Petroleum Act, and the Nigerian Oil and Gas Industry Content Development Act.

Key provisions in Nigeria framework include

Establishment Regulatory Bodies: Nigeria has established regulatory bodies such as the Ministry of Mines and Steel Development and the Department of Petroleum Resources to oversee resource extraction activities and enforce regulations.⁹⁹

Licensing and Permit Requirements: The legal framework outlines the process for obtaining licenses and permits for mining and petroleum operations, including exploration and production rights.¹⁰⁰

⁹⁹ Chapter 1 Petroleum Industry Act, Section 3-64 of the Act

¹⁰⁰ Section 111 Petroleum Industry Act 2021 “the authority may grant, renew, modify or extend individual licences or permits”

Revenue Sharing Arrangements: Nigeria has revenue sharing mechanisms in place to ensure that the benefits from resource extraction are distributed among various stakeholders, including the federal government, state governments, and local communities.

Environmental Protection Measures: The framework includes provisions for environmental impact assessments, reclamation, and remediation of land affected by mining and petroleum activities to mitigate environmental damage.¹⁰¹

Local Content Requirements: Nigeria has enacted laws to promote the participation of local companies and workers in the resource sector, encouraging the transfer of technology, skills development, and job creation within the country.

Norway:

Norway's resource governance framework is primarily governed by the Petroleum Act and the Minerals Act.

Key provisions in Norway's framework include

Establishment of the Norwegian Petroleum Directorate: The Norwegian Petroleum Directorate regulates and manages petroleum activities, including exploration, production, and field development.

Production Licenses: The legal framework outlines the process for granting production licenses to companies interested in extracting petroleum resources, ensuring a fair and transparent allocation of licenses.

Taxation and Revenue Sharing Mechanisms: Norway has a comprehensive tax regime for the petroleum industry, including corporate income tax, resource rent tax, and royalties. The framework also specifies how revenues from petroleum activities are shared between the state and other stakeholders.

Environmental Regulations: Norway has stringent environmental regulations to minimize the impact of petroleum activities on the environment, including measures for spill prevention, waste management, and decommissioning of facilities.

State's Direct Financial Interest (SDFI): The state has a mandatory participation in petroleum activities through the SDFI, which allows the government to own shares in oil and gas fields and benefit from the revenues generated.

¹⁰¹ Flare Gas (Prevention of Waste and Pollution) Regulation 2018.

Australia:

Australia's legal framework for resource governance includes various federal and state laws, such as the Offshore Petroleum and Greenhouse Gas Storage Act, the Minerals Resource Rent Tax Act, and the Native Title Act.

Key provisions in Australia's framework include

Licensing and Leasing Arrangements: The legal framework outlines the process for obtaining licenses and leases for resource extraction, including requirements for competitive bidding and compliance with environmental and social obligations.

Environmental Impact Assessment Processes: Australia has robust environmental impact assessment processes to evaluate the potential environmental effects of resource projects and ensure appropriate mitigation measures are in place.

Native Title Rights and Land Access Agreements: The framework recognizes and protects the rights of Indigenous communities, including their native title rights, and requires companies to engage in meaningful consultation and negotiate land access agreements.

Revenue Sharing Mechanisms: Australia has revenue sharing arrangements between the federal government and state/territory governments to distribute the financial benefits from resource extraction.

Regulatory Oversight: Federal and state agencies, such as the Department of Industry, Science, Energy, and Resources, and state mining departments, are responsible for regulatory oversight, monitoring compliance, and enforcing regulations in the resource sector.

United States:

The resource governance framework in the United States is governed by various federal laws, including the Mineral Leasing Act, the Federal Land Policy and Management Act, and the National Environmental Policy Act.

Key provisions in the U.S. framework include

Leasing of Federal Lands and Waters: The legal framework allows for the leasing of federal lands and waters for resource extraction, such as oil, gas, and minerals, through competitive bidding or lease sales.

Revenue Sharing: The framework specifies the sharing of revenues generated from resource extraction between the federal government and state governments, ensuring that both levels of government benefit from resource development.

Environmental Impact Assessments: Resource projects in the United States undergo environmental impact assessments to evaluate potential environmental and social impacts, involving public participation and consideration of alternatives.

Regulatory Oversight: Regulatory agencies like the Bureau of Land Management and the Environmental Protection Agency oversee resource extraction activities, ensuring compliance with environmental regulations, health and safety standards, and other legal requirements.

Canada:

Canada's resource governance framework involves federal, provincial, and territorial laws, including the Canadian Environmental Assessment Act, the Mining Act, and the Indian Oil and Gas Act.

Key provisions in Canada's framework include

Indigenous Consultation and Accommodation: The legal framework emphasizes the need for meaningful consultation and accommodation of Indigenous communities when resource projects may affect their rights or traditional lands, aiming to address their concerns and protect their interests.

Licensing and Permitting Processes: Canada has a comprehensive system for issuing licenses and permits for resource extraction, including requirements for environmental assessments, community engagement, and adherence to regulatory standards.

Revenue Sharing Arrangements: The framework outlines revenue sharing mechanisms between the federal government, provincial/territorial governments, and Indigenous communities, ensuring that benefits from resource extraction are distributed equitably.

Environmental Impact Assessments: Resource projects undergo environmental impact assessments at the federal and provincial levels, considering potential environmental, social, and economic effects and proposing mitigation measures.

Regulatory Oversight: Federal and provincial regulatory agencies, such as the Canadian Environmental Assessment Agency and provincial ministries responsible for natural resources, enforce regulations, monitor compliance, and ensure responsible resource development.

4.4 Best Practices in Resource Governance

From the selected jurisdictions, some effective exemplary practices can be highlighted in their legal frameworks that have led to the success of their oil and gas industry. These practices are highlighted thus:

Norway's legal framework contains some exemplary provisions and has proven to be effective in resource governance.

Norway's legal framework gives room for Stewardship of Petroleum Wealth; Norway's establishment of the Government Pension Fund Global, also known as the Oil Fund, has been a remarkable provision. It has effectively managed and invested petroleum revenues for the benefit of current and future generations.

Furthermore, Norway's transparent disclosure of petroleum revenues, contracts, and government expenditures sets a high standard for accountability and reduces the risk of corruption in the resource sector.

Norway also focuses on Long-Term Perspective: Norway's focus on long-term resource management, including stringent environmental regulations and a strong commitment to sustainable practices, ensures the preservation of natural resources and their benefits for future generations.

Some exemplary practices can also be highlighted in the Legal framework of Canada one of which is- Indigenous Consultation and Accommodation; Canada's emphasis on meaningful consultation and accommodation of Indigenous communities has improved relationships and facilitated consent-based decision-making processes, respecting Indigenous rights and fostering a more inclusive and equitable resource governance framework.

Additionally, Canada's revenue sharing arrangements with Indigenous communities ensure that they receive a fair share of the benefits from resource extraction, promoting economic development and addressing historical injustices. Finally, Canada's robust environmental assessment processes, including the consideration of cumulative impacts and the establishment of monitoring programs, contribute to sustainable resource development and environmental protection.

In Australia, one exemplary provision would be the Native Title Rights and Land Access Agreements; Australia's recognition and protection of Indigenous native title rights, combined with the requirement for meaningful engagement and negotiation of land access agreements, have led to improved relationships with Indigenous communities and a more inclusive approach to resource governance.

Also, Australia's competitive bidding process for resource licenses promotes fair market competition and transparency, ensuring that licenses are allocated to the most capable and responsible operators.

Australia also has a Robust Environmental Regulation. Australia's stringent environmental regulations, including thorough impact assessments and the implementation of mitigation measures, enhance environmental protection and minimize the adverse effects of resource extraction.

The success of the mentioned practices in resource governance can be attributed to several key factors:

- Each jurisdiction has established a robust legal framework that governs resource extraction and management. Clear laws and regulations provide a solid foundation for effective governance and guide decision-making processes.
- The inclusion of various stakeholders, including Indigenous communities, local communities, industry representatives, and environmental groups, in decision-making processes is crucial. Meaningful engagement fosters trust, promotes transparency, and allows for the incorporation of diverse perspectives into resource governance.
- Transparency in disclosing information related to resource revenues, contracts, and government expenditures builds trust and enables effective oversight. Accountability mechanisms ensure that responsible parties are held liable for their actions, reducing the risk of corruption and mismanagement.
- A focus on sustainable practices, such as environmental protection, responsible resource extraction, and long-term planning, ensures the preservation of natural resources and their benefits for future generations. Sustainability considerations contribute to social, economic, and environmental well-being.
- Recognizing and respecting the rights of Indigenous communities, including land rights and self-determination, is essential for inclusive resource governance. Meaningful consultation, accommodation, and revenue-sharing arrangements with Indigenous communities contribute to equitable outcomes and address historical injustices.
- Successful resource governance often involves collaboration among government entities, industry players, communities, and other stakeholders. Collaborative approaches allow for the sharing of knowledge, expertise, and resources, leading to better decision-making and outcomes.
- Resource governance frameworks that incorporate adaptive management approaches allow for continuous monitoring, evaluation, and adaptation based on new information and changing circumstances. This flexibility ensures that governance practices remain effective and responsive to evolving challenges and opportunities.

These factors collectively contribute to the success of the identified practices in resource governance. By incorporating these practices into their respective resource governance frameworks, these countries strive for improved outcomes in their oil and gas sector.

4.5 Challenges in Resource Governance

While the provided jurisdictions have made significant progress in resource governance, they also face common challenges that can impede effective management. Some of the key challenges include:

1. **Environmental Impact:** Resource extraction activities can have severe environmental consequences, such as deforestation, water pollution, and habitat destruction. These activities often disrupt fragile ecosystems and contribute to climate change. Overcoming this challenge requires robust environmental regulations, monitoring mechanisms, and enforcement measures to minimize the ecological footprint of resource extraction and promote sustainable practices. Additionally, investing in research and development of cleaner technologies can help mitigate the environmental impact of resource extraction.

2. **Indigenous and Community Rights:** Resource extraction projects frequently encroach upon the traditional lands and territories of Indigenous peoples and local communities. This can result in the loss of livelihoods, cultural heritage, and social cohesion. Recognizing and respecting the rights of Indigenous peoples and local communities, including their right to Free, Prior, and Informed Consent (FPIC), is crucial. Implementing inclusive governance models that involve Indigenous representatives in decision-making processes and ensuring equitable benefit-sharing are important steps toward addressing this challenge.

3. **Revenue Management and Transparency:** Managing resource revenues effectively and transparently is essential to avoid corruption, embezzlement, and the mismanagement of funds. Transparent revenue management systems help build public trust and ensure that resource wealth benefits the broader population. Establishing robust financial management frameworks, including clear rules for revenue collection, expenditure, and sovereign wealth funds, promotes accountability and reduces the risk of resource-related corruption. Emphasizing transparency in revenue flows, contract negotiations, and public disclosure of payments from resource companies is also crucial.

4. **Governance Capacity and Institutional Coordination:** Effective resource governance requires capable institutions with specialized expertise in resource management, regulation, and oversight. Building governance capacity and ensuring coordination among different government agencies can be a significant challenge. It involves investing in human resources, training programs, and technical expertise to enhance the skills of government officials responsible for resource governance. Strengthening institutional coordination mechanisms, such as interagency collaborations and information-sharing platforms, helps streamline decision-making processes and avoid duplication of efforts.

5. **Regulatory Complexity and Fragmentation:** Resource governance frameworks often involve complex and overlapping regulations, permits, and licensing processes. This complexity can create inefficiencies, delays, and confusion for both industry and regulators. Simplifying regulatory frameworks, reducing bureaucracy, and harmonizing procedures can improve the ease of doing business and facilitate compliance. Clear guidelines and standardized procedures for obtaining permits and licenses, coupled with effective monitoring and evaluation mechanisms, help ensure compliance with environmental and social standards.

6. **Social and Economic Impacts:** Resource extraction activities can bring both positive and negative social and economic impacts to local communities. While these activities can generate employment opportunities and stimulate economic growth, they can also lead to social inequalities, land displacement, and economic dependency. Managing these impacts requires proactive measures, such as local content policies, community development programs, and sustainable livelihood initiatives. Additionally, conducting thorough social impact assessments, engaging with affected communities, and ensuring meaningful participation in decision-making processes are vital to address the social challenges associated with resource governance.

7. **Balancing Interests:** Resource governance involves navigating the diverse and often conflicting interests of various stakeholders, including industry, environmental groups, Indigenous communities, and local populations. Balancing these interests requires effective negotiation, conflict resolution, and consensus-building mechanisms. Promoting multi-stakeholder dialogues, facilitating open and transparent communication channels, and fostering trust among stakeholders are essential to finding common ground and achieving sustainable resource governance outcomes.

CHAPTER FIVE

CONCLUSION

This chapter presents the recommendations derived from the comparative analysis of resource governance in Nigeria and other jurisdictions, along with a comprehensive conclusion that synthesizes the key findings of the study. Drawing upon the insights gained from the literature review and empirical analysis, this chapter offers actionable recommendations to enhance Nigeria's petroleum ownership practices based on the best practices observed in other jurisdictions.

5.1 Recommendations

The following are some recommendations that emerge from the analysis and findings of this study. These recommendations aim to improve Nigeria's petroleum ownership and governance, drawing on best practices from other jurisdictions and addressing the challenges identified earlier.

1. **Strengthen Local Participation and Benefit-Sharing:** Establish mechanisms to ensure meaningful participation of local communities and stakeholders in decision-making processes related to petroleum ownership and revenue management. Create a transparent and inclusive framework for revenue sharing, where a portion of petroleum revenues is allocated directly to the affected communities. Learn from Norway's model of incorporating local communities in decision-making through regional councils and resource revenue allocation to foster a sense of ownership and community development.
2. **Enhance Transparency and Accountability:** Implement robust transparency measures to prevent corruption and promote accountable governance in the petroleum sector. Establish an independent regulatory authority tasked with overseeing petroleum operations, revenue collection, and allocation. Adopt practices similar to Norway's, such as public disclosure of contracts, revenue flows, and financial transactions, as well as the establishment of an anti-corruption commission to ensure the integrity of the sector.
3. **Promote Sustainable Resource Management:** Prioritize sustainable practices in petroleum extraction, production, and environmental protection. Develop and enforce stringent environmental regulations to minimize the ecological impact of petroleum activities, drawing inspiration from Canada's regulatory approach. Conduct regular environmental impact assessments, and invest in research and innovation to adopt cleaner technologies and sustainable practices.

4. **Develop Local Capacity and Expertise:** Invest in education and skills development to build a qualified local workforce capable of effectively managing petroleum resources. Establish specialized training programs, research institutions, and partnerships with universities to nurture technical expertise and leadership within the petroleum industry. Emulate Norway's commitment to human capital development, which has played a vital role in its successful resource management.
5. **Foster Collaboration and Dialogue:** Create platforms for open dialogue and collaboration among all stakeholders involved in petroleum ownership and governance. Establish multi-stakeholder committees to facilitate constructive discussions, conflict resolution, and consensus-building. Learn from Canada's practice of involving indigenous communities in decision-making processes and recognize the unique perspectives and knowledge they bring to resource management.
6. **Diversify the Economy:** Reduce overreliance on petroleum by diversifying the economy into non-oil sectors. Invest in strategic sectors such as renewable energy, agriculture, manufacturing, and tourism to create a resilient and sustainable economy. Australia's experience demonstrates the value of economic diversification in reducing vulnerability to commodity price fluctuations.
7. **Strengthen Legal and Regulatory Frameworks:** Review and strengthen the legal and regulatory frameworks governing petroleum ownership, operations, and revenue management. Develop comprehensive legislation that addresses licensing, environmental protection, revenue sharing, and dispute resolution. Establish an independent regulatory body akin to the United States' Bureau of Ocean Energy Management to ensure adherence to best practices and international standards.
8. **Prioritize Long-Term Planning:** Develop long-term strategic plans for petroleum resource management that align with broader national development goals. Engage in scenario planning and risk assessments to prepare for uncertainties in the global energy landscape. Emulate Norway's approach, which involves setting clear objectives and guidelines for resource management while accounting for intergenerational equity.
9. **Engage in International Cooperation:** Actively participate in international forums and initiatives focused on resource governance and sustainable development. Join organizations like the Extractive Industries Transparency Initiative (EITI) to promote transparency and accountability in the petroleum sector. Collaborate with other resource-rich countries to share knowledge, experiences, and best practices for effective resource governance.

10. Continuous Evaluation and Improvement: Establish a system of regular monitoring and evaluation to assess the effectiveness of petroleum ownership policies and practices. Encourage learning and adaptation based on feedback and performance indicators. Emulate Norway's culture of continuous improvement, where periodic assessments inform policy adjustments and ensure successful resource management.

By adopting and implementing these elaborate recommendations, Nigeria can enhance its petroleum ownership practices, promote sustainable development, and achieve equitable benefits for its citizens while learning from the experiences of other jurisdictions that have successfully managed their petroleum resources.

5.2 Conclusion

This comparative analysis of resource governance in Nigeria and other jurisdictions underscores the critical importance of effective petroleum ownership practices for Nigeria's sustainable development, economic prosperity, and equitable distribution of benefits. The examination of resource governance frameworks in Nigeria, Norway, Australia, the United States, and Canada has shed light on key characteristics, challenges, best practices, and exemplary provisions that can inform Nigeria's path towards successful petroleum ownership.

Nigeria, as a resource-rich country, faces significant challenges in managing its petroleum sector. The literature review has revealed several key issues with Nigeria's current resource ownership and governance regime. These include the centralization of power and decision-making, the marginalization of oil-producing communities, environmental degradation, revenue mismanagement, corruption, and lack of transparency and accountability. These challenges have hindered the optimal utilization of petroleum resources and undermined the potential for sustainable development and broad-based socio-economic progress.

However, valuable lessons can be learned from the experiences of other jurisdictions that have effectively addressed similar challenges and implemented robust resource governance frameworks. Norway, in particular, stands out as a prime example of successful resource management. Norway's approach, characterized by strong institutional frameworks, stakeholder participation, long-term planning, transparency, and accountability, has resulted in sustainable development, wealth creation, and intergenerational equity. Nigeria can draw inspiration from Norway's model and adapt its best practices to suit its unique context.

Implementing these recommendations will require sustained political will, institutional reforms, capacity building, and the active engagement of all stakeholders. Nigeria must strive for a balanced approach that addresses the economic, social, and environmental dimensions of resource governance. By doing so, Nigeria can unlock the full potential of its petroleum resources, promote inclusive and sustainable development, and secure a prosperous future for its citizens.

In conclusion, the successful ownership and governance of Nigeria's petroleum resources will require a comprehensive and integrated approach that draws on international best practices, adapts them to the Nigerian context, and addresses the specific challenges faced by the country. With a concerted effort to implement the recommendations outlined in this study, Nigeria can navigate the complexities of resource governance, overcome the existing challenges, and pave the way for a more equitable, sustainable, and prosperous future.

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