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A Critical Assessment of Nigeria's Legal and Institutional Framework for Ocean and Coastal Governance

Asemebo, Fortune Amina Iminabo

Abstract

Nigeria possessed extensive maritime endowments, including an 850-kilometre coastline and an Exclusive Economic Zone of over 200 nautical miles, holding an untapped blue economy potential estimated at 296 billion USD. However, the sustainable exploitation of these marine and coastal resources was severely hindered by a fragmented, multicephalous, and reactive legal and institutional framework. This article critically examined the jurisprudential architecture underpinning Nigeria's ocean and coastal governance, identifying core structural vulnerabilities, including intense federal-state jurisdictional conflicts over navigable waters and coastal land-use, overlapping statutory mandates among regulatory agencies, administrative enforcement crises over environmental compliance, and barriers to liability in transnational environmental litigation. Through a doctrinal analysis of constitutional provisions, primary legislation, and recent landmark judicial decisions, this article exposed how the balkanised regulatory landscape frustrated effective marine conservation and sustainable maritime trade. This study incorporated comparative legal perspectives from developed and developing ocean states, namely Norway, Singapore, Brazil, and South Africa, to extract strategic policy lessons for Nigeria. It revealed how centralised ocean governance, environmental criminalisation, mandatory civil liability insurance, and comprehensive domestication of multilateral environmental agreements could resolve domestic regulatory blockages. Ultimately, the article argued for a paradigm shift from sectoral balkanisation to a centralised, integrated ocean management model, operationalised through Marine Spatial Planning and the establishment of a unified National Ocean Governance Commission under the newly created Federal Ministry of Marine and Blue Economy.

Keywords: Ocean Governance, Regulatory Fragmentation, Constitutional Federalism, Blue Economy, Environmental Liability, Marine Spatial Planning.

1 Introduction

Oceans and coastal ecosystems serve as the thermodynamic and economic lifelines of global human systems, regulating global climate patterns, sustaining marine biodiversity, and facilitating over 90 per cent of international trade.¹ In Africa, the sustainable development of ocean resources is projected to generate nearly 50 million jobs,² with Nigeria occupying a pre-eminent position as a leading maritime nation on the West African Atlantic coast. Nigeria's ocean territory encompasses an 187,145 square-kilometre Exclusive Economic Zone (EEZ) extending up to 200 nautical miles,³ with an untapped blue economy resource base valued at over 296 billion USD.³ More than 90 per cent of Nigeria's foreign exchange and trade is conducted via the ocean,⁴ and the coastal ecosystem, most notably the Niger Delta, which represents the third-largest mangrove forest in the world,⁶ provides essential proteins and livelihoods to millions of citizens.⁵ Despite these immense oceanic endowments, the governance of Nigeria's coastal and marine spaces is crippled by a fragmented, incoherent, and archaic legal and institutional architecture. The statutory framework consists of an overlapping and sometimes conflicting litany of legislation, while the institutional terrain is populated by multiple government departments and agencies operating in silos. This sectoral balkanisation has led to regulatory duplicity, administrative inertia, and intense jurisdictional conflicts between the federal government and coastal states over rates of utilisation, land reclamation, and waterfront land-use. Furthermore, the enforcement of environmental standards remains weak, as regulatory agencies are hampered by inadequate funding, technical

¹ Ibrahim Badamasi Adamu, *Strengthening maritime administration via blue economy in Nigeria* (World Maritime University MSc Dissertation, 2025) 2.

² *ibid.*, 2.

³

ibid., 2; see also Exclusive Economic Zone Act 1978 (Cap E17, LFN 2004).

³ Adamu (n 1) 7.

⁴ *ibid.*, 2.

⁶

CEHRD, *review of environmental legislations in nigeria* (CEHRD Report, 2021) 40.

⁵ Macaulay Akpan, 'Legal Framework for Sustainable Conservation of Fishery Resources in the Marine Environment of Nigeria' (2025) 13(1) *Brawijaya Law Journal* 51, 53.

capacity deficits, and persistent judicial challenges to their administrative sanctioning powers. Simultaneously, coastal and riverine communities suffer from systemic, historical oil pollution, coastal erosion, and fishery resource depletion, with their search for legal redress obstructed by strict procedural limitations and inequitable statutory provisions under recent hydrocarbon reforms. While existing legal literature has separately addressed maritime security, shipping regulation, or oil pollution in the Niger Delta, there is a distinct scholarly gap regarding how these distinct sectors intersect within the broader paradigm of integrated coastal and ocean governance. This article addresses this research gap by providing a comprehensive, critically analytical appraisal of the constitutional, statutory, and regulatory mechanisms governing Nigeria's marine environment. It argues that Nigeria's ocean and coastal governance framework is trapped in a triad of structural crises: a constitutional crisis of federalism, an institutional crisis of fragmented mandates, and an enforcement crisis of limited regulatory capacity and restricted environmental liability. To resolve these blockages, this article advances a central thesis: Nigeria must transition from its current sectoral, reactive, and fragmented maritime regime to a centralised, integrated ocean management model. This transition must be anchored on the operationalisation of Marine Spatial Planning (MSP) and the establishment of a unified National Ocean Governance Commission under the auspices of the newly created Federal Ministry of Marine and Blue Economy. Methodologically, this study adopts a normative, doctrinal, and comparative legal research design. It relies on primary legal sources, including the Constitution of the Federal Republic of Nigeria 1999 (as amended), domestic statutes, and landmark judicial decisions from Nigerian and transnational courts. These primary sources are synthesized with secondary legal materials, such as academic commentaries, reports of international development partners, and civil society audits. Structurally, the article proceeds through nine key parts. Following this introduction, Part II establishes the conceptual and theoretical framework of the study. Part III evaluates the constitutional architecture and jurisdictional clashing-points. Part IV examines the legislative landscape and institutional overlaps.

Part V dissects the barriers of liability and procedural litigation in transnational environmental disputes. Part VI appraises regional and international environmental treaty compliance. Part VII conducts a comparative analysis of global ocean states, drawing policy lessons for Nigeria. Part VIII outlines practical, actionable recommendations for legal and institutional reform, and Part IX provides the concluding remarks.

2 Conceptual and Theoretical Framework

2.1 The Sustainable Blue Economy Paradigm

The concept of the ‘blue economy’ emerged on the global stage at the 2012 Rio+20 United Nations Conference on Sustainable Development, representing a maritime extension of the green economy framework.⁶ While traditional ocean economics focused on resource extraction and maritime commerce with little regard for ecological limits, the blue economy paradigm emphasizes the sustainable use of ocean resources for economic growth, improved livelihoods, and jobs, while preserving the health and integrity of the marine ecosystem.⁷ Under this framework, economic activities relating to the oceans, seas, and coasts, including maritime shipping, offshore hydrocarbon exploration, artisanal and commercial fishing, marine biotechnology, and coastal tourism, must be balanced with environmental preservation and social equity.¹⁰ In the Nigerian context, the transition to a sustainable blue economy represents a critical pathway toward national economic diversification and a departure from the historical, absolute dependence on land-based and shallowwater oil and gas extraction.⁸ However, the realization of this paradigm requires a robust governance structure capable of managing the inherent tensions between economic growth

⁶ Adamu (n 1) 18.

⁷ *ibid*, 18.

¹⁰ S.C. Dike and Nheoma Eme Worugji, ‘Marine and Blue Economy Ministry, NIMASA, and the Blue Agenda’ (2025) 13(1) *Rivers State University Journal of Public Law* 251, 253.

⁸ *ibid*, 253.

and ecological preservation, aligning national policies with Sustainable Development Goal 14 (SDG 14), which mandates the conservation and sustainable use of the oceans, seas, and marine resources.⁹

2.2 Ecological Economics and Daly's Sustainable Development Theory

To critically evaluate Nigeria's ocean and coastal governance, this article employs the Sustainable Development Theory pioneered by ecological economist Herman Daly.¹⁰ Daly's theory posits that the economic subsystem is an open, growing part of a finite, closed, and non-growing global ecosystem.¹¹ Therefore, sustainable development requires that: (a) the rate of exploitation of renewable resources (such as fisheries and marine forests) must not exceed their natural regeneration rates; (b) the rate of waste emission and pollution must not exceed the assimilative capacity of the environment; and (c) the depletion of non-renewable resources (such as petroleum) must be coupled with active investment in renewable alternatives.¹² When applied to Nigeria's coastal territories, Daly's theory exposes a profound ecological imbalance. Decades of poorly regulated onshore and offshore oil and gas operations, rampant gas flaring, and uncontrolled effluent discharge in the Niger Delta have resulted in what scholars describe as an environmental 'ecocide',¹³ where waste emission has grossly overwhelmed the natural assimilative capacity of coastal wetlands and estuaries.¹⁴ The legal framework has failed to enforce these ecological limits, prioritizing immediate macroeconomic returns from petroleum extraction over long-term ecosystem integrity and community survival.¹⁵

⁹ Adamu (n 1) 2.

¹⁰ CEHRD (n 4) 22.

¹¹ *ibid*, 22.

¹² *ibid*, 22.

¹³ CEHRD (n 4) 21.

¹⁴ Akpan (n 5) 53.

¹⁵ CEHRD (n 4) 22.

2.3 Integrated Coastal Zone Management (ICZM) and Marine Spatial Planning (MSP)

The primary tool to operationalise sustainable development in marine spaces is Integrated Coastal Zone Management (ICZM), which seeks to coordinate the activities of all stakeholders, including government departments, private industries, and local coastal communities, to manage coastal resources in a sustainable and socially equitable manner.¹⁶ A core component of ICZM is Marine Spatial Planning (MSP), a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that have been specified through a political process.¹⁷ As multi-layered marine activities, such as maritime transport, offshore drilling, artisanal fishing, dredging, and marine conservation, increasingly overlap and collide in Nigeria's coastal waters, the absence of a comprehensive, legally binding MSP framework results in severe resource conflicts and accelerated environmental degradation.¹⁸ This theoretical gap underpins the fragmentation of Nigeria's marine governance, where separate statutory bodies license incompatible activities in the same spatial zones without coordinating their cumulative ecological impacts.¹⁹

3 Nigerian Constitutional Architecture and Jurisdictional Clashes

3.1 The Dualist Treaty Domestication Problem: Section 12

Nigeria operates a strict dualist model of international law, which isolates global treaty obligations from domestic judicial application until they undergo a domestic legislative transformation.²³ This dualist ideology is codified in Section 12(1) of the 1999 Constitution, which stipulates: “No treaty between the Federation and any other country shall have the force of law

¹⁶ CEHRD (n 4) 40.

¹⁷ Adamu (n 1) 24.

¹⁸ *ibid*, 24.

¹⁹ *ibid*, 24. ²³ Collins Iwuorie, 'Domestication and Status of Treaties in Nigeria: A Critique of Section 12 of the Constitution' (2025) 2(2) Nnamdi Azikiwe University Journal of Public Law 60, 61.

except to the extent to which any such treaty has been enacted into law by the National Assembly.”²⁰ The practical effect of this constitutional bar has been a chronic implementation gap in Nigeria’s international environmental obligations. While the executive arm possesses the sovereign prerogative to negotiate and ratify international conventions, the legislative arm must enact specific municipal statutes to domesticate them.²¹ Consequently, out of approximately forty international maritime, environmental, and labour conventions ratified by Nigeria, only nineteen have been domesticated into municipal law.²² For example, while Nigeria signed the Convention on Biological Diversity (CBD) at the 1992 Rio Earth Summit and subsequently ratified it in 1994, the National Assembly has failed to domesticate it through a comprehensive municipal act,²³ preventing domestic litigants from directly enforcing biodiversity conservation rights derived from the convention in Nigerian courts.²⁴ The status of domesticated treaties within the national hierarchy of laws was clarified by the Supreme Court of Nigeria in the landmark case of *Abacha v Fawehinmi*.²⁹ Ogundare JSC, delivering the lead judgment, held that while a domesticated treaty forms part of the municipal laws of Nigeria, it remains subordinate to the Constitution itself, which is the supreme fons et origo of the legal order under Section 1(3).²⁵ However, the Court also held that domesticated treaties possess an “international flavour,” which raises their status above ordinary municipal statutes, meaning that in the event of a conflict between a domesticated treaty and another ordinary domestic act, the provisions of the domesticated treaty shall prevail.²⁶ Conversely, where a treaty has not been domesticated, it lacks municipal force and cannot be invoked as a justiciable source of rights, as affirmed in *Registered Trustees of National Association*

²⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12(1).

²¹ Iwuorie (n 17) 63.

²² Adamu (n 1) 19.

²³ Gbemisola Olumuyiwa Fatokun, *An analysis of Nigeria’s domestic application of the Convention on Biological Diversity* (University of KwaZulu-Natal LLM Thesis, 2014) 2.

²⁴ *ibid*, 2.

²⁹

[2000] 6 NWLR (Pt 660) 288.

²⁵ *ibid*, 292; see also Constitution (n 19), s 1(3).

²⁶ *Abacha* (n 22) 292.

of *Community Health Practitioners v Medical and Health Workers Union of Nigeria*.²⁷ This dualist boundary severely constrains the judicial application of international marine environmental standards, leaving Nigerian waters vulnerable to unregulated activities unless ordinary domestic legislation is continuously updated.²⁸ Furthermore, Section 12(3) of the Constitution introduces a federalist check on treaty domestication by requiring that where a bill to implement a treaty relates to matters not included in the Exclusive Legislative List, it must be ratified by a majority of the State Houses of Assembly before it can be presented to the President for assent.²⁹ Because many environmental and coastal issues fall under residual matters not explicitly designated in the federal Exclusive Legislative List, the domestication process is frequently trapped in political bottlenecks between federal and state assemblies, frustrating the timely municipalisation of regional conventions like the Abidjan Convention.³⁰

3.2 Environmental Rights and the Justiciability Crisis: Section 20

The constitutional basis for environmental protection in Nigeria is situated under Section 20 of Chapter II of the 1999 Constitution (Fundamental Objectives and Directive Principles of State Policy), which directs the State to “protect and improve the environment and safeguard the water, air, land, forest and wildlife of Nigeria.”³¹ While this provision appears robust on its face, its effectiveness is fundamentally undermined by Section 6(6)(c) of the Constitution, which renders all provisions of Chapter II non-justiciable in municipal courts, declaring that the judicial power “shall not (...) extend to any issue or question as to whether any act or omission by any authority or person (...) is in conformity with the Fundamental Objectives and Directive Principles.”³² This

²⁷ (2008) 2 NWLR (Pt 1075) 575.

²⁸ Iwuorie (n 17) 63.

²⁹ Constitution (n 19), s 12(3).

³⁰ Iwuorie (n 17) 62.

³¹ Constitution (n 19), s 20.

³² Constitution (n 19), s 6(6)(c).

nonjusticiability bar has historically shielded both multinational oil companies and federal regulatory agencies from environmental accountability, creating a severe justice deficit for coastal communities suffering from chronic pollution.³³ To circumvent this constitutional barrier, public interest litigants and judicial activists have sought to connect environmental protection with the justiciable fundamental human rights protected under Chapter IV of the Constitution, most notably the right to life under Section 33 and the right to human dignity under Section 34.³⁴ This human rightsenvironment nexus was spectacularly affirmed in the landmark case of *Gbemre v Shell Petroleum Development Company of Nigeria Ltd*.⁴⁰ In this case, the applicant, suing on behalf of himself and the Iwherekan community in Delta State, argued that the decades of continuous, unregulated gas flaring by the defendants in their community caused severe health problems, degraded agricultural soils, polluted local water sources, and violated their constitutionally guaranteed right to life and human dignity.³⁵ The Federal High Court, presided over by Justice C.V. Nwokorie, agreed with the applicant, declaring that the practice of gas flaring was a gross violation of the rights to life and dignity under Sections 33 and 34 of the Constitution, as well as the African Charter on Human and Peoples' Rights (which had been domesticated as a municipal act).⁴² The Court ordered Shell and the Nigerian National Petroleum Corporation (NNPC) to immediately stop gas flaring in the community and directed the Attorney General of the Federation to take steps to amend the national legislation to align it with constitutional guarantees.³⁶ By constitutionalising environmental protection through the life-dignity gateway, the *Gbemre* decision bypassed the non-justiciability barrier of Section 20, establishing that the right to life necessarily includes the right

³³ CEHRD (n 4) 22.

³⁴ *ibid*, 22.

⁴⁰

[2005] AHRLR 151.

³⁵ *ibid*, 153.

⁴²

ibid, 154; see also African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983 (Cap A9, LFN 2004).

³⁶ *Gbemre* (n 28) 154.

to a clean, poison-free, and healthy environment.³⁷ However, the practical enforcement of the Gbemre ruling has been heavily frustrated by political capture, administrative delay, and the continued systemic flaring of gas across coastal concession fields, illustrating the persistent gap between progressive judicial pronouncements and executive policy execution.³⁸

3.3 Federalism, Navigation, and the Waterways Conflict: *NIWA v LSWA and Lagos State v FG*

A primary source of friction in Nigeria's ocean and coastal governance is the constitutional division of legislative powers between the federal government and state governments under the 1999 Constitution.³⁹ Under Item 36 of the Exclusive Legislative List (Second Schedule, Part I), the National Assembly is vested with the exclusive competence to legislate on "maritime shipping and navigation, including shipping and navigation on tidal waters; shipping and navigation on Great Lakes (...) and other inland waterways as may be declared by the National Assembly to be international waterways or to be interstate waterways."⁴⁰ Based on this provision, the federal government enacted the National Inland Waterways Authority Act 1997 (NIWA Act),⁴¹ which establishes the National Inland Waterways Authority (NIWA) and vests it with the exclusive power to manage, improve, and regulate activities on all declared national waterways.⁴² However, coastal states, particularly Lagos State, have consistently challenged this centralized authority, seeking to regulate maritime transport, dredging, and land administration within their territorial limits to generate local revenue and control local urban planning.⁴³ This tension culminated in the landmark Supreme Court decision in *National Inland Waterways Authority (NIWA) & Ors v Lagos State*

³⁷ *ibid*, 154.

³⁸ CEHRD (n 4) 22.

³⁹ CEHRD (n 4) 18.

⁴⁰ Constitution (n 19), Exclusive Legislative List, Item 36.

⁴¹ Cap N47, LFN 2004.

⁴² *ibid*, ss 8, 9.

⁴³ Sunday Maji, 'Niwa v Laswa: Reflections on the Supreme Court's Judgement in National Inland Waterways Authority' (2024) 15(1) *DOA Law Journal* 35, 36.

Waterways Authority (LASWA) & Ors (decided on 5th January 2024).⁴⁴ The dispute arose when the Association of Tourist Boat Operators and the Dredgers Association of Nigeria filed an interpleader suit at the Federal High Court to escape double taxation and licensing fees imposed on their operations by both the federal NIWA and the state-level Lagos State Waterways Authority (LASWA).⁴⁵ The Supreme Court, in a unanimous lead judgment written by John Inyang Okoro JSC and read by Emmanuel Agim JSC, resolved this conflict by applying the constitutional doctrine of covering the field.⁴⁶ The Court held that because shipping, navigation, and maritime commerce on declared national waterways fall under the Exclusive Legislative List, the National Assembly's enactment of the NIWA Act and NIMASA Act fully occupied the regulatory space.⁴⁷ Consequently, the Supreme Court declared the Lagos State Waterways Authority Law 2008 unconstitutional, null, and void, holding that the federal statute covers the field of navigable waters and leaves no separate category of "intra-state inland waterways" for the state to regulate under its residual powers.⁵⁵ This decision established NIWA as the sole regulatory authority for licensing, dredging permits, and collecting navigation rates along the declared routes specified in the Second Schedule of the Act.⁴⁸ A major real estate and administrative fallout of this decision, as analyzed by legal expert Olajide Ajana, was the application of the classic maxim *nemo dat quod non habet* (no one can give what he does not have).⁵⁷ Because the Supreme Court confirmed federal control over navigable waters, lagoons, and soils below the water-based line, the Lagos State Government lacked the constitutional power to issue waterfront titles, land reclamation approvals, or dredging licenses in these zones.⁴⁹ This effectively invalidated various high-value waterfront land titles,

⁴⁴ Appeal No SC.17/2018; [2024] LPELR-61200(SC).

⁴⁵ Maji (n 34) 37.

⁴⁶ *ibid*, 38.

⁴⁷ *ibid*, 38.

⁵⁵

NIWA v LASWA (n 35) paras 42-45.

⁴⁸ *ibid*, para 46.

⁵⁷

Olajide Ajana, 'The Supreme Court's NIWA Ruling and the Validity of Waterfront Land Titles in Lagos' (2024) 4 *The Guardian Nigeria* 12.

⁴⁹ *ibid*, 12.

planning approvals, and real estate licenses issued by the state government along the Lekki axis and Orange Island in Lagos, creating massive regulatory instability for coastal developers.⁵⁰ However, this absolute federal supremacy was sharply qualified and redefined by a subsequent, landmark Supreme Court judgment in *Attorney-General of Lagos State v Attorney-General of the Federation & 36 Ors* (decided in May 2026).⁶⁰ In this case, Lagos State directly challenged the constitutional validity of Sections 12 and 13 of the NIWA Act, which empowered the federal government to regulate and control land adjoining waterways (shoreline setbacks and waterfront lands) across the country, as well as a press statement issued by the Office of the Surveyor-General of the Federation asserting federal control over these lands.⁵¹ The Supreme Court, in a 5-2 split decision led by Justice Mohammed Lawal Garba, declared Sections 12 and 13 of the NIWA Act unconstitutional and invalid to the extent that they empowered the federal government to regulate and control land adjoining waterways for non-navigational purposes.⁵² The Court held that while the federal government retains absolute, exclusive authority over navigation, maritime shipping, and fishing on declared national waterways, its powers do not extend to general territorial, municipal, and land-use control of waterfront lands within the states.⁵³ Under the Land Use Act (which is protected under Section 315(5) of the Constitution),⁵⁴ all lands within the territory of a State are vested in the Governor in trust for the people.⁵⁵ Therefore, while NIWA can regulate marine navigation, it cannot grant commercial titles, planning approvals, or shoreline setback permissions for residential or commercial buildings on lands adjoining the waterways, which remain under the exclusive territorial, administrative, and town planning

⁵⁰ *ibid*, 12.

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Suit No SC/CV/541/2025; [2026] LPELR-62800(SC).

⁵¹ *ibid*, paras 10-15.

⁵² *ibid*, paras 30-34.

⁵³ *ibid*, para 35.

⁵⁴ Constitution (n 19), s 315(5); see also Land Use Act 1978 (Cap L5, LFN 2004).

⁵⁵ *Lagos State v FG* (n 40) para 36.

competence of the states.⁵⁶ By limiting federal powers over adjoining lands while preserving federal authority over navigation and waterways, the 2026 Supreme Court judgment drew a clear constitutional boundary between federal legislative competence and state territorial land control.⁵⁷ However, the practical co-existence of federal navigation rights and state shoreline land control remains highly contentious, leaving a complex, fragmented zone of overlapping authority that requires urgent legislative harmonization through a national integrated coastal zone policy.⁵⁸

4 Regulatory Overlaps and Institutional Fragmentation

4.1 Maritime Commerce and Shipping: NIMASA and the Cabotage Regime

The regulation of commercial activities within Nigeria's coastal waters and Exclusive Economic Zone is divided among several federal entities, whose statutory mandates occasionally conflict with broader industrial policies, investment guarantees, and tax exemptions.⁵⁹ The primary federal agency charged with maritime administration is the Nigerian Maritime Administration and Safety Agency (NIMASA), established under the NIMASA Act 2007.⁶⁰ NIMASA is tasked with regulating shipping activities, enhancing maritime safety and security, preventing marine pollution from vessels, and administering maritime labour standards.⁶¹ NIMASA's statutory power to collect maritime levies and charges was challenged by statutory investment incentives designed for major energy infrastructure projects, leading to a longrunning legal dispute in *Nigerian Maritime Administration and Safety Agency v Nigeria LNG Limited & Ors*.⁷² NLNG argued that the Nigeria LNG (Fiscal Incentives, Guarantees and Assurances) Act

⁵⁶ *ibid*, para 37.

⁵⁷ *ibid*, para 38.

⁵⁸ *ibid*, para 39.

⁵⁹ Adamu (n 1) 25.

⁶⁰ Act No 17 of 2007.

⁶¹ *ibid*, s 22.

⁷²

unreported, Appeal No SC/CV/102/2021, Supreme Court of Nigeria, 16 January 2026.

2004⁶² provided a comprehensive, sovereign exemption from all forms of maritime levies, duties, and charges imposed under general maritime laws.⁶³ NIMASA, conversely, argued that the general provisions of the NIMASA Act 2007 and the Merchant Shipping Act 2007 empowered the agency to collect safety levies and coastal maritime charges from all vessels operating in Nigerian waters, including those owned or chartered by NLNG.⁶⁴ The Supreme Court, in a unanimous judgment delivered on 16 January 2026, ruled in favor of NLNG.⁶⁵ The Court held that the specific statutory guarantees and assurances embedded in the NLNG Act are paramount and override the general tax and levy-collecting provisions of the NIMASA Act 2007 and ordinary subsidiary rules.⁶⁶ The Court applied the established rule of statutory construction that specific legislation takes precedence over general legislation (*generalia specialibus non derogant*), thereby protecting the state's primary liquefied natural gas producer from general maritime impositions.⁶⁷ Conversely, the courts have consistently upheld NIMASA's regulatory and levy-collecting authority over the offshore oil drilling industry under the Coastal and Inland Shipping (Cabotage) Act 2003.⁶⁸ In *Noble Drilling Nigeria Ltd v NIMASA* (decided on 12th December 2025),⁶⁹ the Supreme Court affirmed the earlier Federal High Court decision in *Seadrill Mobile Unit Nigeria Limited v Federal Ministry of Transport & NIMASA*.⁷⁰ In these cases, the oil drilling companies argued that offshore drilling rigs are temporary exploratory platforms and do not qualify as "vessels" engaged in "coastal trade" or domestic shipping under the Cabotage Act.⁷¹ The Supreme Court, however, dismissed this argument, holding that drilling operations fell within the statutory ambit of exploration, exploitation, or transportation of mineral resources in or under Nigerian waters, as

⁶² Cap N87, LFN 2004.

⁶³ *ibid*, Schedule 2.

⁶⁴ NIMASA Act (n 45), s 15.

⁶⁵ *NIMASA v NLNG* (n 47) paras 20-25.

⁶⁶ *ibid*, para 26.

⁶⁷ *ibid*, para 27.

⁶⁸ Act No 5 of 2003.

⁶⁹ unreported, Appeal No SC/CV/341/2022, Supreme Court of Nigeria, 12 December 2025.

⁷⁰ unreported, Suit No FHC/UY/CS/1623/2016, Federal High Court, Lagos Division, 27 July 2019.

⁷¹ *ibid*, para 15.

provided under the broad definition of coastal trade in Section 2(d) of the Cabotage Act.⁷² The Court further held that a combined reading of the Cabotage Act, the Admiralty Jurisdiction Act, and the Interpretation Act meant that drilling rigs fell under the definition of vessels.⁷³ Consequently, the Supreme Court granted NIMASA leave to collect all outstanding payments of the two percent cabotage surcharge from owners of drilling rigs and associated platforms, significantly expanding the agency's regulatory scope and its capacity to collect maritime development fees.⁷⁴ This regulatory landscape is further complicated by the Petroleum Industry Act 2021 (PIA).⁷⁵ In *Shipowners Association of Nigeria v Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) & Ors* (decided on 13th January 2026),⁷⁶ the Federal High Court clarified the scope of the Coastal Vessel Licence under the PIA 2021 and the Midstream and Downstream Petroleum Operations Regulations 2023.⁷⁷ The Court held that vessel licensing requirements for vessels transporting petroleum products within Nigeria's domestic coastal routes must align with the existing cabotage regime administered by NIMASA to avoid duplicative, conflicting licensing demands, and to prevent double taxation on domestic shipowners.⁷⁸ This highlights the ongoing necessity for institutional coordination in Nigeria's marine governance.

4.2 Environmental Protection and Oil Spill Enforcement: NESREA, NOSDRA, and NUPRC

The institutional fragmentation of environmental protection in Nigeria's coastal zones is characterized by a stark division of statutory mandates and ongoing conflicts over regulatory authority.⁷⁹ The principal environmental enforcement agency is the National Environmental

⁷² Noble Drilling (n 52) paras 18-22; see also Cabotage Act (n 51), s 2(d).

⁷³ Noble Drilling (n 52) para 23.

⁷⁴ *ibid*, para 24.

⁷⁵ Act No 6 of 2021.

⁷⁶ unreported, Suit No FHC/PH/CS/102/2024, Federal High Court, Port Harcourt Division, 13 January 2026.

⁷⁷ S.I. No 79 of 2023.

⁷⁸ *ibid*, paras 22-26.

⁷⁹ CEHRD (n 4) 28.

Standards and Regulations Enforcement Agency (NESREA), established under the NESREA Act 2007.⁸⁰ NESREA is empowered to enforce compliance with environmental guidelines, policies, and international environmental treaties to which Nigeria is a party.⁸¹ However, Section 7 and Section 8 of the NESREA Act contain a massive regulatory exclusion gap, explicitly excluding the oil and gas sector (petroleum exploration and production) from the agency's enforcement and standards-setting purview.⁹³ This exclusion was a result of intense lobbying by the petroleum industry, leaving the primary source of environmental pollution in coastal zones outside the jurisdiction of the national environmental watchdog.⁸² Instead, the regulation of environmental compliance in the oil and gas sector was historically left to the Department of Petroleum Resources (DPR) under the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN),⁸³ and currently to the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) under the PIA 2021.⁸⁴ To address the specific menace of oil spills in coastal and onshore areas, the federal government established the National Oil Spill Detection and Response Agency (NOSDRA) under the NOSDRA Act 2006.⁸⁵ NOSDRA is tasked with coordinating the implementation of the National Oil Spill Contingency Plan (NOSCP), detecting spills, and enforcing compliance with cleanup and remediation standards.⁸⁶ However, NOSDRA faces chronic operational constraints, including a severe underfunding gap and a lack of baseline laboratories and independent logistics, which often forces the agency to rely on the logistical arrangements of the very multinational oil companies it is supposed to inspect and regulate, severely compromising

⁸⁰ Act No 25 of 2007.

⁸¹ *ibid*, s 7.

⁹³

NESREA Act (n 59), ss 7, 8; see also S R Monsurat, R M Olalekan and S H Olawale, 'A Deep Dive into the Review of National Environmental Standards and Regulations Enforcement Agency (NESREA) Act' (2025) 2(2)

⁸² *ibid*, 495.

⁸³ CEHRD (n 4) 28.

⁸⁴ PIA 2021 (n 55), s 6.

⁸⁵ Act No 15 of 2006.

⁸⁶ *ibid*, s 5.

its independence and undermining public trust.⁸⁷ Furthermore, NOSDRA's statutory power to impose administrative fines and penalties has been a source of intense constitutional and appellate litigation.⁸⁸ This conflict was dramatized by two clashing decisions in 2018: 1. In *National Oil Spill Detection and Response Agency v Mobil Producing Nigeria Unlimited* (decided in March 2018),⁸⁹ the Court of Appeal struck down Section 6(3) of the NOSDRA Act, which empowered the agency to impose punitive fines on operators who fail to clean up oil spills.⁹⁰ Delivering the lead judgment, NwosuIheme JCA held that because fines and penalties are punitive sanctions for violations of law, their assessment and imposition is a judicial function reserved exclusively for the courts under the principle of separation of powers.⁹¹ Consequently, the Court ruled that as an administrative agency under the executive, NOSDRA lacks the constitutional power to act as a judge in *Lex Scriptio* 493, 495. its own cause and impose punitive fines without due recourse to a court of law.⁹² 2. Conversely, in *Shell Nigeria Exploration and Production Company Limited v National Oil Spill Detection and Response Agency* (decided on 24th May 2018),¹⁰⁵ Justice Mojisola Olatoregun of the Federal High Court upheld a massive 3.6 billion USD administrative penalty levied against the operator by NOSDRA over the Bonga offshore spill.⁹³ The Court held that the imposition did not violate the Constitution because the operator had an immediate opportunity to seek judicial review of the agency's findings, meaning that the administrative notice did not strip the courts of their ultimate adjudicatory powers.⁹⁴ This jurisprudential split has left regulators in a state of uncertainty, though subsequent enforcement actions have generally required agencies to seek judicial validation for proposed fines.⁹⁵ Despite these limitations, the courts have

⁸⁷ CEHRD (n 4) 29.

⁸⁸ CEHRD (n 4) 22.

⁸⁹ unreported, Appeal No CA/C/162/2017, Court of Appeal, Calabar Division, 19 April 2018.

⁹⁰ *ibid*, para 22.

⁹¹ *ibid*, para 23.

⁹² *ibid*, para 24.

¹⁰⁵ unreported, Suit No FHC/L/CS/573/1996, Federal High Court, Lagos Division, 24 May 2018.

⁹³ *ibid*, paras 20-22.

⁹⁴ *ibid*, para 26.

⁹⁵ CEHRD (n 4) 23.

occasionally demonstrated strong support for regulatory sanctions. In the Federal High Court (Akure Division) decision in *NOSDRA & Ondo State Ministry of Environment v SEPCOL* (decided on 4th October 2024),⁹⁶ Justice T.B. Adegoke held the Receiver-Manager of the operating oil company personally liable for environmental neglect, fire, and oil spills caused by the explosion of the FPSO Trinity Spirit on 2nd February 2022.⁹⁷ The Court ordered the company to pay a N1 million fine for failure to remediate, a N262.5 million penalty under Section 26 of the NOSDRA Act, and outstanding dues to the Clean Nigeria Associate response consortium, establishing that corporate insolvency and receivership cannot shield managers from personal environmental liability.⁹⁸

5 Transnational Litigation, Causation and Liability Barriers

5.1 The Shifting Tide of Parent Company Liability: Okpabi and Alame

Confronted by systemic domestic enforcement bottlenecks, weak local regulatory capacity, and political capture within Nigeria, devastated Niger Delta communities have increasingly turned to foreign forums, most notably English and Dutch courts, to seek justice and hold multinational oil giants accountable.⁹⁹ This strategy of transnational environmental litigation achieved a historic breakthrough in the *UK Supreme Court decision in Okpabi & Ors v Royal Dutch Shell Plc & Anor*.¹⁰⁰ Overturning the UK Court of Appeal's finding that parent companies do not owe a duty of care to victims of foreign subsidiary operations, the Supreme Court held that there was a good, arguable case that the UK-domiciled parent company, Royal Dutch Shell, owed a duty of care to the affected Nigerian communities.¹⁰¹ The Court clarified that parent company liability is not a

⁹⁶ unreported, Suit No FHC/AK/CS/102/2022, Federal High Court, Akure Division, 4 October 2024.

⁹⁷ *ibid*, para 24.

⁹⁸ *ibid*, para 24.

⁹⁹ CEHRD (n 4) 23.

¹⁰⁰ [2021] UKSC 3.

¹⁰¹ *ibid*, para 22.

separate category of tort, but rather depends on general principles of negligence, specifically the degree of material control, oversight, or negligent failure to supervise the environmental policies and operational standards of the foreign subsidiary, SPDC.¹⁰² Following this precedent, the Bille and Ogale communities of Rivers State, representing over 13,000 individual claimants, pursued their claims for chronic oil pollution dating back decades in the English High Court in *Alame & Ors v Shell Plc*.¹⁰³ The communities allege that at least 40 spills in Ogale since 1989 have severely contaminated local groundwater (which UNEP tested and found contained hydrocarbon levels 1,000 times higher than allowed under Nigerian law) (ibid, para 12; see also UNEP, Environmental Assessment of Ogoniland (UNEP Report, 2011) Chapter 1.), and that over 100 spills in Bille between 2011 and 2013 have destroyed 13,200 hectares of mangrove forests, killing fish stocks and decimating the riverine economy.¹⁰⁴ Shell Plc sought to escape trial through procedural objections, arguing that it is not responsible for spills caused by third-party sabotage, that the claims are statutebarred under Nigeria's fiveyear limitation period, and that the claims should be dismissed under a constructed contractual causation test.¹⁰⁵

5.2 The Continuing Injury Doctrine and Limitation Barriers: *Jalla v Shell*

A crucial defense deployed by hydrocarbon operators in historical pollution claims is the statute of limitations, which under Nigerian law generally bars tort actions after five years.¹⁰⁶ In *Shell Petroleum Development Company of Nigeria Ltd v Councillor F.B. Farah & Ors* (1995),¹⁰⁷ the Court of Appeal (Port Harcourt Division) addressed a claim arising from a major blowout at Bomu Well 11 in K. Dere town, Rivers State, which occurred in July 1970 and affected over 600 hectares

¹⁰² ibid, para 23; see also *Lungowe v Vedanta Resources Plc* [2019] UKSC 20.

¹⁰³ scheduled for trial in 2027; see Leigh Day, 'High Court finds Shell can be held responsible for legacy pollution' (Leigh Day Press Release, 20 June 2025).

¹⁰⁴ Leigh Day (n 70) para 13.

¹⁰⁵ ibid, para 15.

¹⁰⁶ CEHRD (n 4) 22.

¹⁰⁷ (1995) CLR 4(C) (CA).

of land.¹⁰⁸ The suit was filed in 1989, nineteen years after the blowout, and the operator argued that the action was completely time-barred.¹⁰⁹ The Court of Appeal rejected this limitation defense, holding that because the operator had taken physical possession of the land under a promise of rehabilitation, a new cause of action accrued only when the claimants became aware that the operator did not intend to fulfill its promise of complete rehabilitation, representing an equitable, contract-adjacent approach to limitation.¹¹⁰ However, this progressive stance contrasts sharply with the strict, formalist approach taken by the United Kingdom Supreme Court in *Jalla v Shell International Trading and Shipping Co Ltd*.¹¹¹ This case arose from the December 2011 offshore Bonga oil spill, where approximately 40,000 barrels of crude oil leaked into the ocean during a cargo operations transfer.¹¹² The claimants argued that because the leaked oil remained on their land and was never cleaned up or remediated, the interference with their land was continuous, constituting a continuing private nuisance that accrued afresh from day to day and constantly restarted the limitation period.¹¹³ The UK Supreme Court, in a lead judgment written by Lord Burrows, unanimously rejected this argument, drawing a strict legal distinction between continuing harm and a continuing nuisance.¹¹⁴ The Court held that a continuing nuisance in law requires repeated activity or an ongoing state of affairs outside the claimant's land for which the defendant is responsible, which causes continuing undue interference with the use and enjoyment of the land (such as tree roots encroaching, ongoing sewage discharge, or constant fumes).¹¹⁵ Because the Bonga spill was an isolated, one-off escape of oil from the submersible flowlines, the tort was complete once the oil reached the shoreline.¹¹⁶ The continued presence of the oil on the land was

¹⁰⁸ *ibid*, 207.

¹⁰⁹ *ibid*, 207.

¹¹⁰ *ibid*, 208.

¹¹¹ [2023] UKSC 16.

¹¹² *ibid*, paras 10-15.

¹¹³ *ibid*, para 30.

¹¹⁴ *ibid*, paras 34-36.

¹¹⁵ *ibid*, para 37.

¹¹⁶ *ibid*, para 37.

merely the continuing effect or harm of a historic act, not a continuing nuisance.¹¹⁷ Accepting the claimants' argument would indefinitely extend the limitation period until the land is restored, completely defeating the legislative purpose of limitation statutes, which is to ensure legal certainty.¹¹⁸ This distinction was subsequently applied by the Federal High Court of Nigeria in dismissing a three billion USD historical pollution claim against SPDC and Renaissance Africa Energy Company, holding that the continuing effect of an injury is not the same as a continuing injury for the purpose of computing time under limitation laws.¹¹⁹ However, in the Bille and Ogale proceedings, the UK High Court (June 2025) and Court of Appeal (December 2024) carved out a distinct pathway for the claimants.¹²⁰ The judge held that while claims based on the commonlaw tort of private nuisance are limited by the Jalla ruling, claims based on Nigerian statutory cleanup duties (such as the statutory obligation under the Oil Pipelines Act to remediate oil spills regardless of cause)¹²¹ constitute an "ongoing breach." Under Nigerian statutory law, each day the operator fails to clean up an unremediated spill triggers a fresh cause of action, allowing the claims to proceed to trial in 2027.¹²²

5.3 Causation and the Rejection of the Global Claims Test: Alame [2024]

In the appellate stage of the Bille and Ogale group litigation, the UK Court of *Appeal*, in *Alame & Ors v Shell PLC and SPDC* [2024] EWCA Civ 1500 (decided on 6th December 2024), addressed a critical causation defense raised by the oil company.¹²³ Shell argued that because the Niger Delta was subject to hundreds of independent oil spills from various sources, including artisanal refining and third-party bunkering, the claimants had to prove at the pleadings stage exactly which specific

¹¹⁷ *ibid*, para 37.

¹¹⁸ *ibid*, para 36.

¹¹⁹ Federal High Court Dismisses \$ 3 Billion Claim Against SPDC (Olaniwun Ajayi Client Alert, July 2026) 1.

¹²⁰ Leigh Day (n 70) para 18.

¹²¹ see Oil Pipelines Act 1956 (Cap 07, LFN 2004), s 11(5).

¹²² Leigh Day (n 70) para 18.

¹²³ Matrix Chambers, 'Court of Appeal judgment in major group litigation' (Matrix News, 10 December 2024).

pipeline leak caused what precise damage to each of the 13,000 individual properties.¹²⁴ Because the claimants could not link particular areas of damage to individual spills, Shell urged the Court to treat the action as a “Global Claim” (a legal construct borrowed from the construction industry), meaning that if any other source of pollution contributed to the damage for which Shell was not responsible, the entire claim would fail.¹²⁵ The Court of Appeal, in a unanimous decision, rejected Shell’s attempt to apply the Global Claims test to environmental claims.¹²⁶ The Court held that forcing marginalized communities to meet such an impossible evidentiary standard at the very beginning of the case would make it practically impossible to bring environmental claims involving multiple incidents of pollution.¹²⁷ The Court of Appeal emphasized that there was a “substantial inequality of arms” in terms of access to information and funding between Shell and the communities, requiring the Court to ensure the parties were on an equal footing during case management.¹²⁸ The Court affirmed that the process of disclosure was one of the most powerful tools available for achieving justice, allowing the claims to proceed to full trial.¹²⁹

5.4 Hydrocarbon Reforms and the Pitfalls of Section 257 of the Petroleum Industry Act 2021

The enactment of the Petroleum Industry Act (2021) was heralded as a historic reform to address old problems in Nigeria’s oil and gas sector.¹³⁰ Under Chapter 3, the Act introduces the Host Communities Development Trusts (HCDDT) framework, which requires oil license holders (settlers) to contribute three percent of their actual operating expenditures from the preceding financial year directly to a trust fund dedicated to the social and economic development of

¹²⁴ Fountain Court Chambers, ‘Court of Appeal rejects use of global claims approach in Shell Oil spill case’ (Fountain Court Latest, 12 December 2024).

¹²⁵ *ibid.*

¹²⁶ *ibid.*

¹²⁷ *ibid.*

¹²⁸ *ibid.*

¹²⁹ *ibid.*

¹³⁰ CEHRD (n 4) 22.

communities impacted by extraction activities.¹³¹ However, the HCDT framework is severely compromised by the controversial provision in Section 257(2) of the Act.¹³² This section stipulates: “Where in any year, an act of vandalism, sabotage or other civil unrest occurs that cause damage to petroleum and designated facilities or disrupts production activities within the host communities, the community shall forfeit its entitlement to the extent of the costs of repairs of the damage (...) provided the interruption is not caused by technical or natural cause.”¹³³ This section has been heavily criticized by civil society groups as a form of collective punishment that violates constitutional protections.¹³⁴ Under Section 43 and Section 44 of the Constitution, every citizen possesses the fundamental right to own property, and the state cannot arbitrarily deprive citizens of their property or funds.¹⁴⁸ In *Henry Eferebo & Ors v National Assembly & Anor*,¹³⁵ oil-bearing communities have dragged the federal government to court, arguing that Section 257(2) shifts personal liability for crimes committed by unknown third-party vandals onto an entire community, including women, children, and elderly residents, without any determination of guilt by a court of law.¹³⁶ Furthermore, as noted by the Brookings Institution, Section 257(2) effectively forces marginalized, unarmed communities to act as unpaid, unskilled, and unarmed guardians of multi-billionaire pipelines against heavily armed criminal syndicates, militancy, and corporate complicity.¹³⁷ This provision also creates a moral hazard, as operators can delay cleanup operations

¹³¹ PIA 2021 (n 55), s 240; see also Goldsmiths Solicitors, ‘Host Communities and Funds under the PIA 2021’ (PIA Series IV, 2022) 1.

¹³² PIA 2021 (n 55), s 257(2).

¹³³ *ibid*, s 257(2); see also ‘Niger Delta group sues FG, national assembly over controversial PIA provision’ (Peoples Gazette, 3 November 2023).

¹³⁴ *ibid*. ¹⁴⁸ Constitution (n 19), ss 43, 44.

¹³⁵ unreported, Suit No FHC/PH/CS/202/2023, Federal High Court, Port Harcourt Division.

¹³⁶ Peoples Gazette (n 75).

¹³⁷ Brookings, ‘Nigeria’s Petroleum Industry Act: Addressing old problems, creating new ones’ (Brookings Africa in Focus Report, 2021) 1.

or reduce host community funding by simply attributing spills to sabotage, a categorization that has consistently been contested by local and international scientific monitors.¹³⁸

6 Regional and International Frameworks: Gaps in Domestication

6.1 The UNCLOS Compliance Gap and Maritime Resource Governance

As a state party to the United Nations Convention on the Law of the Sea (UNCLOS) (which it ratified in 1986),¹³⁹ Nigeria has international obligations under Article 192 to protect and preserve the marine environment, and under Article 206 to conduct environmental impact assessments when planned activities may cause substantial pollution or significant ecological changes.¹⁴⁰ However, Nigeria's resource governance is plagued by severe enforcement gaps.¹⁴¹ This implementation failure is particularly critical in the fisheries and aquaculture sector, which supports global food security.¹⁴² While the Sea Fisheries Act 1992¹⁴³ regulates maritime fishing, its provisions remain archaic.¹⁴⁴ The Act focuses exclusively on harvest-based measures (such as vessel registration and mesh size regulation under the Sea Fisheries (Licensing) Regulations 1992), with no statutory mention of contemporary marine conservation concepts such as the precautionary approach, ecosystem-based fisheries management, or maximum sustainable yield, which are mandated under UNCLOS Article 61.¹⁴⁵ Due to underfunding, lack of baseline scientific data on fish stocks, and limited patrol vessels, Nigeria is vulnerable to Illegal, Unreported, and Unregulated (IUU) fishing by foreign trawlers, costing the nation an estimated 600 million USD annually and severely

¹³⁸ CEHRD (n 4) 22.

¹³⁹ Hemen Philip Faga and Emeka Geoffrey Ede, 'Assessing the Effectiveness of UNCLOS in Nigeria's Maritime Resource Governance' (2025) 8(1) *Lex Portus* 105, 105.

¹⁴⁰ *ibid*, 105; see also UNCLOS 1982, arts 192, 206.

¹⁴¹ Faga and Ede (n 79) 105.

¹⁴² Akpan (n 5) 51.

¹⁴³ Cap S4, LFN 2004.

¹⁴⁴ Akpan (n 5) 53.

¹⁴⁵ *ibid*, 53; see also Faga and Ede (n 79) 105.

depleting local croaker and shrimp resources.¹⁴⁶ Furthermore, while NIMASA domesticated maritime piracy regulations under the Suppression of Piracy and Other Maritime Offences (SPOMO) Act 2019,¹⁴⁷ it has failed to create a comprehensive network of Marine Protected Areas (MPAs) to protect fragile ecosystems, leaving Nigeria's marine biodiversity vulnerable to offshore hydrocarbon drilling.¹⁴⁸

6.2 Regional Coastal Cooperation: The Abidjan Convention and Its Specialized Protocols

At the regional level, the overarching legal framework for marine environmental protection along the West and Central African Atlantic coast is the Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of the

West, Central and Southern Africa Region (commonly known as the Abidjan Convention).¹⁴⁹ Signed on 23rd March 1981 and entered into force on 5th August 1984,¹⁵⁰ the Convention covers a 14,000-kilometre coastline and obligates contracting states under Article 4 to take all appropriate measures to prevent, reduce, and control marine pollution from both land-based and offshore sources.¹⁶⁵ To address modern environmental threats, state parties launched a comprehensive Revitalization Program in 2008,¹⁵¹ which culminated in the adoption of four highly progressive, specialized additional protocols to complement and strengthen the regional governance framework:¹⁵²

¹⁴⁶ Faga and Ede (n 79) 105.

¹⁴⁷ Act No 11 of 2019.

¹⁴⁸ Faga and Ede (n 79) 105.

¹⁴⁹ UNEP, Abidjan Convention Network and Revitalization (IW:LEARN Report, 2013) 1.

¹⁵⁰ *ibid*, 1.

¹⁶⁵ *ibid*, 1; see also Abidjan Convention 1981, art 4.

¹⁵¹ UNEP (n 84) 2.

¹⁵² Julien Rochette and Romain Schumm, 'West Africa is mobilising to protect the marine environment' (IDDRI Blog, 9 July 2019) 1.

1. The Grand-Bassam Protocol (2012): Targets land-based sources of pollution (LBSA), addressing agricultural runoff, untreated industrial wastewater, and municipal sewage discharge into coastal estuaries.¹⁵³

2. The Calabar Protocol (2019): Focuses on sustainable mangrove management.¹⁵⁴ This protocol is of critical relevance to Nigeria, as the Niger Delta contains the third-largest mangrove forest in the world.¹⁵⁵ Mangroves are essential for stabilizing shorelines against coastal erosion and serve as massive carbon sequestration sinks.¹⁵⁶

3. The Malabo Protocol (2019): Establishes environmental standards and guidelines for offshore oil and gas exploration and exploitation activities across the Gulf of Guinea, mandating the use of the best available technologies to prevent accidents and requiring strategic environmental impact assessments.¹⁷²

4. The Pointe-Noire Protocol (2019): Provides an integrated policy framework for Integrated Coastal Zone Management (ICZM), balancing economic development with climate change adaptation.¹⁵⁷ While Nigeria ratified the Abidjan Convention and hosted the negotiations for the Calabar Protocol,¹⁷⁴ the domestic implementation of these additional protocols remains severely limited.¹⁵⁸ Under Section 12 of the Constitution, these protocols do not have the force of law in Nigeria until the National Assembly enacts specific domestication acts.¹⁵⁹ Consequently, the progressive standards of the Malabo and Calabar Protocols cannot be directly enforced by

¹⁵³ *ibid*, 1.

¹⁵⁴ *ibid*, 1.

¹⁵⁵ CEHRD (n 4) 40.

¹⁵⁶ *ibid*, 40.

¹⁷²

Rochette and Schumm (n 86) 2.

¹⁵⁷ *ibid*, 1.

¹⁷⁴

UNEP (n 84) 1; see also Rochette and Schumm (n 86) 1.

¹⁵⁸ Rochette and Schumm (n 86) 2.

¹⁵⁹ Iwuorie (n 17) 62.

environmental regulators, leaving Nigeria's offshore oil drilling and mangrove ecosystems governed by weak, fragmented domestic regulations.¹⁶⁰

6.3 Wetlands and Biodiversity: Gaps in the Ramsar and CBD Frameworks

Nigeria's coastal territory contains critical ecosystems protected under international conventions, such as the Ramsar Convention on Wetlands of International Importance (which Nigeria ratified in 2000).¹⁶¹ Nigeria has designated several coastal wetlands of international importance under the Ramsar List, including the Apoi Creek Forest in Bayelsa State and the Lower Kaduna-Middle Niger Floodplain.¹⁶² Under the Convention, Nigeria is obligated to promote the conservation and sustainable 'wise use' of these wetlands.¹⁶³ However, due to overlapping mandates and regulatory fragmentation, these coastal wetlands are subject to constant destruction from unregulated dredging, sand-filling, and coastal engineering activities.¹⁶⁴ For instance, the National Environmental (Coastal and Marine Area Protection) Regulations 2011 (S.I. No. 18 of 2011), promulgated under the NESREA Act to protect coastal zones,¹⁶⁵ cannot be enforced against petroleum operators due to the oil sector's statutory exclusion under Section 7 of the NESREA Act.¹⁶⁶ This creates an institutional absurdity where the primary drivers of wetland degradation (oil spills and canalization by petroleum concessions) are shielded from the national environmental protector, demonstrating the failure to align domestic laws with Ramsar obligations.¹⁶⁷ Similarly, Nigeria's failure to domesticate the CBD has prevented the integration of the Kunming-Montreal Global Biodiversity Framework into domestic shipping and hydrocarbon planning.¹⁶⁸ While the

¹⁶⁰ Rochette and Schumm (n 86) 2.

¹⁶¹ Faga and Ede (n 79) 105; see also Ramsar Convention 1971.

¹⁶² S R Monsurat et al. (n 60) 490.

¹⁶³ *ibid*, 490.

¹⁶⁴ Maji (n 34) 36.

¹⁶⁵ National Environmental (Coastal and Marine Area Protection) Regulations 2011 (S.I. No 18 of 2011), reg 2.

¹⁶⁶ NESREA Act (n 59), s 7.

¹⁶⁷ S R Monsurat et al. (n 60) 495.

¹⁶⁸ Fatokun (n 21) 2.

global framework targets a ten percent expansion of marine protected areas and a five percent annual improvement in marine biodiversity,¹⁶⁹ Nigeria lacks the domestic statutory mechanisms to enforce these spatial limits against extractive industries.¹⁷⁰

7 Comparative Analysis: Global Policy Lessons

To strengthen Nigeria's ocean and coastal governance, it is instructive to conduct a comparative analysis of the maritime administrations of other ocean states, namely Norway, Singapore, Brazil, and South Africa, which have successfully aligned their legal frameworks with sustainable practices.¹⁷¹

7.1 Norway: Centralised Coordination and the Green Shipping Programme

Norway is recognized as a global leader in ocean governance through maritime administration and blue economy practices.¹⁷² At the core of Norway's system is a centralised governance structure.¹⁷³ While Nigeria utilizes multiple fragmented agencies (NIMASA, NIWA, NOSDRA, NUPRC) that create regulatory overlaps and jurisdictional turf wars, Norway concentrates maritime administration in a single government body, the Norwegian Maritime Authority (NMA), which possesses absolute authority over marine activities, safety, and international environmental compliance under SOLAS and MARPOL.¹⁷⁴ NMA works in close collaboration with the Norwegian Coastal Administration (NCA) (which manages emergency spill response and infrastructure development) and other specialized bodies like the Petroleum Safety Authority (PSA) and the Climate and Pollution Agency (CPA).¹⁷⁵ The roles of these agencies are clearly

¹⁶⁹ Faga and Ede (n 79) 105.

¹⁷⁰ *ibid*, 105.

¹⁷¹ Adamu (n 1) 44.

¹⁷² Adamu (n 1) 18.

¹⁷³ *ibid*, 19.

¹⁷⁴ *ibid*, 18.

¹⁷⁵ *ibid*, 18.

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defined and coordinated, preventing duplication of functions and ensuring a streamlined regulatory environment.¹⁹³ Furthermore, Norway has pioneered the Green Shipping Programme, a public-private partnership that has driven technological innovations such as electric autonomous sea vessels, alternative ammonia and hydrogen fuels, and digitized monitoring systems to track vessel carbon emissions.¹⁷⁶ By establishing a centralised, coordinated ocean administration, Norway has balanced robust hydrocarbon extraction in the North Sea with world-class environmental protection and maritime innovation, offering a vital roadmap for Nigeria's transition to a blue economy.¹⁷⁷

7.2 Singapore: Streamlined Maritime Governance

Similarly, Singapore's maritime activities follow a highly centralised, streamlined administration.¹⁹⁶ The Maritime and Port Authority of Singapore (MPA) acts as a single, centralized governing body responsible for maintaining maritime safety, port economic regulation, environmental compliance, and international shipping trade.¹⁷⁸ This centralized structure eliminates regulatory fragmentation, reduces transactional costs for maritime operators, and ensures that the city-state's port development is fully integrated with coastal protection and urban planning, representing an efficient model for Nigeria's newly created Federal Ministry of Marine and Blue Economy.¹⁷⁹

CEHRD (n 4) 32.

¹⁷⁶ Adamu (n 1) 19.

¹⁷⁷ *ibid*, 47.

¹⁹⁶

Adamu (n 1) 25.

¹⁷⁸ *ibid*, 25.

¹⁷⁹ *ibid*, 47.

¹⁹⁹

CEHRD (n 4) 31.

7.3 Brazil: Environmental Criminalisation and Mandatory Civil Insurance

Brazil's approach to marine and coastal protection provides critical lessons for Nigeria's environmental enforcement regime.¹⁹⁹ Under Brazil's Law No. 9,605 of 1998 (Law of Environmental Crimes), environmental pollution is criminalized.¹⁸⁰ Unlike Nigeria, where NOSDRA is limited to administrative fines (which are often struck down by appellate courts as an ultra vires exercise of judicial power), Brazilian law allows the state to prosecute and jail corporate violators for environmental crimes for terms of one to five years.¹⁸¹ Crucially, this criminal liability also extends to a "competent authority" (such as a government regulator or inspector) who fails to take reasonable steps to prevent or mitigate such environmental damage, ensuring high public regulatory accountability.¹⁸² Furthermore, under Law No. 9,966 of 2000, Brazil clearly defines the role of port authorities in preventing and managing oil pollution.²⁰³ It also makes it mandatory for concessionaires to maintain robust environmental insurance that covers civil liability for damages to the marine environment, ensuring that the state is not left with the financial burden of remediation in the event of corporate insolvency or receivership, a mechanism that Nigeria has failed to implement.¹⁸³

7.4 South Africa: operation Phakisa and CBD Domestication South Africa has successfully navigated the domestication of international biodiversity obligations through progressive municipal legislation.²⁰⁵ While Nigeria has failed to domesticate the CBD, South Africa enacted the National Environmental Management: Biodiversity Act 2004 (NEMBA), which provides a comprehensive, municipal statutory framework for conservation, sustainable use of biological resources, and fair benefit sharing.¹⁸⁴ Furthermore, South Africa launched Operation

¹⁸⁰ *ibid*, 31.

¹⁸¹ *ibid*, 31.

¹⁸² *ibid*, 31.

²⁰³

CEHRD (n 4) 31.

¹⁸³ *ibid*, 32.

²⁰⁵

Fatokun (n 21) 2.

¹⁸⁴ *ibid*, 2.

²⁰⁷

Adamu (n 1) 26.

Phakisa (“Hurry Up” in Sesotho) in 2014, a state-led blue economy initiative that invested over 100 million USD to accelerate ocean governance, marine transport, offshore oil and gas coordination, aquaculture, and marine protection.²⁰⁷ While Operation Phakisa has faced ongoing challenges regarding small-scale fishers’ access to marine resources,¹⁸⁵ its structured, fast-tracked implementation of ocean governance offers valuable practical lessons for Nigeria’s blue agenda.

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8 Practical Recommendations and Actionable Pathways

To resolve the systemic legal fragmentation, enforcement bottlenecks, and jurisdictional clashingpoints in Nigeria’s ocean and coastal governance, this article proposes a series of practical, actionable recommendations for legislators, regulators, and policymakers:

8.1 Constitutional and Legislative Reforms

1. Amend Section 12 of the Constitution: The National Assembly should initiate a constitutional amendment to simplify the domestication process for Multilateral Environmental Agreements (MEAs). The amendment should provide that international environmental and maritime treaties ratified by the executive shall automatically acquire municipal force after a simplified tacit approval period by the legislature, bypassing the federalist delays of Section 12(3).

2. Amend the NESREA Act: The National Assembly must excise the oil and gas exclusion clause under Sections 7 and 8 of the NESREA Act. NESREA must be empowered to set and enforce general environmental standards across all sectors, including the petroleum industry, thereby ending the regulatory isolation of oil and gas and creating a unified national environmental watch.

¹⁸⁵ *ibid*, 26.

¹⁸⁶ *ibid*, 26.

3. Amend the NOSDRA Act: To resolve the judicial conflict over administrative sanctions, the NOSDRA Act should be amended to specify a clear, statutory scheduling of penalties that does not require judicial determination, while also introducing a flexible penalty adjustment regime to accommodate currency devaluation and inflation.

4. Reform Section 257 of the Petroleum Industry Act 2021: Section 257(2) must be repealed. The collective punishment of host communities for acts of vandalism that they did not commit is unconstitutional, inequitable, and a source of community-operator conflict. Liability for repairs should be determined on a case-by-case basis through independent, joint investigation visits, and communities should not be deprived of their development funds unless their direct complicity is established by a court of law.

8.2 Institutional Restructuring and Centralisation

1. Establish a National Ocean Governance Commission (NOGC): Moving beyond the newly created Federal Ministry of Marine and Blue Economy, the federal government should establish a unified, centralised National Ocean Governance Commission. Modelled on the Norwegian Maritime Authority, the NOGC should serve as a “one-stop” agency to coordinate the activities of NIMASA, NIWA, NOSDRA, and petroleum regulators (NUPRC and NMDPRA), eliminating overlapping mandates and double taxation on vessel operators.

2. Relocate NOSDRA’s Operations: NOSDRA’s administrative and operational headquarters should be relocated from Abuja to the Niger Delta (the operational base of the maritime and oil industries), reducing bureaucratic delays and ensuring real-time response to spill incidents.

8.3 Operational and Technological Integration

1. Implement Marine Spatial Planning (MSP): The Federal Ministry of Marine and Blue Economy, alongside the Nigerian Institute for Oceanography and Marine Research (NIOMR),

must launch a comprehensive, legally binding national MSP framework under the World Bank's PROBLUE initiative. This framework must map and allocate coastal spaces to minimize conflicts between shipping lanes, petroleum concession blocks, artisanal fishing zones, and marine protected areas.

2. **Mandate Environmental Civil Liability Insurance:** Regulators must enforce mandatory civil liability insurance policies for all offshore oil and gas operators and vessel concessionaires to guarantee adequate funds for environmental cleanup and remediation, drawing on the successful Brazilian model.

8.4 Community Inclusion and Co-Management

1. **Promote Community-Based Co-Management:** Regulators must actively involve coastal communities in environmental monitoring, pipeline policing, and fisheries co-management, ensuring that local ecological knowledge is integrated with scientific assessments.

9 Conclusion

Nigeria's vast maritime domain represents a transformative economic opportunity under the sustainable blue economy paradigm. However, this potential is currently strangled by a fragmented legal architecture and a balkanised institutional terrain. The critical assessment of Nigeria's ocean and coastal governance conducted in this article reveals that the sector's failures are not merely technical, but are deeply rooted in constitutional dualism, federal-state jurisdictional conflicts over navigable waters, overlapping regulatory mandates, and an administrative enforcement crisis. Recent constitutional boundary-drawing by the Supreme Court, exemplified by the 2024 *NIWA v LSWA* covering-the-field decision and the 2026 *Lagos State v Federal Government* ruling limiting federal land encroachment, exposes the urgent necessity for integrated coastal zone policy coordination. Simultaneously, the persistent legal barriers to liability over historic oil spills and the

inequitable collective punishment under the PIA 2021 demand immediate legislative correction. Ultimately, the path toward a prosperous, sustainable, and ecologically resilient ocean economy requires Nigeria to transition from its historic, sector-by-sector regulatory silos to a centralised, integrated ocean management model. By embracing centralized institutional coordination, enacting progressive environmental criminalisation, and operationalising Marine Spatial Planning through regional and international partnerships, Nigeria can successfully protect its marine resources and secure maritime prosperity for present and future generations.

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