



Reconstructing Environmental Justice through Customary Marine Tenure: Towards A New Jurisprudence of Ocean Governance

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Abstract

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Environmental justice has become one of the most influential principles of contemporary international environmental law. Traditionally, it has focused on the fair distribution of environmental benefits and burdens, access to environmental decision-making, and the protection of vulnerable communities from environmental harm. While these objectives remain fundamental, the accelerating impacts of climate change, biodiversity loss, marine pollution, and declining ocean health demonstrate that environmental justice requires a broader jurisprudential foundation. Existing legal frameworks continue to rely predominantly on State-centred governance while giving insufficient recognition to Indigenous systems of marine governance that have sustained coastal ecosystems for generations.

This article argues that Customary Marine Tenure provides an important legal foundation for reconstructing environmental justice in the twenty-first century. Rather than viewing Customary Marine Tenure simply as a traditional method of resource management, the article demonstrates that it constitutes a sophisticated legal system capable of promoting biodiversity conservation, ecological stewardship, climate resilience, sustainable ocean governance, and community participation. It further argues that environmental justice cannot be fully achieved where Indigenous marine governance remains legally marginalised despite its demonstrated contribution to environmental sustainability.

The article introduces Ocean Governance Justice Theory, developed by Happy Okundaye Oji, as an original contribution to international environmental jurisprudence. The theory argues that environmental justice should be reconstructed by recognising Customary Marine Tenure as a complementary system of environmental governance that integrates Indigenous legal traditions with contemporary international environmental law. Under this approach, justice extends beyond the equitable distribution of environmental resources to include the recognition of Indigenous legal authority, ecological stewardship, and the long-term protection of ancestral marine ecosystems.

Drawing upon international environmental law, the law of the sea, climate justice, biodiversity law, Indigenous legal traditions, legal pluralism, and comparative ocean governance, the article demonstrates that environmental protection and Indigenous governance are mutually reinforcing rather than competing objectives. It concludes that reconstructing environmental justice through Customary Marine Tenure would strengthen marine biodiversity conservation, climate adaptation, sustainable development, and the future evolution of international environmental law.

Keywords: Environmental Justice, Customary Marine Tenure, Ocean Governance Justice Theory, International Environmental Law, Indigenous Ocean Governance, Climate Justice, Ocean Governance, Marine Biodiversity, Ecological Stewardship, Indigenous Peoples, Coastal Communities, Sustainable Development, Rights of Nature.

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1. Introduction

Environmental justice has become one of the most influential principles of modern international environmental law. Since its emergence, the concept has encouraged governments and international institutions to address the unequal distribution of environmental benefits and burdens among individuals and communities. It has also strengthened public participation in environmental decision-making and promoted greater protection for vulnerable populations affected by pollution, environmental degradation, and climate change.¹ These developments have significantly improved environmental governance. Nevertheless, the environmental challenges of the twenty-first century suggest that environmental justice requires a broader legal foundation than presently exists.

One reason is that traditional environmental justice has developed largely within a land-based legal framework. Much of the existing scholarship focuses on pollution, hazardous waste, industrial development, access to natural resources, environmental discrimination, and human health. These remain important concerns. However, comparatively less attention has been given to the oceans, despite their central role in regulating the Earth's climate, supporting biodiversity, sustaining food security, and providing livelihoods for millions of people. The marine environment has therefore remained a relatively underdeveloped dimension of environmental justice.²

This omission is increasingly difficult to justify. Oceans absorb vast quantities of atmospheric carbon dioxide, regulate global temperatures, support marine biodiversity, and provide food and employment for coastal populations throughout the world.³ At the same time, they face unprecedented

pressure from climate change, marine pollution, biodiversity loss, destructive fishing practices, habitat destruction, and expanding commercial exploitation of marine resources. These environmental pressures affect not only marine ecosystems but also the Indigenous communities whose cultures, identities, and livelihoods remain closely connected to ancestral seas.

Across many coastal societies, Indigenous communities have governed marine environments through systems of Customary Marine Tenure for centuries. These customary governance systems regulate access to fisheries, protect breeding grounds, conserve biodiversity, resolve disputes, and encourage responsible use of marine resources according to customary law.⁴ They demonstrate that effective environmental governance is not exclusively the product of modern legislation but can also emerge through Indigenous legal traditions that have protected marine ecosystems over long periods.

Despite these contributions, Customary Marine Tenure remains largely peripheral within contemporary environmental justice scholarship. International environmental law generally recognises Indigenous rights, biodiversity conservation, and sustainable development as important objectives.⁵ However, it has not fully recognised Customary Marine Tenure as a legal institution capable of advancing environmental justice itself. Consequently, discussions of environmental justice frequently overlook one of the world's oldest and most successful systems of marine environmental governance.

This article argues that environmental justice should be reconstructed through greater recognition of Customary Marine Tenure. Environmental justice should not be understood solely as the fair

¹ Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, Cambridge University Press 2018).

² David R Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (UBC Press 2012).

³ Intergovernmental Panel on Climate Change, *The Ocean and*

Cryosphere in a Changing Climate (IPCC 2019).

⁴ Fikret Berkes, *Sacred Ecology* (4th edn, Routledge 2018).

⁵ Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79; United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295 (13 September 2007).

distribution of environmental benefits and burdens. It should also recognise the governance systems that have successfully protected ecosystems upon which environmental justice depends. Indigenous communities have contributed to marine conservation through stewardship, collective responsibility, ecological knowledge, and sustainable resource management for generations. These contributions deserve recognition within contemporary international environmental law.

The urgency of this reconstruction has increased because of climate change. Rising sea levels, ocean warming, coastal erosion, declining fisheries, coral reef degradation, and marine biodiversity loss increasingly threaten both marine ecosystems and the communities that depend upon them.⁶ Protecting the oceans therefore requires more than stronger governmental regulation. It requires governance systems capable of combining scientific knowledge, legal authority, and Indigenous environmental stewardship in ways that strengthen both environmental protection and climate resilience.

One of the central arguments developed throughout this article is that environmental justice becomes more effective when governments and Indigenous communities work together rather than operating independently. Governments remain responsible for implementing international environmental obligations, enforcing environmental legislation, and coordinating national policy. Indigenous communities contribute generations of ecological knowledge, customary governance, and practical conservation experience. These complementary strengths create opportunities for more inclusive and sustainable environmental governance.

To explain this approach, the article introduces Ocean Governance Justice Theory, developed by Happy Okundaye Oji, as an original contribution to international environmental jurisprudence. Ocean

Governance Justice Theory argues that environmental justice should be reconstructed by recognising Customary Marine Tenure and Indigenous Ocean Governance as legitimate systems of environmental governance that contribute directly to biodiversity conservation, ecological stewardship, climate resilience, sustainable ocean governance, and intergenerational justice.⁷ Rather than treating Indigenous governance as merely a cultural tradition, the theory recognises it as an important source of legal authority capable of strengthening contemporary environmental law.

The originality of this theory lies in the way it reconnects environmental justice with ocean governance. Existing scholarship often treats environmental justice, ocean governance, Indigenous rights, biodiversity conservation, and climate justice as separate legal subjects. While each field has developed important principles, environmental challenges increasingly demonstrate that they are closely interconnected. Ocean Governance Justice Theory therefore provides an integrated jurisprudential framework that brings these areas together within a single understanding of environmental justice.

This argument builds upon the author's earlier scholarship. In Customary Marine Tenure and the Limits of State-Centred Ocean Governance in Nigeria, Happy Okundaye Oji demonstrated that Indigenous marine governance strengthens climate justice by complementing governmental regulation.⁸ In The Ecology of Justice, the author argued that environmental law should recognise broader ecological relationships when pursuing justice.⁹ The present article extends these earlier contributions by demonstrating that environmental justice itself should be reconstructed through the legal recognition of Customary Marine Tenure as a foundational component of sustainable ocean governance.

⁶ Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report* (IPCC 2023).

⁷ Happy Okundaye Oji, 'Ocean Governance Justice Theory' (concept introduced in this article).

⁸ Happy Okundaye Oji, 'Customary Marine Tenure and the Limits of State-Centric Ocean Governance in Nigeria: A

Climate Justice Perspective' (2026) 4(6) *GAS Journal of Arts Humanities and Social Sciences*.

⁹ Happy Okundaye Oji, 'The Ecology of Justice: Reconstructing Environmental Law for the Anthropocene' (2026) *ISA Journal of Arts, Humanities and Social Sciences*.

The article proceeds in six substantive sections. Section Two examines the relationship between environmental justice and the evolution of Customary Marine Tenure. Section Three analyses the limitations of existing State-centred environmental justice frameworks. Section Four develops Ocean Governance Justice Theory as a new jurisprudential framework for international environmental law. Section Five explains how Customary Marine Tenure can strengthen sustainable ocean governance. Section Six proposes legal reforms capable of integrating Indigenous governance more effectively into international environmental law. The final section concludes that reconstructing environmental justice through Customary Marine Tenure offers a stronger and more inclusive foundation for protecting oceans, Indigenous communities, and future generations.¹⁰

Ultimately, this article argues that the future of environmental justice depends not only upon distributing environmental benefits more fairly but also upon recognising the governance systems that have sustained marine ecosystems for centuries. By integrating Customary Marine Tenure into international environmental law, environmental justice can evolve into a more comprehensive jurisprudence capable of protecting both nature and the communities whose stewardship has long contributed to its preservation.¹¹

2. Environmental Justice and the Evolution of Customary Marine Tenure

Environmental justice has traditionally been understood as a legal principle that seeks fairness in the protection and use of the environment. It requires that no individual or community should bear a disproportionate share of environmental harm or be excluded from decisions affecting the environment

in which they live. Over time, the concept has expanded beyond pollution control to include biodiversity conservation, climate justice, sustainable development, environmental human rights, and intergenerational equity.¹² This broader understanding demonstrates that environmental justice is no longer concerned solely with the distribution of environmental burdens but also with creating legal systems that protect both people and nature.

Despite this progress, environmental justice has largely developed within a State-centred legal framework. Governments remain the principal institutions responsible for making environmental laws, implementing international agreements, regulating natural resources, and enforcing environmental standards. While this approach has strengthened environmental governance, it has often overlooked Indigenous legal systems that have protected ecosystems long before the emergence of modern environmental law. As a result, environmental justice has frequently recognised Indigenous communities as beneficiaries of environmental protection without fully recognising their customary governance systems as important sources of environmental law.¹³

One of the oldest and most effective examples of Indigenous environmental governance is Customary Marine Tenure. Customary Marine Tenure refers to the customary laws, institutions, and practices through which Indigenous communities regulate ownership, access, use, and protection of marine resources within their ancestral coastal waters. Although these systems differ from one community to another, they generally share common principles of collective responsibility, ecological stewardship, sustainable resource use, and long-term environmental protection.¹⁴ Their primary objective

¹⁰ Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021).

¹¹ Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony and Intergenerational Equity* (United Nations University Press 1989).

¹² Philippe Sands and Jacqueline Peel, *Principles of*

International Environmental Law (4th edn, Cambridge University Press 2018).

¹³ David R Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (UBC Press 2012).

¹⁴ Fikret Berkes, *Sacred Ecology* (4th edn, Routledge 2018).

is not merely the utilisation of marine resources but their preservation for present and future generations.

The relationship between environmental justice and Customary Marine Tenure is both practical and legal. Environmental justice seeks fairness in environmental governance, while Customary Marine Tenure provides a proven system through which Indigenous communities have governed marine ecosystems fairly and sustainably for centuries. Community members are expected to exercise recognised rights over marine resources responsibly, ensuring that present use does not undermine future ecological wellbeing. In this way, customary governance reflects many of the principles that international environmental law now promotes through biodiversity conservation and sustainable development.

A defining feature of Customary Marine Tenure is its emphasis on ecological stewardship. Indigenous communities generally regard the ocean not as private property available for unrestricted exploitation but as a shared ecological inheritance carrying responsibilities as well as rights. Customary rules often regulate fishing seasons, establish protected marine areas, prohibit destructive harvesting practices, and impose sanctions against activities that threaten ecological balance.¹⁵ These customary institutions demonstrate that environmental conservation has long been embedded within Indigenous legal traditions rather than emerging only through modern environmental legislation.

The evolution of Indigenous Ocean Governance further strengthens this relationship. Indigenous communities have accumulated extensive ecological knowledge concerning tides, fish migration, breeding cycles, coral reefs, mangrove ecosystems, coastal habitats, and seasonal environmental change. This knowledge has developed through continuous observation of marine ecosystems over many generations. It enables communities to respond to

environmental change while maintaining sustainable livelihoods. Consequently, Indigenous Ocean Governance represents not merely cultural heritage but an important source of environmental expertise capable of strengthening contemporary ocean governance.¹⁶

International environmental law has gradually begun to acknowledge this contribution. The Convention on Biological Diversity recognises the importance of respecting the traditional knowledge and practices of Indigenous and local communities where they contribute to biodiversity conservation and sustainable resource management.¹⁷ Similarly, the United Nations Declaration on the Rights of Indigenous Peoples affirms the rights of Indigenous peoples to maintain their traditional institutions and their relationships with ancestral lands and resources. These developments demonstrate growing international recognition of Indigenous knowledge. Nevertheless, legal recognition of Customary Marine Tenure itself remains relatively limited within international environmental governance.

This article argues that this limitation weakens environmental justice. Justice cannot be fully achieved where environmental governance overlooks legal systems that have successfully protected marine ecosystems for centuries. Environmental justice should therefore extend beyond ensuring equal access to environmental benefits. It should also recognise the governance institutions that contribute directly to environmental protection. Customary Marine Tenure deserves recognition not simply because it protects Indigenous cultural identity but because it strengthens biodiversity conservation, ecological resilience, climate adaptation, and sustainable ocean governance.

The author's earlier scholarship supports this conclusion. In *Customary Marine Tenure and the Limits of State-Centred Ocean Governance in Nigeria*, Happy Okundaye Oji argued that

¹⁵ S James Anaya, *Indigenous Peoples in International Law* (2nd edn, Oxford University Press 2004).

¹⁶ John Borrows, *Canada's Indigenous Constitution* (University of Toronto Press 2010).

¹⁷ Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79, art 8(j).

Customary Marine Tenure provides a legitimate governance system capable of complementing statutory regulation while strengthening climate justice.¹⁸ In *The Ecology of Justice*, the author further demonstrated that environmental law should recognise ecological relationships as an essential component of justice.¹⁹ The present article extends these earlier arguments by demonstrating that environmental justice itself should be reconstructed through greater recognition of Indigenous marine governance.

Ultimately, the evolution of Customary Marine Tenure demonstrates that environmental justice cannot be achieved solely through governmental regulation. It also depends upon recognising Indigenous legal traditions that have sustained marine ecosystems across generations. Protecting the oceans requires protecting the governance systems that have preserved them. Environmental justice should therefore evolve towards a more inclusive legal framework that recognises Customary Marine Tenure as an integral component of sustainable ocean governance.²⁰

The next section examines the limitations of existing State-centred environmental justice frameworks and explains why a new jurisprudential approach is necessary for the future development of international environmental law.

3. The Limits of State-Centred Environmental Justice

The previous section demonstrated that Customary Marine Tenure has protected marine ecosystems through Indigenous legal institutions for generations. Despite this contribution, contemporary environmental justice continues to rely primarily upon State-centred governance. Governments

remain the principal actors responsible for making environmental laws, implementing international agreements, regulating natural resources, and enforcing environmental standards. While this model has strengthened environmental protection in many respects, it has also created important limitations that reduce the effectiveness of environmental justice, particularly within marine environments.²¹

The State-centred model has achieved significant legal progress. International environmental agreements have encouraged governments to combat pollution, conserve biodiversity, regulate fisheries, protect endangered species, and respond to climate change.²² These legal developments remain indispensable because governments possess the constitutional authority, administrative institutions, and enforcement mechanisms necessary to implement environmental policies on a national scale. Without governmental participation, international environmental law would have little practical effect.

However, environmental challenges have become increasingly complex. Climate change, marine pollution, biodiversity loss, illegal fishing, coastal erosion, ocean warming, and habitat destruction affect ecosystems that extend far beyond political boundaries. These environmental problems cannot be solved by governments acting alone. Effective environmental governance now requires cooperation between States, international organisations, scientists, civil society, and Indigenous communities. Environmental justice must therefore evolve beyond a governance model that relies exclusively upon governmental institutions.

One of the greatest weaknesses of the State-centred approach is its limited recognition of Indigenous governance systems. Across many coastal regions, Indigenous communities have governed marine

¹⁸ Oji (n 8).

¹⁹ Oji (n 9).

²⁰ Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony and Intergenerational Equity* (United Nations University Press 1989).

²¹ Philippe Sands and Jacqueline Peel, *Principles of*

International Environmental Law (4th edn, Cambridge University Press 2018).

²² United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3; Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79.

environments through Customary Marine Tenure for centuries. These customary institutions regulate fishing, protect breeding grounds, conserve biodiversity, resolve disputes, and encourage ecological stewardship.²³ Yet international environmental law often treats these governance systems as matters of culture or tradition rather than recognising them as legitimate legal institutions capable of contributing directly to environmental justice.

This limitation creates a significant governance gap. Governments possess legal authority and institutional capacity, but they cannot monitor every coastal ecosystem or understand every local environmental condition. Indigenous communities, by contrast, possess generations of ecological knowledge acquired through continuous interaction with the marine environment. They often detect environmental changes long before they become apparent through scientific monitoring. Their customary institutions therefore complement governmental regulation by providing local knowledge, environmental stewardship, and practical conservation measures. Environmental justice should recognise this complementary relationship rather than overlooking it.

Climate change further exposes the limitations of State-centred environmental justice. Rising sea levels, stronger storms, changing fish migration patterns, coral bleaching, coastal flooding, and marine biodiversity loss increasingly threaten Indigenous coastal communities.²⁴ These environmental changes affect not only ecosystems but also livelihoods, food security, cultural identity, and traditional governance. Existing legal frameworks frequently respond by strengthening governmental regulation while paying comparatively less attention to Indigenous institutions that have long managed these environmental risks through customary governance. Consequently, opportunities for more effective and locally informed climate

adaptation are often missed.

Another weakness concerns community participation. Environmental justice has long recognised that people affected by environmental decisions should participate meaningfully in those decisions. This principle is reflected in numerous international environmental instruments.²⁵ However, participation is often limited to consultation after governmental decisions have largely been formulated. Indigenous communities should instead participate as partners in environmental governance because their customary legal institutions already perform important conservation functions. Meaningful participation therefore requires recognising Indigenous governance rather than merely consulting Indigenous communities.

The State-centred model also struggles to balance environmental protection with sustainable livelihoods. Governments frequently face competing pressures arising from economic development, commercial fisheries, offshore resource extraction, infrastructure projects, and environmental conservation. Indigenous communities governed through Customary Marine Tenure often approach these issues differently. Their customary laws generally emphasise long-term sustainability because community wellbeing depends directly upon the continued health of marine ecosystems. This relationship encourages conservation rather than short-term exploitation and provides valuable guidance for environmental governance in the Ocean Century.

International environmental law itself increasingly points towards a more inclusive approach. The Convention on Biological Diversity encourages respect for Indigenous knowledge and practices that contribute to biodiversity conservation, while the United Nations Declaration on the Rights of Indigenous Peoples recognises Indigenous peoples' rights to maintain their legal institutions and traditional relationships with natural resources.²⁶

²³ Fikret Berkes, *Sacred Ecology* (4th edn, Routledge 2018).

²⁴ Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report* (IPCC 2023).

²⁵ Rio Declaration on Environment and Development (1992)

Principle 10.

²⁶ Convention on Biological Diversity (n 22) art 8(j); United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295 (13 September 2007).

These developments demonstrate that international law already acknowledges the importance of Indigenous communities. The next step is to recognise Customary Marine Tenure as a legitimate component of environmental justice itself.

The author's previous scholarship supports this conclusion. In *Customary Marine Tenure and the Limits of State-Centred Ocean Governance in Nigeria*, Happy Okundaye Oji argued that Indigenous marine governance strengthens climate justice by complementing statutory regulation.²⁷ In *The Ecology of Justice*, the author further argued that environmental law should recognise broader ecological relationships when pursuing justice.²⁸ Building upon those earlier works, this article argues that environmental justice should move beyond exclusive reliance upon State institutions and embrace a more inclusive model of governance that recognises Indigenous legal authority alongside governmental regulation.

Accordingly, this article concludes that the principal weakness of State-centred environmental justice is not that governments occupy a central role in environmental protection, but that other effective systems of environmental governance remain insufficiently recognised. Environmental justice should therefore be reconstructed to acknowledge Customary Marine Tenure as a legitimate legal institution capable of strengthening biodiversity conservation, climate resilience, ecological stewardship, sustainable ocean governance, and intergenerational justice.²⁹

The next section develops Ocean Governance Justice Theory, introduced by Happy Okundaye Oji, as a new jurisprudential framework for reconstructing environmental justice through the legal recognition of Customary Marine Tenure and Indigenous Ocean Governance.

4. Ocean Governance Justice Theory: A New

²⁷ Oji (n 7).

²⁸ Oji (n 8)

²⁹ Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021).

Jurisprudence for Environmental Justice

The preceding section demonstrated that existing environmental justice frameworks remain largely State-centred and therefore do not fully recognise the contribution of Indigenous governance to environmental protection. While governments continue to play an indispensable role in environmental regulation, environmental justice should also recognise the legal systems that have successfully protected ecosystems for generations. This article therefore introduces Ocean Governance Justice Theory, developed by Happy Okundaye Oji, as a new jurisprudential framework for reconstructing environmental justice in international environmental law.³⁰

Ocean Governance Justice Theory argues that environmental justice should be reconstructed by recognising Customary Marine Tenure and Indigenous Ocean Governance as legitimate systems of environmental governance because they contribute directly to biodiversity conservation, ecological stewardship, climate resilience, sustainable ocean governance, and intergenerational justice.³¹ The theory therefore moves environmental justice beyond its traditional concern with the distribution of environmental benefits and burdens. It argues that justice also requires legal recognition of the institutions that have consistently protected marine ecosystems through responsible stewardship.

The theory begins with a straightforward proposition. Environmental justice cannot exist where the legal systems that sustain environmental resources remain unrecognised. Indigenous communities have governed coastal waters through Customary Marine Tenure for centuries, regulating fishing activities, protecting breeding grounds, conserving marine biodiversity, and ensuring that natural resources remain available for future generations. These customary institutions have performed environmental functions long before the

³⁰ Happy Okundaye Oji, 'Ocean Governance Justice Theory' (concept introduced in this article).

³¹ Ibid.

emergence of modern international environmental law. Their contribution therefore deserves legal recognition within contemporary environmental governance rather than remaining confined to discussions of cultural heritage or Indigenous rights.

A central feature of Ocean Governance Justice Theory is that it reconnects environmental justice with ocean governance. Oceans regulate the Earth's climate, support marine biodiversity, provide food security, sustain millions of livelihoods, and maintain ecological balance across the planet. Yet environmental justice has often developed with limited attention to the marine environment. The theory argues that environmental justice cannot be complete without recognising the central role of oceans in maintaining environmental sustainability. Protecting marine ecosystems should therefore become one of the principal objectives of environmental justice.³²

The theory also strengthens the principle of ecological stewardship. Stewardship requires natural resources to be used responsibly so that they remain available for future generations. Indigenous governance systems have consistently reflected this principle by encouraging restraint, collective responsibility, and sustainable resource management. Community members understand that environmental degradation threatens both ecological integrity and community survival. Consequently, Ocean Governance Justice Theory argues that stewardship should become one of the guiding principles for interpreting and developing international environmental law.³³

Another important contribution of the theory is its support for legal pluralism. Contemporary environmental challenges cannot be addressed effectively through governmental regulation alone. Governments provide legislative authority, institutional coordination, and treaty implementation, while Indigenous communities

contribute customary governance, ecological knowledge, and practical environmental stewardship. These systems should not be viewed as competing sources of legal authority. Instead, they should operate collaboratively, allowing statutory law and customary law to strengthen one another in protecting marine ecosystems. Such cooperation produces more inclusive and resilient environmental governance.

The theory further incorporates the emerging concept of the Rights of Nature. Increasingly, environmental jurisprudence recognises that ecosystems possess intrinsic value beyond their economic usefulness to human beings. Ocean Governance Justice Theory supports this development by arguing that customary governance has long reflected a similar understanding. Indigenous communities often regard the ocean as a living environment deserving respect, protection, and responsible stewardship rather than unrestricted exploitation. Recognising Customary Marine Tenure therefore reinforces the broader movement towards ecologically centred environmental law.³⁴

Climate justice also forms an important part of the theory. Climate change has intensified pressure on marine ecosystems through sea-level rise, ocean warming, coastal erosion, coral bleaching, and declining fisheries. These changes disproportionately affect Indigenous coastal communities because their livelihoods, cultures, and identities remain closely connected to the sea. Environmental justice therefore requires legal frameworks capable of protecting both vulnerable communities and the ecosystems upon which they depend. Ocean Governance Justice Theory responds to this challenge by integrating climate resilience, biodiversity conservation, and Indigenous governance within a single jurisprudential framework.

The author's previous scholarship provides the

³² Intergovernmental Panel on Climate Change, *The Ocean and Cryosphere in a Changing Climate* (IPCC 2019).

³³ Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony and Intergenerational Equity* (United Nations University Press

1989).

³⁴ Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice* (2nd edn, Green Books 2011).

foundation for this development. In Customary Marine Tenure and the Limits of State-Centred Ocean Governance in Nigeria, Happy Okundaye Oji argued that Indigenous marine governance strengthens climate justice by complementing statutory regulation.³⁵ In *The Ecology of Justice*, the author further demonstrated that environmental law should recognise ecological relationships as an essential component of justice.³⁶ Ocean Governance Justice Theory extends these earlier contributions by arguing that environmental justice itself should be reconstructed through the legal recognition of Indigenous Ocean Governance and Customary Marine Tenure.

The practical implications of the theory are considerable. Governments should formally recognise legitimate systems of Customary Marine Tenure within environmental legislation where appropriate. International organisations should encourage Indigenous participation in marine conservation and climate adaptation. Biodiversity policies should integrate Indigenous ecological knowledge alongside scientific research. Ocean governance should increasingly operate through collaboration between governments, Indigenous communities, scientists, and environmental institutions. These reforms would strengthen both environmental protection and environmental justice.

Ultimately, Ocean Governance Justice Theory does not seek to replace existing international environmental law. Rather, it seeks to strengthen it by broadening the legal foundations of environmental justice. The theory recognises that governments remain central to environmental governance while demonstrating that Indigenous legal institutions also perform essential environmental functions. By recognising these complementary systems of governance, international environmental law can become more inclusive, more

effective, and better equipped to address the environmental challenges of the Ocean Century.³⁷

The next section examines how Customary Marine Tenure can be integrated into contemporary ocean governance and demonstrates how such integration can strengthen biodiversity conservation, climate resilience, community participation, sustainable development, and environmental justice.

5. Reconstructing Ocean Governance Through Customary Marine Tenure

The previous section introduced Ocean Governance Justice Theory as a new jurisprudential framework for reconstructing environmental justice. The theory argues that environmental justice should recognise Customary Marine Tenure as a legitimate system of environmental governance capable of protecting both marine ecosystems and the communities that depend upon them. The next question is how this reconstruction can be achieved in practice. This section argues that sustainable ocean governance should be rebuilt through greater legal recognition of Customary Marine Tenure as a complementary system of marine governance.³⁸

Ocean governance has traditionally been understood as the regulation of marine environments through international treaties, national legislation, and governmental institutions. These legal mechanisms remain essential for implementing the law of the sea, regulating fisheries, controlling marine pollution, conserving biodiversity, and responding to climate change. However, experience has shown that governments alone cannot effectively protect increasingly complex marine ecosystems. Sustainable ocean governance requires cooperation between governments, Indigenous communities, scientists, environmental organisations, and coastal

³⁵ Happy Okundaye Oji, 'Customary Marine Tenure and the Limits of State-Centric Ocean Governance in Nigeria: A Climate Justice Perspective' (2026) 4(6) *GAS Journal of Arts Humanities and Social Sciences*.

³⁶ Happy Okundaye Oji, 'The Ecology of Justice: Reconstructing Environmental Law for the Anthropocene'

(2026) *ISA Journal of Arts, Humanities and Social Sciences*.

³⁷ Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, Cambridge University Press 2018).

³⁸ *Ibid.*

populations.³⁹

Customary Marine Tenure provides an effective foundation for such cooperation. Indigenous communities have governed marine resources through customary laws for generations, establishing practical rules concerning fishing seasons, access to coastal waters, protection of breeding grounds, conflict resolution, and sustainable harvesting. These customary institutions encourage responsible use of marine resources because the long-term wellbeing of the community depends upon the continued health of the marine environment. Environmental stewardship therefore becomes both a legal obligation and a social responsibility.⁴⁰

One of the greatest strengths of Customary Marine Tenure is its contribution to marine biodiversity conservation. Healthy marine ecosystems support fish populations, coral reefs, mangrove forests, seagrass beds, and numerous other forms of marine life. Indigenous customary laws frequently prohibit destructive fishing methods, regulate harvesting periods, and preserve ecologically sensitive marine areas. These conservation measures have protected biodiversity over many generations and continue to complement modern environmental regulation. Recognising these governance systems would therefore strengthen international efforts to conserve marine biodiversity.⁴¹

Customary Marine Tenure also plays an important role in strengthening climate resilience. Coastal communities increasingly face rising sea levels, stronger storms, coastal erosion, ocean warming, and changing marine ecosystems. Indigenous communities have developed practical knowledge concerning environmental adaptation through continuous interaction with coastal environments over centuries. Their understanding of tides, coastal processes, fish migration, seasonal changes, and ecosystem recovery provides valuable guidance for

climate adaptation. Integrating this knowledge into ocean governance would improve environmental resilience while supporting more effective climate responses.⁴²

Another important contribution concerns community participation. Effective ocean governance depends upon the active involvement of those who depend directly upon marine resources. Indigenous communities should therefore participate not merely as stakeholders but as recognised partners in environmental governance. Their involvement in fisheries management, marine protected areas, coastal planning, biodiversity conservation, and climate adaptation strengthens environmental legitimacy while improving compliance with conservation measures. Participation should therefore become a permanent feature of ocean governance rather than an occasional consultation process.⁴³

The reconstruction of ocean governance should also strengthen the principle of legal pluralism. Governments possess constitutional authority, legislative powers, and institutional capacity to implement environmental obligations. Indigenous communities contribute customary governance, ecological knowledge, and practical conservation experience. These different legal systems should not compete with one another. Instead, they should operate collaboratively, allowing statutory law and customary law to complement each other's strengths. Such cooperation produces more effective environmental governance because it combines national regulation with local ecological expertise.⁴⁴

This approach also supports the development of a more sustainable Blue Economy. Economic activities such as fisheries, tourism, marine transportation, renewable energy, and coastal development should be pursued in ways that preserve marine ecosystems for future generations.

Change 2023: Synthesis Report (IPCC 2023).

⁴³ Rio Declaration on Environment and Development (1992) Principle 10.

⁴⁴ John Borrows, *Canada's Indigenous Constitution* (University of Toronto Press 2010).

³⁹ United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3.

⁴⁰ Fikret Berkes, *Sacred Ecology* (4th edn, Routledge 2018).

⁴¹ Fikret Berkes, *Sacred Ecology* (4th edn, Routledge 2018).

⁴² Intergovernmental Panel on Climate Change, *Climate*

Customary Marine Tenure provides valuable guidance by demonstrating that economic use of marine resources can coexist with environmental stewardship. Sustainable economic development therefore requires governance systems that balance ecological protection with responsible resource utilisation rather than encouraging unrestricted exploitation.⁴⁵

The author's previous scholarship reinforces this conclusion. In Customary Marine Tenure and the Limits of State-Centred Ocean Governance in Nigeria, Happy Okundaye Oji argued that Indigenous marine governance strengthens climate justice by complementing statutory regulation.⁴⁶ In The Ecology of Justice, the author further demonstrated that environmental law should recognise ecological relationships as an essential component of justice.⁴⁷ Building upon those earlier contributions, this article argues that reconstructing ocean governance through Customary Marine Tenure offers one of the most practical pathways for strengthening environmental justice, biodiversity conservation, climate resilience, and sustainable development simultaneously.

Ultimately, reconstructing ocean governance does not require replacing existing legal institutions. Rather, it requires expanding them. Governments should continue to exercise their regulatory authority while recognising Customary Marine Tenure as a legitimate partner in marine environmental governance. Such an approach would strengthen biodiversity conservation, improve climate adaptation, encourage community participation, promote sustainable economic development, and create a more inclusive system of international environmental law.⁴⁸

The next section examines the legal and institutional reforms required to incorporate these principles into

international environmental law and to establish a more comprehensive framework for environmental justice through ocean governance.

6. Reforming International Environmental Law Through Ocean Governance Justice

The preceding sections have demonstrated that environmental justice cannot be fully achieved through State-centred governance alone. While governments remain indispensable to environmental regulation, they are not the only institutions capable of protecting marine ecosystems. Indigenous communities have governed coastal environments through Customary Marine Tenure for generations, contributing to biodiversity conservation, ecological stewardship, climate resilience, and sustainable resource management. This section argues that international environmental law should be reformed to recognise these contributions more effectively through the framework of Ocean Governance Justice.⁴⁹

The first reform should be the formal legal recognition of Customary Marine Tenure within national and international environmental governance. In many countries, customary marine institutions continue to operate without clear legal recognition despite their proven contribution to marine conservation. This legal uncertainty often weakens Indigenous participation in environmental governance and creates unnecessary conflict between statutory regulation and customary authority. Governments should therefore enact legislation recognising legitimate systems of Customary Marine Tenure where they are consistent with constitutional principles, human rights, and international environmental obligations. Such recognition would strengthen cooperation while

⁴⁵ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* (2015).

⁴⁶ Happy Okundaye Oji, 'Customary Marine Tenure and the Limits of State-Centric Ocean Governance in Nigeria: A Climate Justice Perspective' (2026) 4(6) *GAS Journal of Arts Humanities and Social Sciences*.

⁴⁷ Happy Okundaye Oji, 'The Ecology of Justice:

Reconstructing Environmental Law for the Anthropocene' (2026) *ISA Journal of Arts, Humanities and Social Sciences*.

⁴⁸ Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021).

⁴⁹ Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, Cambridge University Press 2018).

improving the protection of marine ecosystems.⁵⁰

Secondly, international environmental law should promote genuine co-governance of marine environments. Ocean governance should no longer be viewed as the exclusive responsibility of governments. Instead, environmental institutions should encourage collaborative decision-making involving governments, Indigenous communities, marine scientists, environmental agencies, universities, civil society organisations, and local coastal populations. Such collaborative governance combines statutory authority with Indigenous ecological knowledge, producing more informed and sustainable environmental decisions. It also strengthens public confidence in environmental governance because communities become active participants rather than passive observers.

A third reform concerns marine biodiversity conservation. Healthy oceans provide the ecological foundation upon which environmental justice depends. Coral reefs, mangrove forests, estuaries, fisheries, seagrass meadows, and coastal wetlands should receive stronger legal protection because they support biodiversity, regulate climate, protect coastlines, and sustain millions of livelihoods. International environmental law should therefore integrate biodiversity conservation with Indigenous governance by recognising the important role that Customary Marine Tenure continues to play in protecting these ecosystems.⁵¹

Climate adaptation policies should also be reformed. Coastal communities increasingly experience sea-level rise, coastal erosion, stronger storms, ocean warming, coral bleaching, and changing fisheries. Indigenous communities possess generations of ecological knowledge concerning environmental adaptation, seasonal changes, coastal management, and ecosystem recovery. This knowledge should complement scientific research when designing climate adaptation strategies. Environmental governance becomes stronger when scientific

expertise and Indigenous ecological knowledge are treated as complementary rather than competing sources of knowledge.⁵²

The article further recommends strengthening Indigenous participation within international environmental institutions. Participation should extend beyond consultation to meaningful involvement in environmental planning, biodiversity conservation, marine protected areas, climate adaptation, fisheries management, and ocean policy development. Indigenous communities should be recognised as environmental partners because their customary governance systems continue to contribute directly to sustainable ocean governance. Such participation reflects both environmental justice and democratic environmental governance.

International environmental law should also adopt a broader understanding of environmental justice itself. Justice should not be limited to preventing unequal exposure to environmental harm or ensuring equal access to environmental benefits. It should equally recognise and protect the legal institutions that have contributed to environmental sustainability over many generations. Recognising Customary Marine Tenure therefore becomes an issue of environmental justice because it acknowledges Indigenous communities as contributors to environmental governance rather than merely recipients of environmental protection.

These reforms collectively support the central argument of Ocean Governance Justice Theory. The theory demonstrates that environmental justice is strengthened when governments and Indigenous communities govern marine ecosystems together. Governments provide constitutional authority, legislation, regulatory oversight, and treaty implementation. Indigenous communities contribute ecological stewardship, customary governance, environmental knowledge, and long-term conservation experience. Combining these strengths produces a more resilient, legitimate, and effective

⁵⁰ United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295 (13 September 2007).

⁵¹ Convention on Biological Diversity (adopted 5 June 1992,

entered into force 29 December 1993) 1760 UNTS 79.

⁵² Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report* (IPCC 2023).

system of environmental governance.⁵³

The author's earlier scholarship reinforces this conclusion. In Customary Marine Tenure and the Limits of State-Centred Ocean Governance in Nigeria, Happy Okundaye Oji argued that Indigenous marine governance complements governmental regulation by strengthening climate justice and sustainable ocean governance.⁵⁴ In The Ecology of Justice, the author further demonstrated that environmental law should recognise ecological relationships as an essential foundation of justice.⁵⁵ The present article extends these earlier contributions by arguing that international environmental law itself should be reconstructed through Ocean Governance Justice, placing Customary Marine Tenure at the centre of future ocean governance.

Ultimately, reforming international environmental law requires more than negotiating additional treaties or adopting stronger environmental regulations. It requires a broader understanding of where environmental governance originates. By recognising Customary Marine Tenure as a legitimate legal institution and integrating Indigenous Ocean Governance into environmental decision-making, international environmental law can become more inclusive, more effective, and better equipped to address the environmental challenges of the Ocean Century.⁵⁶

The final section concludes the article by summarising its principal findings and explaining why Ocean Governance Justice Theory provides a new jurisprudential foundation for reconstructing environmental justice through Customary Marine Tenure.

7. Conclusion: Towards a New Jurisprudence of Ocean Governance

This article has argued that environmental justice requires a fundamental reconstruction if it is to respond effectively to the environmental challenges of the twenty-first century. Although international environmental law has made significant progress in addressing pollution, biodiversity loss, climate change, and sustainable development, it has continued to rely predominantly upon State-centred systems of environmental governance. This approach has strengthened environmental regulation but has not fully recognised the contribution of Indigenous governance systems that have protected marine ecosystems for generations.⁵⁷

A central argument developed throughout this article is that Customary Marine Tenure should no longer be regarded merely as a traditional or cultural institution. It is a sophisticated legal system of environmental governance that promotes biodiversity conservation, ecological stewardship, sustainable resource management, climate resilience, and community participation. Indigenous communities have demonstrated through centuries of customary governance that environmental protection and responsible resource use are mutually reinforcing objectives. Their contribution deserves formal recognition within contemporary international environmental law.

The article has also demonstrated that the future of environmental justice depends upon recognising the oceans as central to environmental governance. Healthy oceans regulate the Earth's climate, support marine biodiversity, sustain coastal livelihoods, and contribute directly to global ecological stability. Environmental justice therefore cannot be achieved

⁵³ John Borrows, *Canada's Indigenous Constitution* (University of Toronto Press 2010).

⁵⁴ Happy Okundaye Oji, 'Customary Marine Tenure and the Limits of State-Centric Ocean Governance in Nigeria: A Climate Justice Perspective' (2026) 4(6) *GAS Journal of Arts Humanities and Social Sciences*.

⁵⁵ Happy Okundaye Oji, 'The Ecology of Justice: Reconstructing Environmental Law for the Anthropocene' (2026) *ISA Journal of Arts, Humanities and Social Sciences*.

⁵⁶ Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony and Intergenerational Equity* (United Nations University Press 1989).

⁵⁷ Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, Cambridge University Press 2018).

if marine ecosystems continue to be governed through legal frameworks that overlook the role of Indigenous marine governance. Protecting the oceans requires protecting the governance systems that have long sustained them.

To address this challenge, the article introduced Ocean Governance Justice Theory, developed by Happy Okundaye Oji, as an original contribution to international environmental jurisprudence. The theory argues that environmental justice should be reconstructed by recognising Customary Marine Tenure and Indigenous Ocean Governance as legitimate systems of environmental governance that contribute directly to biodiversity conservation, ecological stewardship, climate resilience, sustainable ocean governance, and intergenerational justice. Rather than treating Indigenous governance as a peripheral aspect of environmental law, the theory places it at the centre of contemporary environmental justice.⁵⁸

The analysis has further demonstrated that governments and Indigenous communities should not be viewed as competing sources of legal authority. Governments remain responsible for implementing international environmental obligations, enforcing environmental legislation, and coordinating national environmental policy. Indigenous communities contribute customary governance, ecological knowledge, environmental stewardship, and practical conservation experience developed through generations of interaction with marine ecosystems. Effective environmental governance therefore depends upon complementary governance, where statutory institutions and customary legal systems work together to achieve shared environmental objectives.

The article has equally shown that recognising Customary Marine Tenure would produce important practical benefits. It would strengthen marine

biodiversity conservation, improve climate adaptation, enhance food security, promote Indigenous participation in environmental decision-making, preserve traditional ecological knowledge, and encourage more sustainable management of marine resources. These reforms would not weaken State sovereignty. Rather, they would strengthen the legitimacy and effectiveness of international environmental law by expanding the range of institutions capable of contributing to environmental protection.

Ultimately, this article argues that environmental justice should no longer be understood solely as the equitable distribution of environmental benefits and burdens. True environmental justice also requires recognising the legal institutions that have consistently protected ecosystems upon which human wellbeing depends. Customary Marine Tenure represents one of the oldest and most successful examples of such governance. Its continued marginalisation weakens environmental protection, while its recognition strengthens both environmental sustainability and social justice.

Accordingly, this article concludes that the future of international environmental law lies in a more inclusive jurisprudence of ocean governance. Ocean Governance Justice Theory provides one possible framework for achieving this objective by integrating environmental justice, Indigenous Ocean Governance, Customary Marine Tenure, ecological stewardship, climate justice, biodiversity conservation, and legal pluralism within a single coherent legal framework. In doing so, it offers a new direction for the future development of international environmental law in the Ocean Century.⁵⁹

As environmental pressures upon the world's oceans continue to intensify, international environmental law must evolve accordingly. Reconstructing environmental justice through Customary Marine

⁵⁸ Happy Okundaye Oji, 'Ocean Governance Justice Theory' (concept introduced in this article); Happy Okundaye Oji, 'Customary Marine Tenure and the Limits of State-Centric Ocean Governance in Nigeria: A Climate Justice Perspective' (2026) 4(6) *GAS Journal of Arts Humanities and Social Sciences*; Happy Okundaye Oji, 'The Ecology of

Justice: Reconstructing Environmental Law for the Anthropocene' (2026) *ISA Journal of Arts, Humanities and Social Sciences*.

⁵⁹ Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021).

Tenure is not simply about recognising Indigenous legal traditions. It is about building a more effective, more legitimate, and more sustainable system of ocean governance capable of protecting marine ecosystems, supporting coastal communities, and safeguarding the interests of present and future generations.⁶⁰

Author Biography

Happy Okundaye Oji, LLB, BL, LLM, is a Nigerian legal practitioner, environmental law scholar, and doctoral researcher specialising in International Environmental Law, Climate Justice, Indigenous Ocean Governance, Customary Marine Tenure, Ocean Governance, Environmental Justice, and the Law of the Sea. His research explores the intersection of Indigenous legal traditions and contemporary international environmental law, with particular emphasis on developing innovative jurisprudential frameworks capable of strengthening biodiversity conservation, climate resilience, ecological stewardship, and sustainable ocean governance.

He is the author of 'Customary Marine Tenure and the Limits of State-Centric Ocean Governance in Nigeria: A Climate Justice Perspective', published in the *GAS Journal of Arts Humanities and Social Sciences* (2026), and 'The Ecology of Justice: Reconstructing Environmental Law for the Anthropocene', published in the *ISA Journal of Arts, Humanities and Social Sciences* (2026). These publications have established an important foundation for his continuing work on climate justice, Indigenous Ocean Governance, and environmental jurisprudence.

In this article, he introduces Ocean Governance Justice Theory, an original jurisprudential framework arguing that environmental justice should be reconstructed through the legal recognition of Customary Marine Tenure and Indigenous Ocean Governance as complementary systems of

environmental governance. The theory proposes that environmental justice extends beyond the equitable distribution of environmental benefits and burdens to include the recognition of Indigenous legal authority, ecological stewardship, biodiversity conservation, climate resilience, and intergenerational justice. Through this contribution, Happy Okundaye Oji seeks to advance a more inclusive and globally relevant jurisprudence for the future development of international environmental law in the Ocean Century.

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