



Community Rights and Corporate Responsibilities in Nigeria's Oil Producing Areas: Legal and Policy Gaps in the Petroleum Industry ACT 2021

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Abstract

The Petroleum Industry Act (PIA) 2021 is a landmark legislation reforming Nigeria's oil and gas industry with expectations of increased transparency, regulatory certainty, and community development through schemes such as the Host Communities Development Trust (HCDDT). However, the implementation of the PIA has attracted significant controversy regarding the 3% contribution for host communities' development from oil companies' annual operating expenditure a level considerably reduced from the previous drafts' 10% equity participation. The paper interrogated the PIA in relation to environmental justice and community development in the Niger Delta and how stakeholders are responding to the legislation. The paper found that there is discontent within host communities and civil society organizations, and that these stakeholders believe that investing 3% is insufficient to redress past harms caused by decades of oil extraction, and physical and environmental disinvestment. A comparative analysis of countries like Ghana, Canada, and Norway best practice revealed a major divide in Nigeria's institutional and policy inadequacies. The paper concluded that while the PIA has made some reforms, its under-funded provisions, lack of enforcement, and limited, lack-of community engagement makes it incapable of achieving inclusive development and sustainable peace. The paper recommended that the PIA be further amended to hold public and private oil operators accountable to environmental remediation and community engagement, so as not to start more harmful practice of exclusion and externalized environmental violence rather than tackling the historical trends of exclusion and environmental injustice presently destabilizing the Niger Delta region. The paper is relevant as it offers a new vista to the ongoing conversation for a more sustainable oil and gas prospecting/host environment.

Keywords: Corporate Responsibilities, Community Rights, Petroleum Industry Act (PIA), Host Communities Development Trust (HCDDT).

Original Research Articles

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1. INTRODUCTION

The oil and gas industry is still the bedrock of Nigeria's economy, responsible for a significant amount of government revenue and foreign exchange. Unfortunately, this great wealth has been a burden to oil-producing communities, particularly in the Niger Delta where communities have endured environmental degradation, socio-economic dislocation, and political marginalization. Communities have faced limited infrastructure development, chronic poverty, and exclusion

from governmental and resource governance decisions, despite decades of petroleum extraction. There exists a paradox of abundance, rich in resources, yet underdeveloped regions. The consequence of legal frameworks such as the Petroleum Act 1969 and the Land Use Act 1978, which centralized control of natural resources to the federal government while dismissing community ownership and decision-making authority,¹ has only accentuated the situation.

The passage of the Petroleum Industry Act (PIA) in 2021 was

¹ Ebeku, K.S.A., 'Oil and the Niger Delta People: The Injustice of the Land Use Act', *Journal of African Law*,

49(2), 2005, pp. 124–146.



generally perceived as a historic opportunity to confront these long-standing injustices, and to recalibrate the relationship between the Nigerian state, oil corporations, and the communities that host these oil corporations. Arguably, one of the most significant changes was the establishment of the Host Communities Development Trust (HCDDT) which aims to ensure oil-producing areas benefit directly from the operations of petroleum companies through mandatory 3% contributions of the annual operating costs of oil companies.² Furthermore, the PIA also streamlines regulatory agencies, and recalibrates fiscal regimes to improve accountability, transparency and efficiency throughout the petroleum sector. While the Act establishes new frameworks for corporate responsibility and community benefits, it also raises serious concerns over the issues of representation, accountability, environmental protection, and the efficacy of the development model.³

The paper reviews the legal and policy framework of the PIA and its relationship with community rights and corporate responsibilities in Nigeria's oil producing regions. The major structural gaps that prevent the Act from delivering equitable development and environmental justice are identified and assessed. The paper makes comparative references to countries like Ghana, Canada, and Norway, where participatory governance and accountable revenue management have become formalized processes to demonstrate that Nigeria must go beyond the token reforms espoused in the PIA, and adopt a rights-based, inclusive, and environmentally sustainable model of resource governance. In view of this model, the PIA will be able to actualize its purpose of transforming Nigeria's oil industry for the benefit of all stakeholders.⁴

2. THE PAPER IS BASED ON SOME CONCEPTUAL AND THEORETICAL FRAMEWORKS.

2.1. Conceptual Framework

The conceptual construction of the paper is set at the interface of community rights, corporate responsibility and sustainable environmental governance in the context of oil

producing areas in Nigeria. At the core of this structure is the concept of environmental justice, which emphasizes equitable treatment and meaningful involvement of all people, especially the systemically disadvantaged, in environmental decision-making and enforcement. Environmental justice in the Niger Delta is undermined by the state and corporate behaviour which privileges economic calculus over ecological and human rights logic, leading to systemic exclusion and deprivation of host communities.⁵ The Brundtland Report sets out the basic tenets of sustainable development, that we meet the needs of today without compromising the future⁶. The basic tenet of sustainability is violated when host communities endure degradation without adequate compensation or remediation. It follows therefore that we cannot, and should not, assess the PIA based solely on its economic instrumentalities, rather we must assess it according to themes of justice, sustainability and participatory governance.⁷

The second conceptual pillar of the paper is the theory of *resource governance and accountability*, which examines how natural resource wealth is managed in relation to the rights and welfare of those directly impacted by extraction. The Nigerian state's failure to institutionalize effective industrialization is rooted in a systemic governance crisis marked by elite capture, weak institutions, and lack of policy continuity. The PIA's design reflects this crisis by neglecting to ensure corporate accountability through enforceable environmental standards or community-inclusive benefit-sharing structures.⁸ This governance gap fosters a regulatory environment in which oil companies operate with impunity, resulting in what has been termed as "*policy dislocation*," where economic policies and legal instruments fail to achieve sustainable development goals due to poor alignment with ground-level realities⁹. The paper situates the PIA within a broader debate about the political economy of oil governance and institutional failure in Nigeria.¹⁰

The third concept underlying this study is *rights-based development*, which asserts that affected populations must not only be seen as beneficiaries of development but as rights-holders entitled to protection, compensation, and participation. In spite of its economic ambition, the PIA lacks sufficient

² Petroleum Industry Act (PIA) 2021, s. 240 (2); NUPRC; Host Communities Trust Implementation Template, https://www.nuprc.gov.ng/wp-content/uploads/2022/07/NUPRC_HOST_COMMUNITIES_DEVELOPMENT_TRUST-IMPLEMENTATION-TEMPLATE.pdf accessed 9 July, 2025.

³ Aladeitan, Olanrewaju Adebawale, Chime, Nnaemeka and Ater, Solomon Vendaga; 'A Legal Analysis of the Challenges and Prospects of Acquisition of Oil Rights in Nigeria Under the Petroleum Industry Act, 2021'; *Global Journal of Politics and Law Research*, 13(2), 2025, 65–93.

⁴ Alex, O. K., & Ebipumere, E. . (2022). *Petroleum Industry Act and the Host Communities Development Trust: Where are the Watchmen?*. *International Journal of Intellectual Discourse*, 5(4), 244–252.

⁵ Ejumudo, K.B.O.; *The Democracy and Environmental*

Justice Challenge in Nigeria's Niger Delta and the Development Leadership and Governance Culture Imperative, *Journal of Economic and Sustainable Development*, 5(15), 2014, 113–123.

⁶ Brundtland, G. H.; *Our Common Future: The World Commission on Environment and Development*, Oxford, Oxford University Press, 1987.

⁷ *Ibid*

⁸ Barigbon, C.B., & Idoniboye-Obu, S.A.; *The Nigerian State and the Crisis of Industrialization: Lessons from Singapore*, *Journal of Global Economics and Business*, 3(8), 2022, 19–41.

⁹ Ozili, P. K., & Obiora, K.; *Implications of Fuel Subsidy Removal on the Nigerian Economy*, in *Public Policy's Role in Achieving Sustainable Development Goals*, IGI Global, 2023, pp. 115–130.

¹⁰ *Ibid*.

human-rights safeguards and mechanisms for effective community consultation and oversight¹¹. For instance, the Act's 3% contribution from oil companies to host communities is not only insufficient but also fails to account for cumulative damage and historical injustices.¹² Further, the disciplinary provision under Section 257, which suspends benefits for communities affected by sabotage, assumes collective liability and undermines the rights of innocent community members. The paper views such legal oversights as antithetical to inclusive development and as perpetuating a cycle of poverty, environmental neglect, and social instability.¹³

Lastly, the paper integrates *comparative institutional analysis*, using global case studies to highlight the shortcomings of Nigeria's petroleum governance. Jurisdictions like Ecuador and Canada have adopted robust environmental regimes that enforce strict liability and community reparations for ecological harm. These models demonstrate that effective environmental management requires not only legal provisions but also independent regulatory institutions and transparent corporate practices. The contrast with Nigeria is stark, regulatory bodies like the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) often lack autonomy and capacity to enforce compliance, enabling a culture of impunity. As noted by several development scholars, including those cited above, reforming Nigeria's oil sector must go beyond legislative rewording to embrace a multidimensional strategy involving legal accountability, institutional strengthening, and grassroots participation. This conceptual framework, therefore, underpins the critical analysis of the PIA's legal and policy gaps in relation to community rights and corporate responsibilities.¹⁴

2.2, Theoretical Framework

The theoretical underpinnings of this study on Community Rights and Corporate Responsibilities in Nigeria's Oil Producing Areas: Legal and Policy Gaps in the Petroleum Industry Act 2021 is drawn from three interrelated theories, environmental justice theory, corporate social responsibility (CSR) theory, and post-colonial resource governance theory, all of which are utilized as tools to examine the legal and policy deficits of the PIA in regards to host community welfare and

corporate accountability within Nigeria's oil sector.

Firstly, environmental justice theory underpins this study. Environmental justice theory prescribes that marginalized and vulnerable populations, which would include the communities of the Niger Delta - are often subjected to inequitable environmental consequences of resource extraction without a commensurate egalitarian benefit.¹⁵ Environmental justice theory advocates for the equitable distribution of both environmental opportunity and chance, as well as equitable access to decisions that may relate to or affect the environment from the local to the national organism.¹⁶ The Nigerian state has neglected to prioritize environmental justice protection in respect of the Niger Delta, resulting in systematic marginalization of and deprivation to host communities.¹⁷ The PIA's omission of compulsory strict liability for indiscriminate environmental damage, or enforceable remediation obligations, ultimately detracts from the essence of environmental justice. Moreover, the absence of participatory access in the PIA for host communities provides an additional illustration of how the Act institutionalizes exclusion rather than empowerment.

Secondly, Corporate Social Responsibility (CSR) theory refers to the idea that businesses have ethical and social obligations beyond profit-making, which include contributing positively to society and minimizing harm to stakeholders and the environment. It emphasizes that corporations should be accountable not only to shareholders but also to employees, communities, consumers, and the natural environment. CSR theory promotes voluntary initiatives, sustainable practices, and stakeholder engagement as core elements of responsible corporate behavior. In essence, it calls for a balance between economic performance and social and environmental stewardship.¹⁸ Further, corporate social responsibility (CSR) theory offers context for appreciating oil companies' ethical responsibilities to the host communities beyond meeting the legal requirements of the state. CSR theory suggests that corporations' responsibility should not stem from profit maximization but from the need to contribute to or improve the society and environment. But under the PIA, the minimum of 3% for host community "development" from companies is dampened by a vague definition of "operating expenses" which features a compulsory compliance framework that is

¹¹ Nwankwo, O. K., & Ringim, A. U.; *Implementation of Petroleum Industry Act 2021 – A Pathway for Economic Prosperity and Sustainable Development in Nigeria*, SPE Annual Technical Conference and Exhibition, September 2024, p. D021S027R006.

¹² Ibid

¹³ PIA, 2021, s 257: Nwosu, S.E.C. "Law and Nigeria's Petroleum Industry Optimization: Any Hope in the Petroleum Industry Act 2021?", *African Journal of International Energy and Environmental Law*, (Vol. 5), 2021, Pp 23 - 38

¹⁴ Ozili, P. K., & Obiora, K.; *Implications of Fuel Subsidy Removal on the Nigerian Economy*, in *Public Policy's Role in Achieving Sustainable Development Goals*, IGI Global, 2023, pp. 115–130.

¹⁵ Walker, Gordon; *Environmental Justice: Concepts,*

Evidence and Politics, London, Routledge, 2012. 24.

¹⁶ Schlosberg, David; *Defining Environmental Justice: Theories, Movements, and Nature*, Oxford, Oxford University Press, 2007. 10.

¹⁷ Ejumudo, K.B.O.; *The Democracy and Environmental Justice Challenge in Nigeria's Niger Delta and the Development Leadership and Governance Culture Imperative*, *Journal of Economic and Sustainable Development*, 5(15), 2014, 113–123.

¹⁸ Carroll, Archie B., and Shabana, Kareem M.; *Corporate Social Responsibility: Definitions, Philosophies and Institutional Perspectives*, Cambridge, Cambridge University Press, 2010. See also; Moon, Jeremy; *Corporate Social Responsibility: A Very Short Introduction*, Oxford, Oxford University Press, 2014. 44-47.

intrinsically corporate.¹⁹ Section 257 of the PIA states that where communities are seeking enterprise liability for sabotage, the statute features no clear lines of liability or due process and creates further discontinuity to CSR responsibilities since it shifts risk and blame on communities that are already socially disadvantaged. So, rather than promoting accountability of responsible corporations, the Act instead diminishes accountability within legally favourable conditions of corporate impunity and fiscal opacity.²⁰

The third, post-colonial governance of resources theory, examines how colonial legacies shape the management, control, and distribution of natural resources in post-independence states. It argues that many resource-rich developing countries retain extractive and centralized systems of governance inherited from colonial rule, often resulting in elite capture, exclusion of local communities, and weak institutional accountability. This theory highlights how resource policies continue to prioritize state and foreign corporate interests over indigenous rights and environmental sustainability. It also critiques the failure to decolonize legal and policy frameworks, which often reproduce inequality, environmental degradation, and conflict in resource-producing regions.²¹

This study draws on post-colonial governance of resources theory. This theory is critical of the continuity of extractive political economies passed from colonial regimes to present-day regimes. The theory argues that in post-colonial states like Nigeria, resource governance patterns often mimic those that centralize state control, concentrate elites in modes of governance and law, and undermine enforcement frameworks; all observable in the PIA. Barigbon and Idoniboye-Obu provide an understanding of the Nigerian state's industrial and development failures as rooted in a legacy of exclusionary governance, and policies that distance themselves from local realities. Thus, the PIA, introduced as reformative legislation, builds-in post-colonial mechanisms of exclusion from host communities in effective participation, and does not engender strong and independent institutions that can sustainably regulate powerful oil corporations²². The PIA's absence of regulatory independence and prevailing impunity in oil operators embodies a vicious cycle of governance failure.

Lastly, the theoretical framework highlights sustainable development theory, particularly as it is framed in the

Brundtland Report.²³ The Brundtland Report places substantial emphasis on the intersection between the three key pillars of sustainable development: economic growth, environmental protection, and social inclusion. The PIA claims to be aligned to sustainable development goals but does not practically implement any of them into enforceable legal provisions.²⁴ As Ozili and Obiora note, sustainability in public policy cannot be achieved without institutional capacity, member of a community, and long-term accountability accounting for the environment. There is a lack of environmental accountability, particularly monitoring, in the PIA, indicating a developmental trajectory that is focused primarily on short-term revenue over long-term environmental and social well-being. By incorporating these theories, the paper interrogates how applicable legal and policy framework fail to deliver the objectives of the PIA, and proposes a model for more justice-oriented and inclusive petroleum sector governance for Nigeria.

3. COMMUNITY RIGHTS AND CORPORATE RESPONSIBILITIES: HISTORICAL AND LEGAL CONTEXT

The historical development of oil exploration and consequent exploitation in Nigeria is linked with systemic marginalisation of the environment and communities from which oil is extracted, particularly indigenous peoples in Nigeria's Niger Delta. Following Nigeria's oil discovery in Oloibiri in 1956, the Nigerian state has established a singularly centralised model of ownership and control of natural resources, whereby local communities have been excluded, economically, from the benefits of petroleum extraction.²⁵ Laws like the Petroleum Act 1969, which gave the federal government rights over all petroleum resources, and the Land Use Act 1978 which vested legal control of land in her states governors, leaving local indigenous communities as tenants controlling a fraction of their ancestral land. Were the substantive petroleum and land use legislation. The dispossession under these laws abandoned the interests of indigenous people and their public, community custodian role of land ownership to favour purely private interests, national interest and economic investments that negate, ignore or dismiss rights of local inhabitants in the Niger Delta area.²⁶

¹⁹ Barigbon, C.B., & Idoniboye-Obu, S.A.; *The Nigerian State and the Crisis of Industrialization: Lessons from Singapore*, *Journal of Global Economics and Business*, 3(8), 2022, 19–41.

²⁰ PIA, 2021, s 257

²¹ Ferguson, James; *The Anti-Politics Machine: "Development," Depoliticization, and Bureaucratic Power in Lesotho*, Minneapolis, University of Minnesota Press, 1994.

²² Barigbon, C.B., & Idoniboye-Obu, S.A.; *The Nigerian State and the Crisis of Industrialization: Lessons from Singapore*, *Journal of Global Economics and Business*, 3(8), 2022, 19–41.

²³ Brundtland, G. H.; *Our Common Future: The World*

Commission on Environment and Development, Oxford, Oxford University Press, 1987. 23.

²⁴ Ibid.

²⁵ Nwosu, S.E.C "Law and Nigeria's Petroleum Industry Optimization: Any Hope in the Petroleum Industry Act 2021?", *African Journal of International Energy and Environmental Law*, (Vol. 5), 2021, Pp 23 – 38; Frynas, J.G.; 'The False Developmental Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies', *International Affairs*, 81(3), 2005, pp. 581–598.

²⁶ Ebeku, K.S.A.; 'Oil and the Niger Delta People: The Injustice of the Land Use Act', *Journal of African Law*, 49(2), 2005, pp. 124–146.

The Oil Pipelines Act²⁷ permits the federal government to also give oil companies 'carte blanche' access to land, in which the owners would generally receive minimal, negligible, token economic values. The Act also did not allow for adequate time for consultation with impacted communities, nor consent provisions which left affected communities even more disenfranchised, and therefore alienated.²⁸ Consequently, a legislative framework that encourages ownership through community consent and participation would not allow for chronic conflict and distrust to continue in the Niger Delta. Policy makers will move towards developing or adopting agreements with no regard for local communities' customary rights and claims, thereby causing further alienation in the policing of their lands.²⁹

Amid growing militancy and international pressure, oil multinationals rolled out Corporate Social Responsibility (CSR) programmes for community development purposes. However, these programmes were largely voluntary, non-binding and dependent on company willingness to innovate. Common microcosms in CSR included building six (6) classroom blocks and boreholes, scholarships, and microcredit facilities. But these were often plagued by poor pragmatics, corrupt practices and a lack of sustainability.³⁰ These CSR programmes, represented non-binding goodwill and were merely public relations schemes rather than structural mechanisms to redress structural injustices at oil-hosting areas.³¹

In recognition of these historical shortcomings, the Petroleum Industry Act (PIA) 2021 attempted to reset the relationship between oil companies and host communities, with legally enforceable obligations. One of the biggest innovations of the Act, is the Host Communities Development Trust (HCDDT)³², provided for in Sections 234–257 of the PIA, which requires settlor companies (oil and gas operators),³³ to budget 3% of their actual annual operating cost, to create a community development fund. The community development fund establishes a reasonable level of guaranteed funding for the building of infrastructure, health, education and economic

empowerment in oil-producing communities.³⁴

Although the HCDDT has moved from voluntary CSR actions into a mandated obligation, questions remain about its effectiveness and adequacy. The legal obligation to contribute 3% towards community development has been criticized as insufficient recognition of the environmental and infrastructural deficits in the Niger Delta.³⁵ But the HCDDT allows settlers significant say in the make-up of the Trust and its Board of Trustees and Management Committees, which raises concerns about community independence and accountability to the specific community beneficiaries. Without robust legal protections and clarity for community participation opportunities, the HCDDT may become yet another top-down intervention that does not provide community priorities.³⁶

In Nigeria, the trajectory of community and corporate legal and policy rights and responsibilities has shifted from outright exclusion (under the Petroleum Act and Land Use Act), to partial inclusion (under the PIA). However, the journey towards equitable development, environmental justice and true community empowerment has not yet been completed as communities.³⁷ If the PIA's promises are to be realized, participation and empowered community must be reconceptualized from being just beneficiaries to being rights-holders with enforceable rights and a seat at the decision-making table, governing natural resources.³⁸

4. LEGAL AND POLICY GAPS IN THE PIA 2021

Despite its ambitious aims, the *Petroleum Industry Act (PIA) 2021* contains significant legal and policy shortcomings that undermine its effectiveness in addressing long-standing grievances of host communities in Nigeria's oil-producing regions. While the Act introduces a novel mechanism in the form of the Host Communities Development Trust (HCDDT), various provisions suffer from ambiguity, inadequacy, and weak accountability structures. These gaps risk reproducing historical patterns of marginalization and environmental

²⁷ *Laws of the Federation of Nigeria 2004, (LFN), Cap 07*

²⁸ *Ibid.*

²⁹ Ugochukwu, C.N.C. & Ertel, J.; 'Negative Impacts of Oil Exploration on Biodiversity Management in the Niger Delta Area of Nigeria', *Impact Assessment and Project Appraisal*, 26(2), 2008, pp. 139–147.

³⁰ *Ibid.*

³¹ Frynas, J.G.; 'The False Developmental Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies', *International Affairs*, 81(3), 2005, pp. 581–598.

³² Nwosu, S.E.C. "Law and Nigeria's Petroleum Industry Optimization: Any Hope in the Petroleum Industry Act 2021?", *African Journal of International Energy and Environmental Law*, (Vol. 5), 2021, Pp 23 - 38

³³ PIA, 2021, ss 234–257

³⁴ Aladeitan, Olanrewaju Adebawale, Chime, Nnaemeka and Ater, Solomon Vendaga; 'A Legal Analysis of the

Challenges and Prospects of Acquisition of Oil Rights in Nigeria Under the Petroleum Industry Act, 2021;

Global Journal of Politics and Law Research, 13(2), 2025, 65–93.

³⁵ Agwu, Mba Okechukwu; 'Community Participation and Sustainable Development in the Niger Delta'; *British Journal of Education, Society & Behavioural Science*, 3(1), 2013, 33–46.

³⁶ *Ibid.*

³⁷ Ugochukwu, C.N.C. & Ertel, J.; 'Negative Impacts of Oil Exploration on Biodiversity Management in the Niger Delta Area of Nigeria', *Impact Assessment and Project Appraisal*, 26(2), 2008, 139–147.

³⁸ Nwosu, S.E.C "Incorporating Host Communities Stakeholdership and Right to Pension into Petroleum Prospection Business", *African Journal of International Energy and Environmental Law*, Vol. 3 Issue 3, December, 2019

injustice under a new legal framework, unless addressed through targeted reforms and institutional strengthening.

4.1 Ambiguity in Community Representation

A glaring legal flaw in the PIA is its ambiguous approach to community representation in the governance arrangements of the HCDT. The Act requires the creation of a Board of Trustees and a Management Committee. However, it fails to prescribe a legal condition or even community-based standards for selecting representatives. Section 235(6) provides the settlor (the oil company) significant influence, as it is expected to appoint the first trustees, but this power imbalance is ripe for exploitation by corporate actors and political elite undermining the very tenets of participatory development.³⁹ Meaningful participation cannot occur through an opaque process. What is more, the process needs to be owned by the community, including their input, as much as possible, in order to ensure that it will not fall prey to elites, a form of participation that continues unabated in the Niger Delta.⁴⁰

4.2 Inadequate Funding Framework

Among the most provocative components of the Petroleum Industry Act (PIA) is the provision that obliges oil companies to remit 3% of their yearly operating budget to the Host Communities Development Trust (HCDT). While 3% is considerably less than the original proposal for 10% equity investment, an arrangement many felt was fairer given the impacts host communities had long been facing as a result of long-term environmental and socio-economic damage, the provision is also denigrated as inadequate considering the infrastructure decay, environmental challenges, and chronic underdevelopment that are present in oil-producing areas.⁴¹ As many stakeholders argue, this requirement, along with many other regulations found in the PIA, appears to prioritize corporations' interests over those of affected populations, forgetting that issues surrounding injustices and marginalization have created many of the tensions currently facing the Niger Delta and related oil occurring zones.⁴²

Further, the Act does not establish a definitive and enforceable formula to determine "operating expenses". As such, the provision can easily be manipulated. In the absence of mandatory transparency measures - independent audits or third-party verification of company-reported figures, there is vast potential for under-reporting of operating expenses and thus, a

lower amount of money for the HCDT. This lack of accountability has also exacerbated mistrust between oil companies and host communities, with many people fearing oil companies may be using this ambiguity to lower their obligations. The absence of a reliable peer review process and genuine community participation in the audit of the oil companies affects the implementation of the PIA in a manner that compounds grievances that so many stakeholders hold in the oil-producing regions of Nigeria, rather than implementing the peace, development, and partnership intended by the Act and members of the stakeholder groups.⁴³

4.3 Burden on Host Communities

Section 257 of the Petroleum Industry Act (PIA) includes a disciplinary clause that excludes the distributions of the Host Communities Development Trust (HCDT) wherever damage to oil installations and infrastructures occur through vandalism or sabotage. While this clause appears to be an intended deterrent to compel communities to protect oil installations, it actually shifts the burden of security to vulnerable communities which cannot operate in seat of heavily armed, sophisticated, already organized criminal groups.⁴⁴ Many of these vulnerable communities are struggling with existing conditions of extreme poverty, poor infrastructure, little support from the state and simply do not have the capacity to impede these attacks. Ultimately, this legal framework has no basis in the structural power relations of multinational oil companies, organised criminal networks, and marginalized host communities, which places responsibility on those in the weakest position to properly police their own community.⁴⁵

Moreover, the clause makes no distinction between the illegal conduct of external militant group action and the overall conduct of the host community and punishes innocent citizens for actions attributable to far-away actors or events they had neither committed nor had any capability to avert. The basis for collective or group liability and blame would result in collective punishment and continued resentment, where entire communities are punished for the improprieties of a few individuals. Such legislative measures ignore the reasons for the unrest of the Niger Delta, the status quo of poverty, impoverishment, unemployment, and entrenched political exclusion. Section 257, thus, threatens the potential to promote peace and erstwhile cooperation by giving more credence to the idea of state protection of property over addressing the different

³⁹ PIA, 2021, s 235 (6)

⁴⁰ Barisi, Barigbon Christopher; 'The Nigerian State and Environmental Justice in Niger Delta: Evidence from Rivers State (2000–2020)'; *Niger Delta Journal of Gender, Peace & Conflict Studies*, 3(3), 2023, 87.

⁴¹ Brookings Institution; 'Nigeria's Petroleum Industry Act: Addressing Old Problems, Creating New Ones'; Brookings.edu, 2021, available at: <https://www.brookings.edu/articles/nigerias-petroleum-industry-act-addressing-old-problems-creating-newones/> accessed 10 July, 2025.

⁴² Ibid.

⁴³ Nwosu, S.E.C "Incorporating Host Communities Stakeholdership and Right to Pension into Petroleum Prospection Business", *African Journal of International Energy and Environmental Law*, Vol. 3 Issue 3, December, 2019; Barisi, Barigbon Christopher; 'The Nigerian State and Environmental Justice in Niger Delta Evidence from Rivers State (2000–2020)'; *Niger Delta Journal of Gender, Peace & Conflict Studies*, 3(3), 2023, 87.

⁴⁴ PIA, 2021, s 257

⁴⁵ Ibid.

4.4 Environmental Justice and Accountability Deficit

Perhaps the most significant flaw of the Petroleum Industry Act (PIA) is that it does not reasonably protect the environmental rights of host communities. The Act does not impose strict liability on oil companies for oil spills, nor does it create binding environmental performance standards that would hold operators accountable for pollution and environmental destruction. This lack of legislation provides a permissive context through which companies are escaping accountability for environmental degradation leaving affected communities to bear the burdens of contaminated lands, polluted water, and deteriorating public health and wellbeing.⁴⁷ In comparison, there are many jurisdictions like Ecuador and Canada that have used much stronger environmental frameworks that mandate polluters to act on remediation and compensation for the affected community. These examples demonstrate that Nigeria's legal framework is woefully inadequate with respect to addressing environmental justice and protecting the rights of vulnerable communities.⁴⁸

The institutional inadequacies further amplify this accountability deficit. Oversight bodies such as the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), and Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) together with other environmental regulation agencies, are often bedeviled by weak institutional capacity, independence, and political interference, such as undue political interference from Parliament. This leads, at best, to sporadic regulation. Multinational oil companies are able to operate in the region as though they are lamentably free from sanction.⁴⁹ Thus, the nature of the environmental negligence and impunity that persists in Nigeria's oil sector is not simply being perpetuated by the PIA, rather, if anything, it is largely institutionalized by its absence of standards, enforceable or not, and oversight. This deepened absence of political and environmental accountability endangers sustainable development interests, and re-establishes the long-standing perception of the interests of corporate actors in the area as

4.5 Institutional and Implementation Weaknesses

In addition to textual gaps, the PIA is similarly manifesting institutional weaknesses that affect implementation. The PIA does not provide a clear plan for capacity building of host communities to manage and oversee Trusts. Moreover, the oversight functions of the federal agencies are poorly defined which could lead to instances of regulatory voids and overlap when it comes to audits, reviews among others. The statute also lacks any grievance processes for communities to formally contest decisions or seek remedies against Trusts. The reality of this is that without strong institutions and community empowerment, legal reforms will always be more symbolic than substantive.⁵¹

The PIA 2021 may act as a legislative landmark in Nigeria's oil industry, however, it lacks a more coherent design regarding frameworks for environmental justice and community development. The PIA's gaps regarding representation, underfunding, punitive security regulations and environmental regulatory gaps are a continuity of extractive governance norms. Therefore, although addressing these gaps will entail continued legislative amendments, it will equally require meaningful political will to alter community-company relations in a manner that promotes inclusion, transparency, and long term peace in oil-producing areas.⁵²

5. IMPACTS OF THE PIA ON ENVIRONMENTAL JUSTICE AND COMMUNITY DEVELOPMENT

The Petroleum Industry Act (PIA) of 2021 was heralded as a transformative legal framework aimed at reforming Nigeria's oil and gas sector, particularly by addressing long-standing grievances related to environmental degradation and underdevelopment in the Niger Delta. One of its core innovations, the Host Communities Development Trust (HCDT), aims to ensure that oil-producing communities benefit

⁴⁶ Idemudia, U. and Ite, U. (2006), *Corporate– Community Relations in Nigeria's Oil Industry: Challenges and Imperatives. Corporate Social Responsibility and Environmental Management*, See also; Omuta, G.E.D.; *Transitioning to the sustainable development and green economy in the Niger Delta of Nigeria: Challenges and prospects. Centre for Population and Environmental Development (CPED)*, 2014.

⁴⁷ Amnesty International; *Nigeria: Bad Information – Oil Spill Investigations in the Niger Delta*, London, Amnesty International, 2018.

⁴⁸ Dobers, P.; *Corporate Social Responsibility and Developing Countries, Corporate Social Responsibility and Environmental Management Corp. Soc. Responsible. Environ. Mgmts. Halme, M.16, 237–249.*

⁴⁹ *Ibid.*

⁵⁰ Sambo, U. & Sule, B. *Killing the economy: The political economy of fuel subsidy regime and oil corruption in Nigeria* 2024. In S. R, Tan, H. Jang & J. Wood (Eds), *Economic growth and development in the tropics.*

⁵¹ Frynas, J.G.; 'The False Developmental Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies', *International Affairs*, 81(3), 2005, pp. 581–598..See also; Ercan Müge A.; *(Challenges and confl icts in achieving sustainable communities in historic neighborhoods of Istanbul, Habitat International 35 (2011) 2010)*, 295-306

⁵² Dashwood, H. *Sustainable Development and Industry Self-Regulation: Developments in the Global Mining Sector. Business & Society* 2014, Vol. 53(4) (2014), 551–582.

directly from oil operations. However, the environmental justice promised by the Act remains elusive. Regulatory bodies like the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) have been criticized for weak enforcement and overlapping mandates. According to the Stakeholder Democracy Network, despite legal mandates, oil spills, gas flaring, and water pollution remain rampant, with little or no penalties for violators.⁵³

In terms of community development, the PIA mandates oil companies to contribute 3% of their annual operating expenses to fund development projects in host communities. However, this provision has been met with widespread criticism. Civil society organizations, local leaders, and academic commentators argue that the 3% allocation is grossly insufficient when compared to the 10% equity stake proposed in earlier drafts of the bill. The Brookings Institution notes that many community members view the provision as inadequate given the extensive infrastructural decay and socioeconomic backwardness caused by decades of environmental abuse. Many fear that without proper oversight and accountability mechanisms, the HCDT could become another avenue for elite capture and mismanagement, rather than a tool for sustainable development.⁵⁴

Moreover, the recent trend of divestments by multinational oil companies, particularly Shell, has raised further concerns about environmental accountability. As these companies transfer their onshore assets to local operators, they often leave behind vast environmental liabilities. According to *The Guardian*, Shell's planned exit from the Niger Delta has triggered strong reactions from environmental advocates who insist that the company must clean up years of oil pollution before leaving. Without explicit provisions in the PIA to enforce environmental remediation before divestment, the burden of pollution may shift to already under-resourced local operators or the communities themselves. As such, while the PIA marks a step forward on paper, its actual impact on environmental justice and community development is constrained by weak enforcement, insufficient funding, and systemic governance failures.⁵⁵

6. STAKEHOLDER RESPONSES AND CRITIQUES OF THE 3% CONTRIBUTION PROVISION

The 3% contribution clause in the Petroleum Industry Act (PIA) has attracted unequivocal resistance from several stakeholders including community leaders, civil society organizations, and advocates in the region.⁵⁶ These stakeholders are rightly recognizing the inequity of this provision. The provision is an absolute deviation from the previously proposed 10% equity participation. For many, this last second 3% was clearly a political compromise that ultimately disrespected the 60-year long environmental degradation, destruction and socio-economic marginalization of oil-producing communities. The Brookings Institution reported, the reduction in the contribution has caused anger and disappointment from the public because they perceive that the contribution is absolutely inadequate for the historical injustices and dilapidation lay waste to oil-producing areas in the Niger Delta.⁵⁷

Local activists and representatives of host communities are worried that the 3% will not lead to significant development because of poor implementation and lack of transparency when it comes to the use of the money. The concerns are that, without independent oversight of the funds and accountability mechanisms for the money, funds could be misallocated, or misappropriated by elites, political actors, etc.⁵⁸ Furthermore, there is skepticism about how annual operating costs will be calculated as oil companies have the ability to obfuscate their declarations through under-reporting. These apprehensions have led to calls to improve the Act and include more robust community participation mechanisms to direct the funds to where they are intended to be allocated.⁵⁹

On the industry side, oil companies have shown support for the 3% provision, viewing it as a manageable commitment compared to the higher financial burden that a 10% equity stake would have imposed. The compromise is seen by some as a way to make Nigeria's investment climate more attractive in the face of declining global interest in fossil fuels. However, this position has been critiqued by development economists and human rights advocates who argue that prioritizing investor incentives over local welfare only deepens the developmental divide.⁶⁰ The *African Business* publication reports that many Niger Delta leaders consider the 3% provision not just

⁵³ Stakeholder Democracy Network; 'Addressing the Shortcomings of the Petroleum Industry Act (PIA) in Addressing Communities' Environmental Concerns'; saction.org, 2022,

⁵⁴ Stakeholder Democracy Network; 'Addressing the Shortcomings of the Petroleum Industry Act (PIA) in Addressing Communities' Environmental Concerns'; saction.org, 2022,

⁵⁵ *The Guardian*; 'Shell Must Clean Up Pollution Before It Leaves Niger Delta, Report Says'; theguardian.com, 2024, available at:

[https://www.theguardian.com/environment/2024/feb/28/shell-must-clean-up-pollution-before-it-leaves-niger-](https://www.theguardian.com/environment/2024/feb/28/shell-must-clean-up-pollution-before-it-leaves-niger-delta-report-says)

delta-report-says

⁵⁶ Nwuke, K; 'Nigeria's Petroleum Industry Act: Addressing Old Problems, Creating New Ones'; [Brookings.edu](https://brookings.edu), 2021.

⁵⁷ *Ibid.*

⁵⁸ Stakeholder Democracy Network; 'Addressing the Shortcomings of the Petroleum Industry Act (PIA) in Addressing Communities' Environmental Concerns'; saction.org, 2022.

⁵⁹ *Ibid.*

⁶⁰ *African Business*; 'Nigeria's Spill-Hit Communities Demand More from Petroleum Industry Act'; african.business, 2022, available at: <https://african.business/2022/01/>

inadequate, but also insulting, especially when compared to benefits extended to non-oil-producing regions under the same Act. As it stands, the 3% contribution remains one of the most controversial aspects of the PIA, symbolizing the ongoing struggle between economic policy and social justice in Nigeria's petroleum governance.⁶¹

7. COMPARATIVE PERSPECTIVE AND INTERNATIONAL BEST PRACTICES

Successful sustainable natural resource governance models around the world are based on strong institutional arrangements with inclusive decision-making and transparent revenue allocation processes. In Norway, one of the world's most effectively managed petroleum systems, the government exercises control over resource development through publicly owned private sector firms and a sovereign wealth fund—the Government Pension Fund Global.⁶² The fund is managed transparently, with legally mandated persistent fiscal rules, and an ongoing duty of disclosure to the public, in order to ensure that the people's oil wealth is received by both the current and future generations. These arrangements are supported by a strong and enforceable legal framework, as well as high levels of accountability. These characteristics are markedly different from Nigeria's experience with mismanagement, a lack of transparency, and elite capture of the oil sector.⁶³

The Petroleum Revenue Management Act (PRMA) 2011 was introduced in Ghana to combat resource curse by ensuring transparency and public input in management of petroleum revenues. The PRMA established the Public Interest and Accountability Committee (PIAC) to monitor and evaluate how the government spends petroleum revenues and engage with local communities through public forums (or town halls) and reporting.⁶⁴ This institutional setup allows for participatory governance, and ensures that expenditure from oil revenue reflects development priorities identified at the national level and the needs of local communities. The institutional setup is significant because Ghana's model recognizes the value of instituting public trust through legal arrangements that allow civil society organizations to hold government accountable—a feature, it should be emphasized, which is absent from Nigeria's

Petroleum Industry Act.⁶⁵

Canada's experience looking specifically in terms of indigenous communities offers another useful comparison. Under Section 35 of the Constitution Act, 1982, the rights of Indigenous Peoples are constitutionally acknowledged as well as the obligation for consultation and accommodation in a resource development context.⁶⁶ The principle of Free, Prior and Informed Consent (FPIC) which draws on international human rights law was introduced to First Nations as an expectation in working on oil, gas or mining projects. The underlining principle of FPIC is to ensure Indigenous Peoples are consulted and even given a legal right to participate in decision-making about or even the ability to veto resource projects that have an impact, whether social, culturally, or on the land. Under Section 35, giving Indigenous Peoples legal authority increases trust, fosters constructive relationships, and promotes equitable development, in contrast to the PIA in Nigeria, where project approval or rejection is not offered legal standing for affected communities.⁶⁷

On the other hand, Nigeria's PIA 2021 provides no clear framework for consent of communities, nor do host communities have enforceable rights in relation to decisions about development of resources. Their role is to provide advice regarding their development, as their involvement is primarily strategic and intended to manage the benefits of oil resource transactions through the Host Communities Development Trust.⁶⁸ The sponsorship and development of communities as political subjects is then tokenistic rather than participatory. There is no constitutional or legislative recognition of community rights to land, and there are no policies in place to center community participation in decisions about future development, as there is no institutionalization of mechanisms such as FPIC. Nigeria's PIA is therefore a large deviation from global best practices and places Nigeria at the back of the line as it works to achieve a participatory and rights-based resources governance framework for the oil producing communities that can build sustainability, peace, and development in the long term.⁶⁹

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⁶¹ Nwosu, S.E.C "Law and Nigeria's Petroleum Industry Optimization: Any Hope in the Petroleum Industry Act 2021?", *African Journal of International Energy and Environmental Law*, (Vol. 5), 2021, Pp 23 - 38

⁶² Onuoha G.; *A 'rising Africa' in a resourcerich context: Change, continuity and implications for development*, *Current Sociology Monograph* 2016, Vol. 64(2) (2016), 277–292, Sage Publications

⁶³ Thurber, M.C., Hults, D.R., & Heller, P.R.P.; 'Exporting the "Norwegian Model": The Effectiveness of Equatorial Guinea's Oil Management', *Energy Policy*, 39(11), 2011, pp. 7604–7615.

⁶⁴ Gyimah-Boadi, E. & Prempeh, H.K.; 'Oil, Politics, and

Ghana's Democracy, *Journal of Democracy*, 23(3), 2012, 94–108.

⁶⁵ Gyimah-Boadi, E. & Prempeh, H.K.; 'Oil, Politics, and Ghana's Democracy', *Journal of Democracy*, 23(3), 2012, 94–108.

⁶⁶ *Constitution Act, 1982. s 35*

⁶⁷ Papillon, M. & Rodon, T.; 'Proponent-Indigenous Agreements and the Implementation of the Right to Free, Prior, and Informed Consent in Canada', *Environmental Impact Assessment Review*, 62, 2017, pp. 216–224.

⁶⁸ Oviasuyi, P.O. & Uwadiae J.; *The dilemma of Niger Delta region as oil producing states of Nigeria. Journal of Peace, Conflict and Development*, 16(1), (2010), 110-126

⁶⁹ Ross, M. L.; *Does oil hinder democracy?*. *World Politics*, 53(3), (2001), 325-361

8. CONCLUSION AND RECOMMENDATIONS

8.1 Conclusion

The Petroleum Industry Act (PIA) 2021 is a considerable overhaul of the oil and gas industry in Nigeria. In theory, it has the potential to enhance transparency, draw in new investment, and provide a regulatory environment for communities to thrive in a corporate social responsibility framework. The inclusion of the Host Communities Development Trust (HCDDT) represents a potential pathway to equity in resource distribution, and environmental justice for host communities. Regrettably, the PIA's most controversial provision, the 3% contribution of annual operating costs of oil and gas companies, has received severe condemnation for being nowhere close to the 10% equity stake goal, which is what the proposal was based on. To make matters worse, the vague provisions, ineffective enforcement provisions, and lack of legally enforceable environmental rights will make it impossible for the Act to remedy the atrocities and historic sufferings host communities have endured.

Stakeholders have expressed major discontent with the Petroleum Industry Act (PIA). They believe it centers on investors, rather than primarily the welfare of host communities, as proven by the 3% contribution. Surely this is inadequate to resolve decades of infrastructure deterioration, and environmentally damaging neglect in the Niger Delta, and could lead to deepening community frustrations and uprising if community interests remain underfunded. They also raised some pertinent issues related to whether the multinationals have specific legal obligations to clean-up pollution or decommission any physical assets as they move their investment to offshore developments, where, leaving potential chronic pollution liabilities unresolved and institutional neglect. However, the PIA makes provision for the decommissioning of the used up assets and facilities even after divestment as there is a dedicated fund, the decommissioning

fund⁷⁰, from which such projects could be executed. The actual implementation remains the problem. Although the PIA lays a legislative foundation for reform, the policy and institutional architecture are inadequate to support engaging and inclusive community participation, as well as environmental accountability or long-term peace, successfully pursued by some countries such as Ghana, Canada, and Norway. The PIA does introduce a few good reforms, but still does not guarantee true environmental justice or fair community development. The PIA needs very serious changes to support funding, commitment to corporate mandated clean-up of pollution, and assurance of meaningful community participation, or it will simply be adapted and create similar cycles of exploitation or exclusion as intended, and could even destabilize the region even more in the Niger Delta.

8.2 Recommendations

To harness the transformative promise of the PIA, targeted legislative and institutional reform is urgently necessary. As such, first, the Act should be amended to explicitly mention mechanisms for community representation in the Host Communities Development Trust, ensuring both transparency and inclusion while ensuring that profitability works at the grassroots. Second, the statutory 3% contribution should be increased to a more legally realistic, equitable percentage, while additional mechanisms are needed to ensure transparent computation and disbursement. Third, environmental accountability clauses should be strengthened by introducing strict liability for oil spills and obligations to clean-up in a timely manner. Finally, Nigeria should recognize continue examples of global best practices such as Free, Prior, and Informed Consent (FPIC) while creating constitutional or legislative recognition of community rights to natural resources. Not only would these reforms promote justice and equity, but they would also promote longer-term political stability, and economic sustainability in Nigeria's oil-producing regions.

⁷⁰ PIA 2021, s 233