

TOWARDS SUSTAINABLE PROSPERITY FOR HOST COMMUNITIES: APPRAISAL OF THE NIGERIAN PETROLEUM INDUSTRY ACT 2021

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ABSTRACT

There have been various concerns about the petroleum industry regulation in Nigeria, including issues regarding the protection of host communities. The host communities have hardly derived sustainable developmental value from petroleum resource exploration from their community. Instead, the exploration of petroleum and other mineral resources has caused some environmental, social and economic setback for these host communities. On 17 August 2021, the [Petroleum Industry Act \(PIA\) 2021](#) was signed into law after over two decades of legislative stalemate. The PIA proposes a series of reforms purported to revolutionise the petroleum industry. According to President Buhari, the Act will create a regulatory sphere that will ensure transparency and accountability across the oil and gas value chain ([Ailemen, 2021](#)). Chapter 3 of the Act deals with host communities' concerns. Its overall aim is to ensure host communities have access to sustainable prosperity. The notion of sustainable prosperity implies that the Act seeks to elevate host communities from the poverty baseline to a level of prosperity that satisfies the social, economic, environmental and intergenerational features. Therefore, this chapter examines the provisions of the Act, particularly Chapter 3, to determine its potential to achieve sustainable prosperity for host communities. The chapter shall also identify the weaknesses in the Act, which would otherwise limit its sustainable prosperity goal and how these challenges can be addressed.

Keywords: Petroleum exploration; stakeholders; host communities; mining; sustainable prosperity; Petroleum Industry Act

1. INTRODUCTION

For over 40 years, the mining industry, especially the oil and gas industry, has been the main source of revenue for the Nigerian economy. This has led to an increase in the income generated in the Nigerian economy; however, this is not without its consequence. Exploiting these resources has detrimental effects on the host communities where the explorations are carried out. There have been conflicts between communities, the government, host communities and corporations. Furthermore, the benefits from the industry have not been appropriately applied to the sustainable prosperity of the host communities who have suffered from the exploitation of petroleum and other mineral resources and the menace of the Nigerian state as a whole (Lugard, 2014). Ojakorotu and Okeke-Uzodike (2007) argued that host communities are violent towards oil companies because the activities of these corporations have led to high levels of damage to fishing areas and farmland within these communities. Thus, their source of livelihood is destroyed through the loss of productive farmland and marine resources.

More recently, there has been a growing distrust between the host communities and oil-producing companies. This has become rampant in most of the host communities in the Niger delta; therefore, if the extractive companies' activities are not adequately monitored, putting in place an effective corporate governance framework focussing on stakeholders' integration, the impacts of this distrust will be detrimental in the long run (Ojakorotu & Okeke-Uzodike, 2007). Therefore, it is argued that there is a need to protect the environment and monitor the extractive activities not just for the present generation but also for the future generation in order to have a sustainable future.

Sustainability refers to achieving goals without affecting the ability of future generations to achieve their own goals. The movement of sustainability has its foundation in social justice, conservationism, internationalism and other previous actions with strong histories (UN, 2021). Sustainability is a rounded approach that considers environmental, social and economic scopes, recognising that all must be taken into consideration together to achieve sustainable prosperity. In contrast, sustainable prosperity is a concept that demonstrates a broad, long-term vision for a community. It denotes a better and more comprehensive focus on positive change that aims at increasing the real community's wealth; thus, it refers to a healthier, happier and more prosperous future for the community (UN, 2021). Sustainable prosperity is essential in developing host communities, particularly regarding environmental protection and social and human development (Makpor & Leite, 2017). There have been various attempts by the Nigerian government to establish agencies and commissions and enact multiple regulations; however, these attempts have not yielded the desired result (Makpor & Leite, 2017). 16 August 2021 brought about a new dawn in the Nigerian petroleum industry as the President assented to the new Nigerian Petroleum Industry

[Act \(PIA\) 2021](#); the Act included a plan to advance sustainable prosperity in host communities.

Thus, this chapter examines how oil exploration and exploitation in Nigeria have affected the host communities. The study will also evaluate the newly signed PIA to ascertain its level of protection for host communities and how the relevant aspect of the Act will achieve sustainable prosperity for host communities. The host communities are integral stakeholders for successful operations in the petroleum industry. This is why a chapter in Nigeria's PIA 2021 was dedicated to the development of the communities. Chapter 3 of the PIA deals with host communities' concerns. Its overall aim is to ensure those host communities have access to sustainable prosperity. The notion of sustainable prosperity implies that the Act seeks to elevate host communities from the baseline of poverty to a level of prosperity that satisfies the social, economic, environmental and intergenerational features. Some have suggested that Nigerian PIA 2021 creates a framework to support this development to foster sustainable prosperity and provides direct social and economic benefits to the host communities from petroleum activities. They further argued that the Act also encourages a cordial relationship between the oil corporations and host communities.

In light of the above, this chapter examines the provisions of the Nigerian [PIA 2021](#), particularly Chapter 3, to determine its potential to achieve sustainable prosperity for host communities. This chapter will also identify the weaknesses in the Act, which would otherwise limit its sustainable prosperity goal and how these challenges can be adequately addressed.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

This study's theoretical framework is primarily based on stakeholder theory and sustainability. The aim is to investigate the relationships amongst study constructs, such as stakeholder rights and sustainability prosperity. It is argued that stakeholder theory deals with the satisfaction of stakeholder expectations by the corporation ([Freidman, 1970](#)).

Considering the increasing sustainability challenges, politicians, public interest groups, scholars and legal practitioners are paying more attention to the potentially negative environmental and social impacts of organisations' operations ([Dyllick & Muff, 2016](#); [Moldavanova & Goerdel, 2018](#)). Thus, organisations are under increasing pressure to change how they conduct business and their internal procedures in order to support sustainable prosperity ([Le Roux & Pretorius, 2016](#)). However, sustainability scholars assert that those individual organisations do not know how to handle complex social and environmental sustainability issues alone but need to cooperate with their stakeholders to generate answers to sustainability challenges.

Using stakeholder theory in this chapter helps focus on only two parties: the organisation and the broad stakeholders. This perspective helps to efficiently analyse the relationship between the organisations, stakeholders and sustainable prosperity. To adequately address the issue of sustainable prosperity in host

communities, it is essential to explore the stakeholder's theory, the concept of sustainability and its applicability in organisational sustainability.

2.1 Stakeholders' Theory

The stakeholder theory is a theory that rejects the shareholder perspective, which posits that directors only have the legal obligations to protect shareholders' interests because shareholders have a privileged place in an organisation as they bear the residual risks in the organisation (Freeman & Reed, 1983). According to Edward Freeman, who served as the foundation for this idea, shareholders are not the only ones in the organisation that bear the risk. Therefore, while pursuing profits, corporations must consider the interests of other interest groups (workers, clients, suppliers and creditors) without going against the moral values around which the corporation is built (Alfonso & Castrillón, 2021; Freeman, Harrison, & Zyglidopoulos, 2018).

Sternberg (1997) argued that the fundamental problem with the stakeholder theory is that the understanding can be stretched so that virtually everything, everywhere, can now be regarded as stakeholders. However, stakeholders will generally include taxpayers, local communities, management, employees, consumers, suppliers and creditors (Hill & Jones, 1992). Freeman's definition of stakeholders shows the important bi-directionality of stakeholders, defining stakeholders as: 'Any group or individual who can affect or [be] affected by the achievement of an organisation's objectives' (Freeman, 1984). Stakeholders can affect or be affected by the organisation's objective; it is also possible for some stakeholders to be on both sides, thus affecting and being affected by the organisation's objective (Freeman, 1984). In the view of the stakeholder theory, organisations cannot maximise the shareholder's interest at the expense of the other stakeholders, as this is not morally or economically efficient. Within the evolving research, the stakeholder theory has been conceptualised in three ways: the descriptive, instrumental and normative (Donaldson & Preston, 1995).

Although proponents of stakeholder theory argue that corporations consider the interest of all stakeholders, they do not stipulate how this should be addressed based on the varying interests of stakeholders. As a result, stakeholder theory has been criticised as unsuited with business operations and incapable of providing better corporate governance, business performance or business conduct (Donaldson & Preston, 1995). In this context, Michael Jensen (2001) suggests that the stakeholder theory can add to this a specification that the objective function of a firm is to maximise the overall long-term firm value and that all satisfaction is achieved when the overall long-term firm value is maximised. In this way, corporate executives may be better able to assess trade-offs between competing interest groups (Jensen, 2001).

2.2 Meaning of Sustainability

Sustainability, taken literally, refers to the ability to preserve an object, result or procedure across time (Basiago, 1999). However, within the development scholarship, most scholars and practitioners apply the concept to mean advancing

and sustaining a strong economic, environmental and social system development (Milne & Gray, 2013). Sustainability is the practice of conducting business without causing harm to the environment, the community or society at large (Galpin, Whittington, & Bell, 2015). In practical terms, increasing an organisation's long-term economic, social and environmental performance is what is meant by sustainability, corporate social responsibility, corporate social performance, turning green and the triple bottom line (Elkington & Rowlands, 1999). Firms today need systemic approaches to sustainability if they are to be competitive in the long term.

According to Stoddart et al. (2011), sustainability refers to the efficient and reasonable dispersal of resources intra-generationally and inter-generationally with the operation of socio-economic activities within the boundaries of a finite environment. On the other hand, Ben-Eli (2015) considers sustainability to be a dynamic balance in the interaction between the population and the carrying capacity of the environment such that the population increases to realise its full potential without creating irreversible adverse effects on the environment's carrying capacity on which it depends.

Hák, Janoušková, and Moldan (2016) argue that transforming society, the environment and the global economy into a sustainable one is one of the most challenging tasks facing people today because this has to be done in the context of planetary carrying capacity. The World Bank (2017) argues that this requires innovative approaches to managing reality. In furtherance of this argument, UNDESA (2017) argues that the ultimate goal of the concept of sustainability is essentially to ensure the appropriate alignment and balance between social, economic and environmental in terms of reproducibility. On the other hand, Mensah and Enu-Kwesi (2018) argued that the definition must also emphasise the concept of intergenerational justice, which is undoubtedly an important but difficult idea because the need of future generations is neither easily determined nor purposeful. Building on the above, contemporary theories of sustainability seek to prioritise and integrate social, environmental and economic models to address human challenges in a way that continuously benefits society (Farrukh, Chaudhry, & Batool, 2014).

2.3 Sustainable Development

When creating current development plans and practices, sustainable development can be understood as economic development which considers future generations' demands (Scopelliti et al., 2018). Government programmes make up a significant portion of the development process in developing and emerging markets; however, commercial groups play a far larger role in the process as these nations progress (Mensah, 2019). The phenomenon of sustainable development has gained recognition within the development discourse, having been linked to different definitions, meanings and explanations. Sustainable development is considered an approach to development that uses resources in a way that allows them (resources) to continue to exist for others (Mensah, 2019). Evers (2018) further aligns this concept with the principle of organising to achieve human

development goals while maintaining the capacity of natural systems to provide natural resources and system services, ecology on which the economy and society depend.

2.4 Sustainable Prosperity

Prosperity does not only refer to wealth or economic growth, nor is it quantified by gross domestic product (GDP); it means developing the health of society, all-encompassing political structures, an assurance of human capital development and public freedom. It is also about the active involvement of the members of society in collaboratively structuring and producing their futures within the constraints of the planet's sustainability (Moore, 2015). People and economies should prosper, but they should do so in a way that allows them to withstand shocks, maintain a high quality of life and avoid exceeding planetary boundaries.

To achieve 'sustainable prosperity', there is a need for a new way of understanding and defining economic progress considering today's complex challenges, such as inequality, climate change, digitalisation, global health crises and conflict (EU, 2019). According to the development theory, there are three keys to prosperity: education, caring for common space and future-oriented thinking. The future-oriented thinking might signify the main key to prosperity (Nováček, 2013).

To seriously consider long-term sustainable development, the problem of poverty cannot be completely avoided. Regarding the issue of income poverty, this depends on the standard of living of each society. A minimal income is required to meet the poverty threshold, such that it could provide, for example, food and shelter; the World Bank determined that a daily income of \$1 (or \$1.25 in today's dollars) per capita was the global cut-off for absolute (severe) poverty in 1990 (Nováček, 2013). Not only is an agreement on the technique of sustaining and creating the resources necessary to live next to others at risk, but also some notion of how we wish to live with others. Focussing on values, living quality and what makes life valuable in unique situations differentiates prosperity from growth (Moore, 2015).

Sustainable prosperity is a concept that reflects the broader, longer-term vision of our community. It represents a higher and wider focus for positive change to foster true prosperity in our communities. In short, sustainable prosperity means a healthier, happier and more prosperous future. Sustainable prosperity depicts a consolidating and guiding vision that simultaneously targets gainful environmental and socio-cultural health. Sustainable prosperity includes efforts to maximise the value of place (environment) and identity (community) in local communities and foster healthy place-based economies. More specifically, the pursuit of sustainable prosperity better balances economic progress with environmental and public health concerns, social welfare, justice, happiness, community capacity, vitality and resilience (Padalino, 2011).

While the public sector needs to achieve long-term prosperity like in the United Kingdom, for example, the public sector bears major responsibility for health care, education and environmental protection, all of which are essential

components of a thriving society (Moore, 2015). This is possible due to the presence of functioning institutions in the United Kingdom; so for a nation to be reformed to achieve sustainable prosperity, it requires an understanding of its existing institutions for mobilising labour and capital to grow and apply productive resources.

Sustainable prosperity is considered here, to cover the physical, mental, environmental, financial, educational and civic wellbeing of all individuals, families, communities and regions in a country. Furthermore, sustainable prosperity is one in which people everywhere have the ability to grow as human beings within environmental and resource limits. A prosperous country is concerned not only with its revenue and financial wealth but also with its citizens' health and wellbeing, access to good quality education and prospects for decent and rewarding work. Prosperity empowers fundamental human rights and freedoms. It must also grant the ability for people to participate significantly in common projects. Ultimately, a sustainable prosperous society must offer a credible and inclusive vision of social progress.

2.5 Stakeholders and Sustainability

The concept of stakeholder sustainability is closely related. Stakeholder theory is recognised as an overarching concept and part of the sustainability literature. With the evolution of the concept of sustainability, stakeholders were increasingly considered as contributors to sustainable value creation, leading to a second shift focussing on value creation, not only for stakeholders. According to Marrewijk and Werre (2003), corporate sustainability recognises organisations as part of a bigger framework whereby they cannot exist in isolation but only function through interaction with other parts of the framework. Accordingly, a number of scholars have argued that organisations should switch from purely managing stakeholders, which focusses on aligning stakeholder needs to reduce risks, to interaction-based approaches, in which organisations work with their stakeholders towards a common objective to achieve mutual benefits and collectively generate wealth.

Hörisch et al. highlight the role of educating stakeholders, establishing sustainability standards and creating stakeholder interactions based on a sustainability mindset and shared sustainability interest in order to overcome possible issues when applying stakeholder theory in sustainability management and strategies. As a result, more academics are recognising the need to move beyond the conventional logic of stakeholder impact and towards broader perspectives of stakeholder value creation, which include marginalised stakeholders and the environment as stakeholders.

Lock and Seele (2016) suggest putting sustainability at the centre of stakeholder conceptions and analysing how stakeholders may affect sustainability initiatives through their contributions. In a similar spirit, numerous academics emphasise the necessity of an overall issue-based approach that, when deciding with whom to contract, focusses not only on the organisation itself but also on a particular problem and the activities to deal with it. Furthermore, to develop a

stakeholder business case for sustainability, [Schaltegger, Hörisch, and Freeman \(2019\)](#) emphasise involving all stakeholders who have an impact on or are impacted by the issue being resolved. In order to build products and services through stakeholder interaction, such a business case needs to establish stakeholder expectations towards a sustainability challenge.

3. HOST COMMUNITIES RIGHTS IN THE NIGERIAN OIL AND GAS COMMUNITIES

The Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) put Mines and Minerals, including oil fields, oil mining geological surveys and natural gas, under the exclusive legislative list; consequently, only the Federal Government has the ownership and control of minerals resources in Nigeria. Section 44 (3) of the CFRN 1999 (as amended) provide thus:

Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.

The provision above forms the basis of ownership evident in several pieces of legislation, such as the Petroleum Act and the Nigerian Minerals and Mining Act 2007. For example, Section (1) (1) of the Petroleum Act provides that the entire ownership and control of all petroleum in, under or upon any lands to which this section applies shall be vested in the state; in the same vein, Section (1) (1) of the Nigerian Minerals and Mining Act, 2007 also vest control and ownership of all Mineral resources in the Federation government. In relation to the rights of host communities, Chapter 4 of the Nigerian Minerals and Mining Act, 2007 accorded host communities where mineral resources are found, and mining exploration is to carry out some rights, amongst other things; the Act provides that the communities have a right to winnings of materials such as salt, soda potash by host communities concerning areas covered by mining leases; prevention of mineral exploration in some areas; reserve of rights of titleholder or occupier of the land; imbursement of surface rents; evaluation of different compensations and payment; restoration of mined land; reclamation; Community Development Agreements; environmental obligations to include preparation and submission of environmental impact assessment and participation in the environmental protection and rehabilitation programme ([Nwankwo, 2012](#); [Olowokere & Abasilim, 2021](#)).

3.1 Host Communities as Core Stakeholders in Oil and Gas Companies

According to Freeman 'a stakeholder in an organisation is any group or individual who can affect or is affected by the achievement of the organisation's objectives' ([Freeman, 1984](#); [Freeman et al., 2018](#)). Different scholars have contributed to the

literature on stakeholder discourse. This chapter adopts [Clarkson's \(1995\)](#) and [Ostensson's \(1997\)](#) specifications on stakeholders. Ostensson considers stakeholders in mining as individuals or group of persons, who has an interest, either economic, legal, political or ethical, in the result of a project or a process, and who has a stake in it (Ostensson). In the context of mining, stakeholder inclusion and the role they play is a dynamic process. Ostensson classified stakeholders into two parts, the primary (main) and secondary (peripheral) stakeholders. The primary stakeholders are those significantly affected by individual mining operations and whose objectives related to sustainable development relate primarily to those operations. This sets the case for the host communities (including the indigenous people and workers), the government and the mining companies themselves.

On the other hand, the secondary stakeholders are those who are by and large of a more extensive political, philosophical or social nature, such as Non-governmental Organisations (NGOs) and Intergovernmental Organisations (IGOs) ([Ostensson, 1997](#)). Investors, NGOs, workers for hire, shareholders, clients and insurers all fall under the secondary stakeholder because they have the ability to manipulate public opinion in favour of, or in contradiction to, the company's operations ([Clarkson, 1995](#)). This is evident, especially when issues emerge that draw their consideration, for example, project funding, environmental degradation to horticultural and traditional lands and water, corruption and lack of transparency, unjust income sharing, struggle and fundamental liberties infringement and so forth.

In the context of mining, this chapter also adopts [Clarkson's \(1995\)](#) and [Ostensson's \(1997\)](#) typology that categorises the government and host communities as their most significant stakeholders. Although this is a straightforward categorisation, they are contentious when mining communities differ in their expectations for mineral development. This turns out to be more delicate in situations where indigenous communities might be unrepresented and when there are gender orientation issues. The role of stakeholders also relies on local conditions and worldwide order or development; thus, [Azapagic \(2004\)](#) argued that identifying mining stakeholders is a pre-imperative for upgrading mining's commitment to development, even though working out the limits of rights and obligations had remained a challenge ([Naibbi & Chindo, 2020](#)).

3.2 Host Community and Their Rights Under the Petroleum Industry Act 2021

Under the recently signed PIA, it is stipulated that the purpose of the Act is to provide direct social and economic benefits from petroleum operations to members of the host communities, advance peaceful and harmonious co-existence between licensees and the host communities and finally create a structure to enhance the development of host communities (Section 234 (1) PIA 2021). The Act aims to provide social and economic benefits from petroleum activities. One of the innovations of the [PIA 2021](#) is that it accords the host communities a right to be consulted before determining the membership of the board of trustees. So far as the memberships of the board of trustees must be persons of integrity with high professional standing; not only that but over and above all, the persons to be

appointed must be members of the host community (Section 242 (2) PIA 2021). It is further argued that although the above provision is a novel addition which purports to recognise the rights of host communities generally, these are rights to which host communities are supposed to have been entitled but have been deprived of them for a long time.

3.3 Meaning and Types of Host Communities Within the Petroleum Industry Act

The PIA 2021 defines 'Host Community' as any community situated in or appurtenant to the area of operation of a licensee or lease (also known as the settlor), and any other community which the settlor identifies as a host community. Furthermore, for operators carrying out petroleum operations in shallow water and deep offshore, the host community will be the shoreline communities and any other community determined by the settlor. One would argue that the above definition is ambiguous because the coverage and range of host communities in Nigeria are not specified, making it difficult to determine which communities should be protected. The petroleum mining process involves different stages; there is the exploration and prospecting stage which is the identification of mineral deposits; there is also the discovery stage which includes the mine site design and planning; the next stage is the development stage, which is the longest stage of the process and the mine is prepared for production; the production stage, where the mine is finally ready for production and finally the reclamation stage which is the mine closure (Hughes, 2021).

From the preceding, it is clear that the mining process happens in different stages and different areas; therefore, it is essential to include all of these areas as the various processes occur in different parts or areas of the community. There are different types of host communities; this includes communities where the first stage, the exploration stage, takes place. The exploration stage is the most significant stage, and to open the mine, corporations must search for an economically adequate quantity of the mineral deposit which will make the exploitation worth it. The process includes surface mapping and sampling, tests, airborne and ground geophysical surveys and drilling, among others. However, in order to explore oil, there is a need to search through different areas within the community or communities. The stage alone cuts across different parts of the community and does not happen in a particular space; thus, in measuring or defining the host community, it is important to take into consideration the areas where all the stages of mining take place. The first stage of mining which is exploration might take place in a particular community and the discovery stage happens in another community, production stage might take place in another community, and this is because communities in Nigeria are close to each other and closely knitted, so it is crucial to have a clear definition of what host communities are and the specific acreage; it should not be restricted to only where the first stage of mining process takes place or generalised. The PIA further defines the host community as the community that the pipeline passes through (Section 235 PIA 2021). This definition excludes most stages within the mining process; for example, it outrightly excludes communities that do not produce oil. So communities where exploration

or other stages of the mining process occur because the production stage does not take place there are excluded. The above definition is not misleading but is clearly unsustainable as it will further encourage corruption (Dagogo, 2021).

Given the above inadequacies in the PIA 2021 definition of the host community, exploring other definitions would no doubt help understand the scope and nature of the host community in the mining sector. The United Nations Framework Convention for Climate Change – Clean Development Mechanism, UNFCCC – CDM Projects as defined by European Union, EU Energy Security defines host communities as, ‘communities that are 50-km radius within a project site’ (Amaize, 2021). Therefore, in the interest of impacted host communities, it is important to adopt such a definition for clarity as it provides clear acreage on host communities.

4. ISSUES OF THE HOST COMMUNITIES DEVELOPMENT

The host community trust fund is a novel concept in Nigerian petroleum law primarily aimed at developing economic and social infrastructure in petroleum-producing communities. The PIA 2021 provides that there will be an establishment and financing of the host community trust. The settlor also known as the operator on behalf of a group of settlors must establish and be responsible for a trust, supervised by a board of trustees for the good of the host communities (Section 235 PIA 2021). The trust must be established with the Corporate Affairs Commission within 12 months of the Act’s effective date or before the commencement of commercial operations for new licensees (Section 236 PIA 2021). The trust will establish a fund which will be funded by an annual contribution of three per cent of the actual yearly operating expenditure of the preceding financial year of upstream corporations. This fund can also be financed through gifts, grants, donations and interests accruing to the fund’s reserve (Section 240 (2) PIA 2021).

4.1 Application of Host Communities Trust Funds

The board of trustees will every year allocate funds received in the following proportion: 75% is apportioned to the capital fund for capital developments, 20% is apportioned to the reserve fund to be invested for use where their settlor stops contributing to the settlor and 5% is apportioned for the administrative cost used for operating the trust (Section 244 PIA 2021). The funds of the trust will be exempted from taxation. Also, any payment made by the settlors to the fund will be deductible for tax purposes. In any year where an act of vandalism, sabotage or other civil unrest occurs that causes damage to petroleum and designated facilities or disrupts production activities within the host communities, the community will forfeit its entitlement to the extent of the cost of repairs. In the event that the settlors fail to incorporate a trust it will lead to revocation of licence or the lease (Section 257 PIA 2021). As a condition for the grant of a licence or lease and before the approval of the environmental management plan,

the licensee or lessee is required to pay a prescribed financial contribution to an environmental remediation fund for the rehabilitation or management of negative environmental impacts of the petroleum operation. The financial contribution will take into consideration the dimensions of the operations and, therefore, the level of environmental risk. The major problem is the management of the fund; it is one to set up a trust fund, and it is another thing to put them to effective use. This financial responsibility on the part of the operators needs to be effectively monitored to ensure compliance, and the effective utilisation of the funds has to be monitored as well; however, the PIA 2021 failed to address this adequately.

4.2 Issues of Environmental Degradation

Another issue with host communities' development in Nigeria, particularly those within the oil-producing area, is that they experience environmental degradation ranging from pollution to oil spillages; as a result, the need to safeguard the environment cannot be exaggerated (Okongwu & Imoisi, 2020). Environmental pollution in Nigeria has severe implications for the public's health. The PIA 2021 provides environmental management by the Commission to foster environmental sustainability. By virtue of s.102 of the PIA 2021, a licensee or lessee who engages in upstream or midstream petroleum operations must submit an environmental management plan for approval to the Commission or Authority within a year or six months of the licence or lease's effective date or after it has been granted for the relevant project. Therefore, approval will generally be authorised if the applicant can mitigate and manage adverse environmental effects and the plan has been prepared to conform with the applicable Environmental Acts (s.102 (3) PIA, 2021).

It could be argued that though this is a laudable section as regards s.102 of the PIA 2021, it does not show a solid political commitment and thorough effort by the Nigerian government to reduce and eliminate environmental degradation that has besieged these oil-producing host communities in recent times (Okongwu & Imoisi, 2020). In fact, it is one thing for the PIA 2021, by virtue of s.102, to require those who carry out activities in the upstream and midstream to submit a management plan; however, the problem lies with the breaches that will occur, and they will enforce against those that fail to mitigate and effectively manage adverse environmental effects. In this regard, there is a need to strengthen the PIA 2021 and institutions that will effectively enforce the provisions.

Furthermore, the PIA 2021 also introduced the environmental management and annual control of gas flares. Section 102 (7) of the PIA 2021 provides an exception for gas flaring, which makes it legal after getting the minister's approval. Given that there are several instances of gas flaring and because it may now be allowed, things will get worse due to this failure. It is cliché that the nation does not enforce any of its laws about environmental damages or degradation. This is evident from the several breaches of these environmental laws around the country; in practical terms, it does not offer remedies to host communities other than deceit and abject poverty.

First, attaining environmental justice for host communities in the oil-producing areas in Nigeria affected by pollution entails more than just creating a rehabilitation fund under Section 235 of the PIA 2021, known as the 'host communities development trust'. Host communities have a fundamental right to a safe, healthy and positive environment. Conflicts over the environment are unavoidable, given the way oil exploration works. Regrettably, these oil-producing communities are the ones who suffer the most from the actions of multinational oil companies. One environmental issue, which is predominantly common in the Nigerian oil and gas industry, is frequently based on oil spills. The host communities in Nigeria's oil-producing areas suffer directly from these oil spills and other environmental issues. In Nigeria, the host communities in these oil-producing areas must contend with ongoing gas flaring because the PIA 2021 has normalised gas flaring as long as the minister's approval is sought. Gas flaring affecting the human habitat is a problem for host communities in these oil-producing areas in Nigeria (Adeola et al., 2022). Due to insufficient compensation for the adverse effects of oil exploration activities, host communities and oil companies in Nigeria continue to have disagreements (Hamilton, 2011).

However, it should be highlighted that environmental disputes frequently involve several parties and technical concerns, making them challenging to resolve. When you consider the significant environmental harm caused by oil exploration in the Nigerian oil-producing and mining region, the 3% allotted to the host communities by the PIA 2021 is insufficient. Sustainable local community development is advantageous to the extractive industry's profitability and ought to be a top priority in Nigeria's extraction of natural resources (Pedro et al., 2017).

4.3 Issues of Tribal Interrelation

Going by the numerous land-related conflicts in the oil-producing communities in the Niger Delta, there has undoubtedly been a shift in the character of the conflicts and an increase in the level of violence encompassing land ownership claims. This is especially true when such communal land has been discovered to contain oil or designated for oil exploration activities (Nwokolo, 2013). Imobighe (2004), using the Warri host communities as an example, claimed that as communities battle over land ownership, the violent trend, which is a recent phenomenon in the history of the Warri crisis, dates back to the early 1990s while the more recent unabating bloody conflict dates back to March 1997. As a result, such communities have suffered and continue to witness a period of communal violence due to disputes over control of oil-prospective land and seas in the Niger Delta (Imobighe, 2004).

Research has shown that several oil companies try to adopt the avoidance conflict handling mechanism. They do this by simply withdrawing and refusing to deal with the conflict; this, in turn, has enabled the communities to compete among themselves in different shapes and forms for control of such land and

fishing water while the oil companies await the eventual winner from the conflict (Imobighe, 2004).

Okonta and Douglas (2003) characterised Shell's attempts to thwart collective demands from oil host communities by describing how 'Shell Police' are given 'service money' for gathering intelligence, buying information and making friends with residents of host communities in the oil spill areas. These villagers would then incite community disputes over conflicting compensation claims. Shell would then take advantage of this by alleging that it would not provide compensation because the communities were divided over who would receive what (Okonta & Douglas, 2003).

It is clear from the facts that each group makes every effort to show that they are legitimate owners and original landlords. They will stop at nothing to do this, even participating in a vigorous war for ownership and claims of such contested land. It is crucial to manage the interests of the competing host communities, especially before violent disputes over land ownership breaks out. Since 1960, the Nigerian government has formed about five unique agencies to promote regional development. These are the Federal Ministry of the Niger Delta, created in 2008, the Niger Delta Development Board, established under the 1960 Constitution by virtue of s. 159, there is also the Niger Delta River Basin Authority, inaugurated in 1976, as well as the Oil Minerals Producing Areas Development Commission (OMPADEC), constituted in 1992. There is also the Niger Delta Development Commission (NDDC), which replaced OMPADEC, established in 2000. Despite the various attempts to promote regional development within the oil-producing communities, no significant development has been drawn to the area. It is argued that these are steps in the wrong direction as it has opened up avenues for more communal clashes and tribal interrelation with the oil-producing host communities in the Niger Delta. The failures of previous interventions by the Niger Delta Development Commission (NDDC), Amnesty Programme, Ministry of Niger Delta Affairs and Niger Delta Basin and Rural Development Authority, among others, are due to a lack of stakeholders inclusion, particularly the Niger Delta people such as women in such interventions. It is argued that the aggravated environmental pollution caused by decades of oil exploration in the Niger Delta placed an extra burden on sustainable income and livelihood for families in the Niger Delta region, especially on women, who bear greater responsibility for caring for their families. These communal clashes can occur when these women tend to scavenge limited resources in order to fend for their families.

A review of the PIA 2021 shows no recourse to dealing with tribal and communal conflicts on oil-producing land and such a fundamental issue should have been taken very seriously. According to Cotula (2018), one of the most significant characteristics of sovereignty is the power of states to control activities on their soil. For long-term advantages to be sustained and gained from their natural resources, it is crucial to pursue economic development and sustainable environmental development (Cotula, 2018). Therefore, the PIA 2021 needs to provide a mechanism for dealing with tribal and communal conflicts for host communities in the oil-producing area of the Niger Delta.

5. CONCLUSION

Although the rationale behind the host community fund is based on advancing the overall socio-economic development of the oil-producing communities, the problem lies in the implementation of the Act. Indeed, similar obligations for remittances were utilised in the past under Oil Mineral Producing Areas Development Commission (OMPADEC) and Niger Delta Development Commission (NDDC) regimes (Ebeku, 2020). However, poor and/or corrupt implementation ravaged such exercises. Introducing the host community trust fund no doubt increases the administrative burden on the operators. This fund is a replica of the Niger Delta Development Commission (NDDC) fee, which is still in force. This is somewhat confusing and will become burdensome for the operators as it will also present an opportunity for settlers to pay the levy for the latter. Another curious and significant feature of the Petroleum Host Community Fund is the distinctive provision on the financiers: upstream petroleum-producing companies. There is an apparent absence of the midstream sectors, which involves refining, engineering and downstream sectors from the remittance obligation areas dominated by indigenous petroleum operators. The fact that International Oil Companies (IOCs) dominate the upstream sector seems to justify the premise that PIA 2021 is arguably targeted at international oil companies. It is submitted that the Nigerian PIA 2021 should have introduced a proportional remittance regime from both the midstream and downstream petroleum operations since their operations can similarly have harmful effects on the host communities similar to the upstream sector. Possibly at the very least, one per cent remittance regimes on midstream and downstream net profit would have sufficed to make things fair between the competing petroleum operators.

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