Oil & Gas in Nigeria: An Analysis of the Petroleum Industry Act (PIA) 2021

Pamela Udejimba | p.udejimba@lawhubdev.org | pudeji8@gmail.com

Abstract

The oil and gas sector in Nigeria has long been a pillar of Nigeria's economy, however, it has also been plagued by regulatory inefficiency, environmental degradation, and civil unrest. The Petroleum Sector Act (PIA) 2021 is a significant regulatory overhaul aiming at improving efficiency, transparency, and sustainability in the sector. This paper examines the historical framework of Nigerian oil and gas regulation, from the discovery of oil in 1956 to the enactment of the PIA. It examines the challenges and compliance issues associated with implementing the PIA, discusses the transition from the previous regulatory framework to the PIA, and examines the relationship between International Oil Companies (IOCs) and local communities, emphasising the effectiveness of social responsibility programmes and adherence to local content provisions. It also offers recommendations for strengthening stakeholder participation, increasing transparency, and ensuring equitable resource allocation.

The Petroleum Industry Act (PIA) 2021 - Overview

For several decades, oil and gas have served as the backbone of Nigeria's economy and have been essential to the socioeconomic development of the nation. Nigeria was renowned for its agrarian economy before Shell-BP discovered commercial quantities of crude oil in 1956 in a town named Oloibiri, which is present-day Bayelsa State. This discovery marked the beginning of Nigeria's transformation into a major oil-producing nation. Foreign companies, mostly British and Dutch, controlled the Nigerian oil sector in the early years after the discovery. The Petroleum Act of 1969 established the first major regulatory framework and provided a framework for government authority over petroleum resources[1]. This legislation granted the Nigerian government ownership of all petroleum resources, along with the authority to issue exploration and production permits. Nigeria responded to the global resource nationalism wave of the 1970s by taking significant steps to strengthen its control in the oil sector. The Nigerian National Petroleum Corporation (NNPC) was formed in 1977 by the merger of the Nigerian National Oil Corporation (NNOC), which the government had founded in 1971, with

[1] Soremekun, K., and C. Obi. 'The Changing Pattern of Private Foreign Investments in the Nigerian Oil Industry'. *Africa Development/Africa and Development*, 1993, pp. 5–20.

the Ministry of Petroleum Resources[2]. The NNPC was tasked with regulating and participating in the petroleum industry on behalf of the Nigerian government.

Nigeria encountered several challenges during the 1980s and 1990s, such as political instability, economic downturns, and environmental issues. More regulatory changes were required as a result of these challenges. Recognising the critical need for reform, successive Nigerian governments initiated several attempts to overhaul the oil and gas sector. The Oil and Gas Industry Committee (OGIC) was formed in 2000 to propose major reforms. This prompted the establishment of the Petroleum Industry Bill (PIB), which sought to address issues such as governance, transparency, environmental preservation, and community development[3]. The Associated Gas Re-Injection Act, of 1979, which prohibited gas flaring without the express consent of the minister in charge of oil and gas aimed to address the environmental effects of gas flaring, a significant problem in the Niger Delta area[4]. However, efforts to curtail flaring were not very successful, and deadlines for suspending regular flaring were continuously extended. The Nigeria Gas Flare Commercialisation Program (NGFCP) was initiated by the government in 2016 to end routine flaring by 2020[5]. This goal was not accomplished[6]. The National Gas Policy, issued by the Ministry of Petroleum Resources in December 2017, binds the government to take action to ensure the development of flare capture and utilisation projects, as well as points out the gas flaring penalty[7]. The Flare Gas (Prevention of Waste and Pollution) Regulations were issued by the government in 2018, and they were accompanied by four sets of recommendations and a reporting template[8]. However, the PIB suffered several challenges and delays in the legislative procedure. In August 2021, the Petroleum Industry Act, 2021, was finally signed

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[2] Department of Petroleum Resources (DPR). *Nigeria Extractive Industries Initiatives*. 2019, https://neiti.gov.ng/cms/wp-content/uploads/2021/08/FASD-2012-2016-DPR-Report.pdf.

[3] Ayodele, Oladiran. 'An Analysis of the Petroleum Industry Governance Bill in Nigeria: Prospects and Challenges'. *Turf Law Journal (TLJ)*, vol. 1, no. 1, 2021.

[4] World Bank. 'Gobal Flaring and Venting Regulations - Nigeria'. *Worldbank.org*, 2024, https://flaringventingregulations.worldbank.org/nigeria.

[5] *Ibid*

[6] *Ibid*

[7] *Ibid*

[8] *Ibid*

into law by former President Buhari[9]. Although it repealed some previous laws, such as the Associated Gas Re-injection Act of 1979, the PIA considers most other laws and regulations to be equivalent to those issued by the new regulators as long as their provisions are not inconsistent and until amendments to the new law repeal them[10]. It specifically retains the Petroleum Act of 1969 and several other legislations until all licenses and leases issued under it are revoked[11]. The PIA has five sections on gas flaring, which promote flaring minimisation and reinforce the essential principles outlined in the Flare Gas (Prevention of Waste and Pollution) Regulations, 2018[12]. The PIA established the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) to replace the Department of Petroleum Resources (DPR).

The key objectives of the PIA are as follows:

- To create efficient and effective governing institutions, with clear and separate roles for the petroleum industry;
- To establish a framework for the creation of a commercially oriented and profit-driven national petroleum company;
- To promote transparency, good governance and accountability in the administration of the petroleum resources of Nigeria;
- To foster a business environment conducive to petroleum operations; and
- To deepen local content practice in Nigeria's Oil and Gas Industry.

Implementation of the Petroleum Industry Act (PIA)

The PIA established various regulatory bodies with specific mandates to regulate different aspects of the oil and gas industry. They have been given broad authority to enforce compliance, oversee industrial operations, and encourage sustainable development. However, their efficiency towards the implementation of the PIA depends on their ability to collaborate and coordinate activities, as well as their ability to adapt to the industry's dynamic demands.

[9] Ayodele, Oladiran. ‘An Analysis of the Petroleum Industry Governance Bill in Nigeria: Prospects and Challenges’. *Turf Law Journal (TLJ)*, vol. 1, no. 1, 2021.

[10] World Bank *Opcit*

[11] *Ibid*

[12] *Ibid*

1. Through the Ministry of Petroleum Resources, the Minister of Petroleum Resources is in charge of formulating policies and overseeing the petroleum industry[13]. Per the Petroleum Industry Act (PIA), the Minister may, on the Commission's recommendation, halt petroleum operations in any area covered by a licence or lease to protect people or property, or if the Minister determines that the operations are not being carried out in a way that adheres to best practices for the oil and gas industry or will violate the PIA or its subsidiary laws. In any of the above situations, the Minister may also withdraw the licence or lease issued per to the PIA[14].
2. The Nigerian Upstream Petroleum Regulatory Commission (NUPRC): This is the main regulator for oil exploration and production activities in Nigeria. Its responsibilities include licensing, technical and commercial regulation, environmental oversight, and PIA compliance in the petroleum industry's upstream segment. It also ensures a safe, effective, and sustainable approach for upstream activities to be carried out, which encourages investment and industry advancement.
3. Nigeria Midstream and Downstream Petroleum Regulatory Authority (NMDPRA): This agency is in charge of regulating the technical, operational, and commercial aspects of Nigeria's midstream and downstream petroleum operations. "The Federal High Court affirmed NMDPRA's authority to impose levies on natural gas and petroleum products traded in Nigeria"[15].
4. NNPC Limited: NNPC Limited is licensed to operate in the country's petroleum industry and works with multinational oil firms to exploit Nigeria's fossil fuel reserves. NNPC Limited, which was once a state corporation, is now required to function independently and competitively with the aim of maximising profits for shareholders, which includes the Nigerian government. The purpose of this change was to improve accountability and efficiency within the national oil company. In July 2022, President Muhammadu Buhari presented the new Nigerian National Petroleum Company Limited, formally

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[13] Palmer, Bob. Oil Regulation. 2022, https://enradvisory.com/wp-content/uploads/2022/06/2022-Oil-Regulation-Nigeria.pdf.

[14] Ilbid

[15] Aluko, and Oyebode. 'Federal High Court Affirms the Power of the NMDPRA to Impose Statutory Levies on Import of Petroleum Products in Nigeria - Aluko & Oyebode'. Aluko & Oyebode, 2024, https://www.aluko-oyebode.com/insights/federal-high-court-affirms-the-power-of-the-nmdpra-to-impose-statutory-levies/.

transforming the oil firm from a state-run institution to a commercial oil company with limited shares[16].

The Petroleum Industry Act (PIA) 2021, regarded as a transformative legislation in Nigeria's oil and gas sector, aims to establish transparency, accountability, and improved local participation. However, some challenges impede the realisation of its objectives, such as bureaucratic challenges, corruption, legal ambiguities, and resistance from stakeholders accustomed to the old regulatory framework. Regulatory agencies often have to deal with inefficient bureaucracy, which causes licence and permit approval procedures to drag on. This inefficiency can cause projects to be delayed and increase operating expenses for companies[17]. The issue of many agencies having conflicting regulatory obligations is another challenge. This overlap creates confusion and may result in inconsistent execution of the law[18]. For example, the PIA designates the NUPRC as "in charge of upstream petroleum operations, such as exploration, development, and production, and gives it the authority to issue certificates of quality and quantity to exporters of crude oil, natural gas, and petroleum products from integrated operations and crude oil terminals established before the Act's effective date"[19]. However, the discretion in defining "integrated operations" has created confusion, particularly for onshore operations, resulting in jurisdictional issues[20]. The overlapping functions of the authorities controlling crude oil exports confuse and cause companies to need approval from both regulators, and there may be anomalies and increased industry expenses as a result of this dual approval procedure[21]. Although the two regulatory organisations have made several attempts to resolve the jurisdictional inconsistencies, there is still no clear framework for doing so, which has prompted concerns about efficiency and

[16] Izuaka, Mary. 'NNPC Limited Ends Operations as Govt Corporation'. *Premiumtimesng.com*, 2023, https://www.premiumtimesng.com/news/top-news/582778-nnpc-limited-ends-operations-as-govt-corporation.html?tztc=1.

[17] Idoko, Nicholas. 'Nigeria's Oil and Gas Sector: Key Regulations and Policies'. Disciplines in Nigeria, 2024, https://disciplines.ng/oil-and-gas-sector-regulations-and-policies/.

[18] *Ibid*

[19] Oyewale, Suraj, et al. 'Petroleum Industry Act: Issues Arising, Two Years After'. *TheCable*, 2023, https://www.thecable.ng/petroleum-industry-act-issues-arising-two-years-after/.

[20] Ibid

[21] *Ibid*

clarity[22]. In response, NUPRC and NMDPRA received orders from President Bola Ahmed Tinubu to clarify their responsibilities and ensure continuity of operations until the required PIA revisions are passed[23]. Companies may also encounter difficulties adhering to the requirements of several regulations, especially some of which may be in contradiction with one another[24].

Social Action[25] claims that because the PIA makes no indication of who is particularly in charge of handling oil spills, it fails to give environmental protection priority and instead pushes it to the side. This highlights the need for the role of the National Oil Spill Detection and Response Agency (NOSDRA) to monitor, regulate, and penalise firms that cause oil spills to be reinforced to promote accountability and transparency. Also problematic are the PIA's protections for host communities. Although the establishment of a "Host Community Development Trust" is required by law, the oil firms are given disproportionate control over money intended for community development, given that they have a significant say in the composition of their board of trustees[26]. Another major point of contention highlighted by civil society organisations and host communities, which has nonetheless been retained in the PIA, is the allocation of responsibility for the protection of pipelines and other oil facilities to host communities[27]. This clause arises directly from the erroneous belief propagated by oil firms that communities are responsible for pipeline sabotage and theft, which the NNPC, as well as the United Nations Environment Programme, have both refuted[28]. Criminalising oil-producing communities in this way is terrible and serves as a smokescreen for oil multinationals to avoid responsibility for the region's continuous environmental degradation[29]. The federal

[22] Okonkwo, Omono. 'The Reasons behind Tinubu's Decision to Address Regulatory Overlaps between the NUPRC and NMDPRA'. *Nairametrics*, 2023, https://nairametrics.com/2023/07/07/the-reasons-behind-tinubus-decision-to-address-regulatory-overlaps-between-the-nuprc-and-nmdpra/.

[23] *Ibid*

[24] Idoko, Nicholas *Opcit*

[25] Social Action. 'Addressing the Shortcomings of the Petroleum Industry Act (PIA) in Addressing Communities' Environmental Concerns'. *Social Action*, 2023, https://saction.org/addressing-the-shortcomings-of-the-petroleum-industry-act-pia-in-addressing-communities-environmental-concerns/.

[26] *Ibid*

[27] HOMEF. 'The Petroleum Industry Act Neglects Community Concerns and Strengthens Oil Companies'. *Homef.org*, 2021, https://homef.org/2021/09/15/the-petroleum-industry-act-neglects-community-concerns-and-strengthens-oil-companies/.

[28] *Ibid*

[29] *Ibid*

government's attempts to reduce gas flaring have not produced the intended results[30]. The practice of gas flaring has continued in Nigeria's oil and gas industry due to market and economic constraints, a lack of an effective legal system with strong fines, and the Federal Government's lack of political will to enact anti-gas-flaring regulations[31]. Social Action[32] also stated that the PIA's rules on access to justice are concerning. Those impacted by regulatory organisations' decisions or actions have a three-month window to seek legal action[33]. Such a schedule is unreasonable and denies marginalised populations in the Niger Delta a fair opportunity to seek justice[34]. Despite the PIA's strict prohibition on gas flaring, several companies continue to engage in this environmentally destructive practice. Others have failed to meet the standards for community development, causing friction among local populations as well as harmful social impacts, particularly in the Niger Delta. Noncompliance undermines not just the PIA's objectives but also the trust of the public in the regulatory framework. To solve these issues, a strong monitoring and enforcement system is required, which includes regular inspections, transparency in reporting, and severe penalties for violations.

Transition to the Petroleum Industry Act (PIA)

The Petroleum Industry Act (PIA) 2021 was designed to transform the industry by implementing significant regulatory changes. The transition from the former regulatory framework to the PIA has significant implications for all stakeholders, including government agencies, multinational oil companies (IOCs), local businesses, and host communities. The PIA was meant to address the issues of lack of clarity, overlapping responsibilities among regulatory bodies, and inadequate provisions for transparency and accountability that characterised the previous framework. Nigeria's Petroleum Industry Act (PIA) 2021 has prompted major changes in the country's oil and gas industry since it was passed. These changes have a ripple effect on regulatory structures, contractual relationships, and conflict resolution procedures, requiring all parties involved to adjust to the revised legal framework.

[30] Olujobi, Olusola Joshua, et al. 'The Legal Framework for Combating Gas Flaring in Nigeria's Oil and Gas Industry: Can It Promote Sustainable Energy Security?' *Sustainability*, vol. 14, no. 13, 2022, p. 7626, doi:10.3390/su14137626.

[31] *Ibid*

[32] Social Action *Opcit*

[33] *Ibid*

[34] *Ibid*

Important regulatory agencies like the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) and the Nigerian Upstream Regulatory Commission (NURC) have been established as part of this restructuring. They have been charged with overseeing exploration, production, refining, and marketing operations and place a high value on accountability, efficiency, and transparency. A digital application portal system for Midstream and Downstream Industry Oil and Gas Service Permits (MDOGISPs) was implemented in response to the PIA[35]. These permits are now required for midstream and downstream operators, including gas providers, petroleum liquid transporters, and bulk gas storage companies[36]. Failure to secure proper permissions using this platform will result in consequences such as fines, facility closure, and equipment seizure. This procedure streamlines the permit application process, increases transparency, and tightens regulatory oversight. It also corresponds with the PIA's goals and supplements the release of new rules for the midstream and downstream industries. The PIA represents a major shift in contractual arrangements in the oil and gas industry, particularly the introduction of Production Sharing Contracts (PSCs) as the primary fiscal framework for Deepwater and ultra-deepwater projects[37]. This change from the standard Joint Venture (JV) model attempts to encourage investment in frontier exploration and development while providing better conditions for investors[38]. Enhancing dispute resolution systems is a critical component of the PIA's legislative structure. The formation of specialised tribunals, such as the Petroleum Industry Tribunal (PIT), illustrates the commitment to addressing disputes resulting from the Act's interpretation and execution[39]. Furthermore, the emphasis on alternative dispute resolution processes such as arbitration and mediation provides stakeholders with effective conflict resolution paths, while also fostering investor trust and maintaining a favourable business climate. While the Act aims to attract investment, increase efficiency, and improve governance, its success depends on effective enforcement, transparent administration, and stakeholder participation and collaboration. Continuous monitoring and assessment are also critical for assessing its impact and addressing emergent challenges.

[35] Oyewale, Suraj *Opcit*

[36] *Ibid*

[37] SIAO. 'The Impact of the PIA (Petroleum Industry Act) 2021'. *SIAO*, 25 June 2024, https://siao.ng/the-impact-of-the-piapetroleum-industry-act-2021/.

[38] *Ibid*

[39] *Ibid*

The PIA has also resulted in the elimination of the NNPC's monopoly through the issuing of crude oil import licences. In June 2023, the Federal Government licensed six new companies to import petroleum products into the nation[40]. This was confirmed by Emadeb Energy's recent receipt of a 27 million-litre petrol cargo on July 19, 2023, and it represents a significant shift in the country's fuel supply dynamics[41]. The PIA established the Frontier Exploration Fund to promote exploration and development in areas where hydrocarbon exploration has yet to start or is underdeveloped[42]. The PIA delegated numerous functions to the Commission, including supporting frontier basin development, establishing exploration plans, and enhancing awareness of petroleum resources in these areas. As required by the Petroleum Industry Act (PIA), President Bola Tinubu formally phased out Nigeria's long-standing petrol subsidy scheme in May 2023. Pricing for petroleum products is now solely determined by the market owing to the PIA, which is a significant change as new licences that have been granted make it easier to import and distribute products throughout the nation. However, questions have been raised regarding the decision's sustainability and capacity to uphold the intended support as described in the Act because of the pace at which supportive measures are being implemented to address issues brought on by the removal of subsidies.

Despite the PIA's ambitious reforms, the Nigerian oil and gas sector continues to face significant challenges such as pipeline vandalism and oil theft, security concerns, global oil price fluctuations, reduced demand due to energy transition, infrastructure development, and the refining capacity required for self-sufficiency.

Stakeholder Engagement: IOCs, Local Communities, and the PIA

Stakeholder involvement is an important component of the Petroleum Industry Act (PIA) 2021, notably in building a positive connection between International Oil Companies (IOCs), local communities, and the Nigerian government. Effective participation may lead to long-term development, fewer disputes, and better regulatory compliance. Historically, IOCs such as Shell, Chevron, and ExxonMobil have been the dominant players in Nigeria's oil-rich Niger Delta area. While these corporations have made major contributions to Nigeria's economy, their activities have also been linked to environmental damage, social instability, and economic inequality. The relationships between IOCs and local communities in Nigeria have always been challenging for several reasons. Oil exploration and production have caused extensive

[40] Aduloju, Bunmi. 'Emadeb Energy Ends NNPC Monopoly, Imports 27m Litres of Petrol'. *TheCable*, 20 July 2023, https://www.thecable.ng/emadeb-energy-ends-nnpc-monopoly-imports-27m-litres-of-petrol/.

[41] *Ibid*

[42] Oyewale, Suraj *Opcit*

damage to the environment, such as oil spills, gas flaring, and deforestation. These operations have harmed the lives of locals, resulting in disagreements and violence. Despite the income generated from crude oil, many local people in oil-producing countries are nonetheless impoverished. The apparent disparity in the distribution of oil revenue has also led to dissatisfaction and calls for more economic benefits. The combined impact of these environmental and economic grievances has resulted in civil instability and militant activity in the Niger Delta region, for example[43]. The resulting chaos has hampered oil operations and posed considerable security risks for IOCs[44]. In response to these problems, IOCs have created several kinds of social responsibility programs aimed at reducing their effect and strengthening connections with local communities. These programmes include community development projects that focus on education, healthcare, infrastructure development, and vocational training to help host communities improve their quality of life. These IOCs also work to lessen their impact on the environment by implementing improved waste management techniques, reforestation programmes, and efforts to limit gas flaring and oil spills. The Petroleum Industry Act (PIA) 2021 aims to enhance the relationship between IOCs and local communities by establishing specific measures for community development and local content. The Host Community Development Trust Fund (HCDTF) and local content provisions are key parts of the PIA that address community engagement.

The Host Community Development Trust Fund (HCDTF)

The PIA mandates the creation of the HCDTF, requiring oil companies to allocate a portion of their operational budgets to community development programmes. This fund is meant to ensure that oil and gas activities directly benefit local populations while also promoting sustainable development in host regions. The HCDTs will direct massive amounts of funding into community development, effectively replacing corporate social responsibility (CSR) initiatives. The Federal Government of Nigeria (FGN) anticipates that the overall contribution to HCDTs would be "US$500-800 million per year (NGN200-330 billion), which is about ten times the average annual social spending by oil and gas companies ($72 million or NGN19 billion)"[45]. The expected total allocation to HCDTs is nearly equal to the Niger Delta Development Commission's (NDDC) average yearly budget ($806 million or NGN206 billion),

[43] Ajodo-Adebanjoko, Angela. *Towards Ending Conflict and Insecurity in the Niger Delta Region*. 2017, https://reliefweb.int/report/nigeria/towards-ending-conflict-and-insecurity-niger-delta-region.

[44] *Ibid*

[45] SDN. Issues for host communities under the Petroleum Industry Act (PIA). 2023, https://www.stakeholderdemocracy.org/issues-for-host-communities-under-the-petroleum-industry-act-pia%EF%BF%BC/

which would continue to be spent concurrently[46]. This opens up a great possibility for coordinated community development investment[47]. Section 234 of the PIA requires the establishment of an HCDTF for each host community impacted by upstream petroleum activities[48]. Section 240 requires oil corporations to donate 3% of their yearly operating costs from the previous year to the appropriate community's HCDTF[49]. Section 244 specifies the allocation of funds, requiring the establishment of a special trust fund for each community directly affected by upstream petroleum activities[50]. It establishes a clear allocation mechanism, with 75% set aside for capital projects, 20% for contingencies, and 5% for administrative expenses[51]. The most empowering component is the community's ability to create a Board of Trustees to govern the fund.

Historically, the main challenge with the HCDTF has not been a shortage of funding, but rather an inability to administer it effectively such that it benefits communities[52]. With increased financing, it is in the best interests of all stakeholders that HCDT funds be computed, collected, and used transparently and responsibly that is applied uniformly across every business and community[53]. This is especially essential because the funds will go directly to community structures rather than through government entities[54]. Given the PIA's recent establishment, it may be difficult to quantify its actual benefits to communities. More crucially, issues exist over the governance system. The absence of defined rules for appointing the Board of Trustees raises concerns about transparency and the possibility of corruption and disproportionate control of the oil and gas firms over funds intended for community development[55].

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[46] *Ibid*

[47] *Ibid*

[48] Petroleum Industry Act. 2021

[49] *Ibid*

[50] *iBid*

[51] *iBid*

[52] SDN *Opcit*

[53] *Ibid*

[54] *Ibid*

[55] Social Action *Opcit*

Furthermore, bureaucratic impediments or capacity constraints within the trust management structure may cause delays in obtaining funding for crucial development initiatives[56].

Some recommendations are required to ensure that the HCDTF delivers on its promise of community empowerment. The current regulations provide basic guidance, but to avoid future disputes, the regulator must specify uniform, transparent, and accountable approaches to calculating operating expenses, clustering communities, allocating resources among HCDTs, and establishing project management mechanisms[57]. The Board of Trustees selection process must be transparent and entail active community engagement. This encourages a sense of ownership and responsibility. Providing local communities with the tools and information they need to properly manage trust will help them make better decisions and implement projects. It is also important to create an independent monitoring agency to promote transparency in funds distribution and use. Finally, clear criteria for project selection, approval processes, and financial reporting will help to prevent fund misuse and promote responsible management of funds.

Local Content Provisions

Prior to the introduction of the Nigerian Oil and Gas Industry Content Development (NOGICD) Act, also known as the Nigerian Content Act, International Oil Companies (IOCs) carried out the majority of the country's oil and gas activities[58]. The obvious lack of technical know-how in the country prompted the importation of expertise. The implications included unemployment, a lack of skills transfer, high product costs, a protracted project cycle, and over-reliance on other countries, among others. However, in 2001, the Presidential Committee on Local Content in the Oil and Gas Industry was established, which advocated for the passage of the Nigerian Oil and Gas Industry Content Development (NOGICD) Bill, which was signed into law on April 22, 2010[59]. The implementation of a local content policy in the oil and gas industry was done to increase the participation of indigenous oil firms in the sector's supply chain, to improve backward linkage development (a method of increasing procurement of locally

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[56] *Ibid*

[57] *Ibid*

[58] Enang, Wisdom. 'Nigerian Local Content Policy: Gains, Improvement Opportunities, and Imperatives for the Future'. *Majorwaves Energy Report*, 2022, https://www.majorwavesenergyreport.com/nigerian-local-content-policy-gains-improvement-opportunities-and-imperatives-for-the-future/.

[59] *Ibid*

produced inputs and services), and to create more job opportunities for the local workforce[60]. The creation of local value is often considered more significant than the extractive sector's direct contribution to economic growth[61]. Although the Act's ultimate goal is to encourage indigenous involvement in Nigeria's oil and gas sector, there are several loopholes, such as the lack of set criteria for achieving the local content standards[62]. One major barrier impeding local content development in Nigeria is a lack of funding for indigenous businesses from Nigerian banks (due to the high financing requirements of energy projects), which prevents these companies from engaging effectively and efficiently[63]. Furthermore, the CAMA's definition of a Nigerian company based only on 51% equity shares leaves a gap that operators may exploit[64]. The punitive sanctions for noncompliance under the Act are also insufficient to deter breaches and ought to be enhanced[65]. One of the primary reasons for non-compliance with the Nigerian Local Content Policy is confusion about the meaning and practical implementation of the most important principles and regulations in the Act. For example, the word "first consideration" was not defined in the Act, nor did it provide guidelines for the Board to verify the accuracy of the criteria used by the operator to determine first considerations under the Act's provisions[66]. Furthermore, the Act did not define the phrases "management position" and "intermediate cadre"[67]. In the absence of explicit legislative guidance on the meaning of such essential phrases in the Act, its execution is hampered as various companies adopt their own interpretations.

To meet the local content target, the government must implement initiatives from reforms such as the PIA that provide an enabling environment to promote Nigerian participation in the oil and gas industry. The PIA complements the Nigerian Oil and Gas Industry Content

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[60] Adedeji, Abdulkabir Niran, et al. "The role of local content policy in local value creation in Nigeria's oil industry: A structural equation modeling (SEM) approach." Resources Policy 49 (2016): 61-73.

[61] *Ibid*

[62] Ajibade & Co. 'Review of the Nigerian Oil and Gas Industry Content Development Act 2010'. *S.P.A. Ajibade & Co*, S.P.A. Ajibade & Co., 2013, https://spaajibade.com/review-of-the-nigerian-oil-and-gas-industry-content-development-act-2010/.

[63] Enang, Wisdom *Opcit*

[64] Ajibade & Co *Opcit*

[65] *Ibid*

[66] Enang, Wisdom *Opcit*

[67] *Ibid*

Development Act (NOGICD) of 2010. The recent ratification of the Petroleum Industry Act (PIA) has fuelled optimism that the government is getting it right in terms of domestication of its oil and gas operations. The domestic gas obligations, which require gas producers to meet specified domestic obligations to strategic sectors of the Nigerian economy and impose penalties for noncompliance, and the midstream gas infrastructure fund, which is designated for equity investments of government interest in infrastructure development on midstream gas operations, are some of the major PIA provisions that support Nigeria's content position[68]. The recently concluded 10th Practical Nigerian Content (PNC) Conference in Bayelsa State provided stakeholders with an opportunity to discuss how the new Act may transform the industry, with many of the players stating that they were already preparing to take advantage of the new PIA law[69]. According to the report by This Day[70], the new legislation was opening doors for fresh investment as International Oil Companies (IOCs) were ready to take Final Investment Decisions (FID) on five key projects namely, "the Owowo project, the Bonga South West project, Bonga North-Shell, Kowe, and Aparo". This can be viewed as life returning to Nigeria's oil and industry, with PIA promising to create more activities and employment. Stakeholders in the oil and gas industry consider the Local Content Act as an essential instrument that allows IOCs to make significant contributions to the growth of the Nigerian economy through value addition and job creation. With the Act mandating that any foreign-owned company wanting to conduct operations within the upstream sector do so by including Nigerians in the composition of the company, many indigenous businesses are now key participants in that area. The Act has played an essential role in promoting indigenous capacity development in Nigeria's oil and gas sector, and in conjunction with the PIA, Nigeria's 2027 target of 70% local content is expected to be met.

Regulatory agencies like the Nigerian Content Development and Monitoring Board (NCDMB) and the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) need to be strengthened to ensure strict monitoring and implementation of PIA provisions and local content standards. Strengthening their capacity will allow for regular audits, stricter penalties for non-compliance, and transparent reporting. Clear guidelines should also be created to explain the PIA's unclear sections, minimising legal ambiguities and ensuring uniform implementation throughout the oil and gas sector. To create a workforce with the necessary

[68] *Ibid*

[69] This Day. 'Tackling Local Content Challenge with PIA'. *Thisdaylive.com*, 2024, https://www.thisdaylive.com/index.php/2021/12/07/tackling-local-content-challenge-with-pia/.

[70] *Ibid*

skills to satisfy industry standards, it is imperative to collaborate with educational institutions and invest in vocational training and capacity-building programmes for local companies and employees. Grants, low-interest loans, and business development services can be used to help enable this support. Inclusive decision-making methods involving local communities, government agencies, and industry players may contribute to ensuring that development initiatives reflect the communities' actual needs, fostering a feeling of ownership and engagement. Effective communication channels between IOCs, regulatory agencies, and local communities may facilitate effective dialogue, resolve grievances, and foster mutual trust and understanding.

Conclusion

The Petroleum Industry Act (PIA) 2021 promises comprehensive reforms aimed at improving efficiency, transparency, and sustainability, and the transition from the previous regulatory framework to the PIA represents a critical step forward, with the potential to attract investment, enhance community development, and promote environmental sustainability. However, the success of the PIA depends on overcoming implementation challenges such as bureaucratic inefficiencies, capacity constraints, and legal ambiguities that have historically hindered effective governance. Effective enforcement of the PIA's provisions, robust stakeholder engagement, and the capacity building of regulatory bodies are essential to achieve the intended benefits. The relationship between International Oil Companies (IOCs) and local communities remains a critical area of focus. Ensuring that IOCs comply with local content laws and contribute positively to community development is vital for fostering productivity in Nigeria's oil and gas industry.

The Host Community Development Trust Fund (HCDTF) represents a significant innovation within the PIA, aiming to ensure that local communities directly benefit from oil and gas activities. To maximise its impact, it is crucial to address issues related to fund disbursement, transparency, and accountability. Implementing effective strategies for fair and impactful distribution of HCDTF funds will strengthen community participation and oversight, fostering sustainable development in oil-producing regions. Local content provisions are particularly significant as they require the prioritisation of Nigerian labour, products, and services in oil and gas operations. This not only intends to boost the local economy but also to strengthen the capacity of indigenous companies and the workforce, resulting in job creation and economic empowerment. Addressing capacity constraints, providing efficient regulatory evaluation, and promoting collaborations between IOCs and local companies are necessary to adhere to these local content standards.

Looking ahead, the future of Nigeria’s oil and gas sector under the PIA appears promising, but it requires concerted efforts from all stakeholders. By addressing the identified challenges and implementing the proposed recommendations, Nigeria can create a more inclusive, equitable, and sustainable oil and gas industry.