PETROLEUM EXPLOITATION AND THE QUESTION OF RESOURCE CURSE IN NIGERIA: HAS THE PETROLEUM INDUSTRY ACT 2021 PLAYED ANY ROLE?

Written by ***Edward O. Okumagba* & Oke Odinde*****

** LL.B, B.L, LL.M (Aberdeen, UK), Ph.D. Nigeria, Senior Lecturer, Department of Commercial and Property Law, Faculty of Law, Delta State University, Abraka, Nigeria*

*** LL.B, B.L (LL.M in View) Faculty of Law, Delta State University, Abraka, Nigeria*

DOI: 10.55662/CLRJ.2023.911

Orcid: 0000-0002-5428-9474

ABSTRACT

The adoption of petroleum as an alternative source of energy by the turn out of the 19th Century has led to monumental development of the global economy of nations whether blessed with the resources or not. This has not been the case for Nigeria. As the 9th largest producer of crude oil and natural gas, the Nigerian economy can be celebrated as classical example of the resource curse syndrome. The Niger Delta region where Nigeria's petroleum reserve resides accounts for over 80 percent of poverty. The environment of the region has been degraded for half a century. Revenue from petroleum sales is unaccounted for, or starch in foreign accounts due to corruption. The Nigerian Government manageably came up with the promulgation of the Petroleum Industry Act 2021. The paper analyses the effects of the discovery of petroleum in Nigeria and the emergence of the resource curse syndrome. In achieving the aim, it contextualizes and critically appraised scholarly literature doctrinally, which revealed that the resource curse syndrome is well embedded in the Nigerian economy. It was also discovered that the legal frameworks to reduce the incidence of resource curse in Nigeria are ineffectual. In the light of the above, the paper concludes that with the advent of the PIA, the management of Nigeria's petroleum revenue through its fiscal regime will reduce the incidence of resource curse in Nigeria.

***Keywords*:** Resource Curse, Natural Resources, Environment, Petroleum, Law, Nigeria

INTRODUCTION

The question of whether the resources generated from the Niger Delta is reflecting in the Niger Delta is only but asking the obvious. There is nothing to show that what the region generates commensurate with the development in the Niger Delta Region. The snippet of development (if any) in the Niger Delta is not only slow, it only suffices upon agitation from the region. The exploration of crude oil from the Niger Delta Region has called for several debate; some of which include an increase of the derivation while some have question what happened to the previous derivation. It is of this unsettled controversy that one can safely say that the oil is rather a curse than a blessing to the people of Niger Delta. When juxtaposed with other countries in similar situations (having the presence of petroleum hydrocarbon), the Nigerian situation is less desired. This is premised on the prevalence of massive corruption through diversion of crude oil and natural gas proceeds, crude oil theft, and petroleum pipeline vandalization etcetera. While other hydrocarbon rich countries in the Middle East, Europe, and South and North America have been able to transfer revenue from petroleum to development and technological advancement, report shows that over 80 percent of Nigerians live below the poverty line. The emergence of the Petroleum Industry Act (PIA) 2021, has been hailed as a regulation seeking to turn around the Nigerian oil and gas industry, reposition it and reduce the impact of the resource curse syndrome. The aim of this paper is to analyse the resource curse syndrome and its impacts on the Nigerian economy as well as the role of the PIA in redressing the trend of resource curse in Nigeria. In achieving the above objectives, the paper is divided into seven parts with the introduction introducing the paper. Part one deal with the conceptual and theoretical frameworks, while part two analyses the connection between the resource curse syndrome and Nigeria. Considering the impact of the discovery of petroleum in Nigeria, part three discusses the negative and positive effects of the discovery of petroleum in Nigeria. Part four appraised the emergence of the PIA and its challenges. Part five on the other hand amplified the prospects of the PIA in reducing the impacts of the resource curse syndrome in Nigeria. Part six dealt with possible recommendation with part seven concluded the paper.

Conceptual Clarification of Terms

The term “Petroleum Resource curse,” is a complex of political and economic dysfunctions afflicting nearly all oil-producing countries to some degree. The presence of oil in a country can have major benefits and it does not automatically lead to the oil curse. But if not managed properly or efficiently by the host governments, the massive influx of oil revenues can distort

ISSN 2581 3382

a country's economic fundamentals, fuel corruption, and create conditions that trigger conflict. Countries with petroleum resources are twice as likely to experience civil war as those without.[i] Be that as it may, the categories of terms will require clarifications due to the nature of petroleum and how it has impacted on areas of its dominance and prevalence. This is premised on the notion that petroleum in itself is fugacious and migratory.

- **Natural Resources**

The phrase "natural resources" is applied in its simple sense to refer to endowment of wealth for the providence of nature.[ii] It is any material in its native state which when extracted has economic value.[iii] It should be noted that some of these natural resources are renewable while some are not renewable. Natural resources such as trees, water, sun and wind can be replenished at about the same rate at which they are used. Renewable resources, however, can be depleted if not properly managed or conserved. Non-renewable resources on the other hand are those natural resources that deplete more quickly than they can regenerate. Fossil fuels like oil and natural gas are non-renewable resources and once mined and used, they are gone forever.

- **Resource Curse**

The term resource curse represents an economic phenomenon associated with the abundance of natural resources in certain countries. The term summarizes a paradox that those naturally gifted resource countries do not always develop and grow their economies.[iv] The resource curse is wealth characterized by abnormally slow economic growth as well as corruption and at times, armed conflict. Natural resources were thought to create economic growth and prosperity. However, debate has flared over whether natural resources, such as minerals and metals, oil, agricultural resources, and so on, stimulate economic growth or act as a hindrance to growth. The idea that natural resources actually hinder growth is known as the "curse" of natural resources.

- **The Dutch Disease Phenomenon**

Dutch disease is an economic term for the negative consequences that can arise from a spike in the value of a nation's currency. It is primarily associated with the new discovery or exploitation of a valuable natural resource and the unexpected repercussions that such a discovery can have on the overall economy of a nation.[v] It was coined by the economist magazine in 1977, when the publication analysed a crisis that occurred in the Netherlands after

ISSN 2581 3382

the discovery of vast natural gas deposits in the North Sea in 1959. The new found wealth and massive exports of oil caused the value of the Dutch guilder to rise sharply, making Dutch exports of all non-oil products less competitive on the world market.[vi] It is a shorthand way of describing the paradox which occurs when good news, such as the discovery of large oil reserves, harms a country's broader economy. It may begin with a large influx of foreign cash to exploit a newfound resource. When the Dutch disease sets into the economy of a nation, it gradually erodes the international competitiveness of other tradable sectors of the economy as the resource base export clouds out commodity exports produced by those sectors and the country faces the risk of de-industrialization.

However, the gradual but progressive abandonment of other sector/manufacturing service and production sector is detrimental to the economy because the natural resource in question soon either begins to run out or there may come a down turn in price of such resource in the international market. A clear example of the Dutch disease in Africa is the case of Nigeria and Chad where there is a shift of factors of production from non-booming sectors to booming sectors.[vii] The effect thereof can only be seen when the less competitive sector has been totally eliminated and can no longer compete or when the price of the petroleum drop in the international market.

Theoretical framework

The resource curse theory as coined by Auty, suggest that countries especially less-developed countries with abundant natural resources tend to have less economic growth than countries with little or no natural resources.[viii] Three basic theoretical approaches suffice to understanding the resource curse.

- **The Economic Theory**

This theory postulates that total reliance on petroleum without economic diversification kills other sectors gradually and as a result the State suffers the Dutch Disease.[ix] Nigeria is a typical example of this economic theory. Norway on the other hand, has been able to diversify its economy and as such petroleum has been regarded as a blessing to the country as it has created a sustainable economic and social development for Norway.[x] Nigeria’s position has call for comparison between Nigeria and some other states and to questions why the abundant natural resources have had less economic development and growth than countries without natural

ISSN 2581 3382

resources. What is attainable in the Nigerian sector are only but legislations on how to further explore and secure the petroleum without more. This was the complaint of Darah when he argued that the plans of Federal Government in enacting the law was not to keep Nigeria one and defend its territorial integrity but to secure the petroleum in the South – South States.[xi] Saudi Arabia faced the Nigerian situation as well. The country relies heavily on petroleum.[xii]

Another aspect of this economic theory is where the resources relied upon is inadequate in terms of promoting and creating a competitive manufacturing sectors but rather depend heavily on its natural resource wealth for state budget. It is reliance on the petroleum just for state budget nothing more.[xiii] Truth be told, oil wealth is not a pro poor sector for the low skilled job unlike manufacturing and agriculture that usually creates less skilled-jobs.[xiv] This position seems to be the major reason why Nigeria as a country rich in natural resources has high poverty rate.[xv] Another side of the economic theory can be characterized from vitality and unstableness in the global oil price. The unstable price factor affects government reliance on oil for development.[xvi] The drop in price or demand on oil reflects rapidly in the country's economy and this increases poverty rate. Some countries, like Nigeria go as far as borrowing just to meet up with their approved budget.[xvii]

- **The Political Theory**

The political theory explains the paradox of plenty to result from corruption and rent-seeking amongst government officials that impedes prudent resource management and effective implementation of policies. This theory which is also known as Rentier State Model postulates that resource curse results when wealth derived from natural resources are not managed appropriately; and in turn leads to poor economic performance.[xviii] This theory also based the resource curse on weak institutions. It posits that government's direct access to oil revenue decreases the incentives to create strong and effective institutions, like the failure to build a tax system. As a result of government's unhindered access to the huge resources, the government care not about the citizen. This in turn reduces the political bargaining between interest groups and the states, thus making the government less accountable to the people.[xix]

Another political explanation of the resource curse is the crowding out of human capital, neglect of education sector which in turn reduces human capabilities. This is seen when prices

ISSN 2581 3382

of primary product becomes unstable as a result of the decline of skilled labour in the manufacturing sector.[xx]

- **Violent Conflicts**

This theory postulates that Countries who depend solely on natural resource without diversifying their economy are prone to "violent conflicts" than less resource dependent countries. Researchers have argued under this theory that over reliance natural resources increases the possibility of civil war.[xxi] One of such researcher argued that countries like Nigeria that derive revenue from petroleum rent are faced with the high risk of violence and war.[xxii] From water to gold, farmland to forests, the earth's natural resources frequently fuel human conflicts.[xxiii] A private individual fights with his neighbours over land rights while an entire community struggles against corporations engaging in extractive projects in their area.[xxiv] Land cannot be separated from natural resources.

- **The Resource Curse Hypothesis**

The litmus test of the resource curse hypothesis presupposes that a country that depends solely on their rich natural resources grows relatively slow. On the other hand, country without these natural resources progresses more than countries with rich natural resources. Writers of this hypotheses have argued that countries with little or no natural resources that diversify their economy grows faster and quicker compare to country with rich natural resources.[xxv]More recent empirical work suggests that natural resource endowment retards institutional development measured by both governance and democracy, which in turn hampers growth prospects. Accounts of this hypothesis are available with Nigeria providing possibly the most dramatic example. Another investigation into the resource curse hypothesis reveals the relationship between resource dependence, as one of the independent variables, and macro-development outcomes (in particular, growth failure) as the dependent variable. The growth consequence of resource dependence has a socio-politico development consequence, such as lack of democracy and civil war.[xxvi]

Another view of this hypothesis is to the effect that resource dependence leads to growth failure. The persistent growth failure, which is the crudest measurement of bad economic outcomes, is on one side while resource abundance is on the other side. Under this position, three transmission mechanisms have been identified. They are; conflict, economic disruption

ISSN 2581 3382

and institutional failure.[xxvii] These three are very much present in Nigeria. Economic disruption was the foremost mechanism. However, institutional failure and conflict were added to economic disruption. These three mechanisms were classified by Rodrik, as an 'augmented' resource curse.[xxviii] It must be noted that the first channelling mechanism linking resource dependence and growth failure is through economic disruptions, which consists of at least two economic processes, namely Dutch disease and sectoral imbalance/disincentive to entrepreneurship. As this work have noted earlier, Dutch disease refers to economic disruption in the form of de-industrialisation or de-agriculturalization originating from the large inflow of foreign currencies from natural resource exports. A substantial increase in the price of minerals can cause resource misallocation via the mechanism of relative prices. The exchange rate may appreciate, crowding out traditional agricultural or manufacturing sector exports. The inflow of such finance creates a disincentive for economic agents to engage in more productive types of economic activities. This in turn lowers returns to entrepreneurship, entrepreneurship thereafter falls.

The second channel concerns institutional failure. As a result of the inflow of finance the government focus only on how to tap the natural resources and thereby forgetting every other sector. As a result of the quick money, resource rich countries impose low taxes and have less representative and therefore loses the tax it ought to have gotten as a result of compromise and complicit. The government also gives negative attention to institutional breakdown in as much as the government receives its revenue as at when due. The third channel, conflict can be argued from two avenues namely motive and feasibility. The conflicts arise as a result of grievance. The grievance becomes the motivation that drives the sense of injustice in the way a social group is treated. The justice-seeking motivation potentially appears when a group of indigenous people are denied the benefit of their region's resource wealth.[xxix] The desire of owning the resource wealth creeps into greed which leads to crime. The greed acts almost entirely through its impact on individual motivation, while for civil war, groups may aim to acquire resources through war. The greed motive dominates the grievance motive, and this aids the intention of looting natural resources. It also creates an appetite for rebel groups to launch an insurgency and the finance with which to do so.

ISSN 2581 3382

PETROLEUM AND RESOURCE CURSE IN NIGERIA: OIL DISCOVERY AND ITS EFFECTS

The role and importance of crude oil both in politics and economy of nations cannot be over emphasized. Thus, crude oil coupled with natural gas has become the main source of power piloting the industrialized world, supporting the post-war suburbanization of the world and modern life today.[xxx] With crude oil, cars were invented, airplane flew with fuel from oil and fertilizer on which world agriculture depended is gotten from oil and natural gas; oil also made it possible for food to be preserved and transported. Similarly oil also saw the advent of plastics and chemicals that became the bricks and mortars of contemporary civilization. No wonder Yergin, opined that oil is at the heart of practically all human activity.[xxxi]True to Ross position, the lack of multinational private actor involvement in the natural resource sector has created a dynamic whereby states become more directly exposed to volatility in the marketplace via a lack of diversified risk.[xxxii]

It is not settled as to exact year the search for oil commenced in Nigeria. The Nigerian National Petroleum Corporation (NNPC), traced the discovery to 1908[xxxiii] when the Nigerian Bitumen Corporation explored for oil in the Araromi area between Ijebu Ode in the present Ogun State and Okitipupa in the present Ondo State, both of Nigeria.[xxxiv] In 1906, John Bergheim claimed before the British colonial authorities that "based on his knowledge of the region's geology, petroleum existed in Southern Nigeria and that his company, the Nigerian Bitumen Corporation, could find it".[xxxv] Successful attempts were only recorded in 1956 when the then Shell/BP consortium drilled the first commercial well in Oloibiri.[xxxvi] With the subsequent oil boom in the 1970s, crude oil exploration and production activity has continued to remain the stay of Nigerian economy. It accounts for over 95 percent of government earnings and 85 percent of government revenues.[xxxvii] In the face of plenty, the Niger Delta region where these activities persist has the reputation of being one of the most polluted places on earth, due to physical evidence of degradation.[xxxviii]The discovery of crude oil and exploration of same in the Niger Delta region has not been without consequences. It's beneficial and at the same time inimical to the region and its people. These effects shall be divided into positive and negative effects.

ISSN 2581 3382

- **Positive Effects of Oil Discovery**

The discovery of petroleum in the Niger Delta region has brought about development to Nigeria. This development can be seen in Abuja and Lagos to a large extent. It has also placed Nigeria in the limelight in world politics. These developments shall be highlighted hereunder.

ATTRACTION OF FOREIGN INVESTMENT

Nigeria's income witnessed an explosive increase upon the discovery and exploration of oil in Nigeria. The discovery accelerated the country to the ultimate and envied position as Africa's biggest producer of petroleum with a daily output of about 1.4 million barrels per day and was responsible for more than 75% of Nigeria's export earnings.[xxxix]The exploration and exploitation of petroleum in the country has occasioned the foreign direct investment and incorporation of various foreign companies in the country.[xl] Some of the prospecting companies that have contributed to foreign direct investment in Nigeria include Shell Petroleum Development Company of Nigeria Limited (SPDC), Nigeria Agip Oil Company (NAOC), Elf Petroleum Nigeria Limited (EPNL), ExxonMobil, Total, Chevron, etcetera. These foreign investors gave way for the enactment of the Nigeria Oil and Gas Industry Content Development Act.[xli] This has also encouraged indigenous oil prospecting firms to be involve in the exploration and exploitation of oil and gas deposits in Nigeria's onshore/offshore deep-water prospecting concerns.

Generates Revenue

It will be over emphasising the obvious that crude oil has contributed greatly to Nigeria's economy more than any other natural resource in history. Oil alone accounts for 40 percent of the country's GDP, 70 percent of budget revenues,[xlii] 97 percent of foreign exchange earnings[xliii] and over 85% of her gross domestic product (GDP) and also serves as a means of employment to citizens.[xliv] The court in the case of *Chinda v. Shell B.P*,[xlv] which held that 'mineral oil is the main source of this country's revenue.'

Award of Scholarships to Indigenous Scholars

Awards of scholarships to Nigerians to study annually are also positive effects of oil discovery. Multinationals companies undertake as part of their corporate social responsibility to organize

ISSN 2581 3382

and or conduct examination for eligible candidates and thereafter awarded scholarships to those who passed their exams. Some are even paid stipends throughput their school years.

Negative Effects of Oil Discovery: Resource Curse

Despite the positive contributions of this black gold (crude oil) to the Nigerian economy, it has become a thorn in the flesh, especially to the wellbeing of the Niger Delta region and its people.[xlvi] The intensification of oil exploration and the production of crude oil have left in its trail a litany of environmental problems.[xlvii] Oil is known to be responsible for soil degradation, water and atmospheric pollution as well as causing acoustic disturbance. Complicating this economic picture is the deep seated feeling of neglect which lies at the root of a wide spread discontentment in the Niger Delta. This has reinforced the wrong impression or belief in some quarters that the Region is peopled by groups that are prone to conflict, criminality and violence.[xlviii] The tense nature of the crisis and other social conditions such as employment embargo, casualization of labour by operating companies, discrimination against Niger Delta youths, rent seeking and patronage, amongst others, have put the Region on the brink and exposed many unemployed youths to recruitment into militia groups or as political thugs.[xlix] The Nigerian government rely majorly on the legislations which vested ownership on it by carry out all its activities without considering the host communities. No wonder Adam Smith stated that as soon as the land of any country has all become private property, the landlords, like all other men, love to reap where they never sowed, and demand a rent even for its natural produce.

Economic Impacts and Loss of Livelihood

The exploration of oil is the biggest pollution one can conclude. The pollution spreads from land, lakes and waters and has seriously affected the ability of fishermen to earn a decent living from their traditional work.[l] In recent times in Nigeria, there have been much restiveness and unbridled violence, kidnapping and murder of expatriates, as well as militancy especially in the Niger Delta region.[li] Not only is the region polluted recklessly, but the lands in the region have become uncultivable.[lii] The agitation of the Niger Delta is heightened because social responsibility from government and oil companies which would have served as a palliative measure to cushion the effects of the degradation of their environment is either non-existent or insufficient.

ISSN 2581 3382

Environmental Impacts

The remark by Fagbohun, is very instructive in this case. As he noted, 'we won't have a society if we destroy the environment.'[liii]The environment bears the greatest impact of the discovery of petroleum. Much ado seems to be given more to the economic effects than the environmental implication. Fagbohun stated that environmental degradation is a threat to national security.[liv] He stated further that while redefining national security to include environmental degradation in Nigeria, Nigeria must rethink the foundational premises of her national security strategy and develop within it a flexible, credible and coherent definition of national security as well as looking at her goals. And in pursuance of these goals set thresholds that would help determine at what point an environmental problem rightfully constitutes a threat to national security.

Human rights and environmental protection groups calling for the halt in further extraction of the mineral in the Niger Delta considering the indelible mark which it lives in the Niger Delta Environment.[lv]Gasiokwu, argued that the sun may constitute a condition of human existence, but it cannot be regulated by man and thus does not constitute object of protection by man. But the amount of solar energy reaching the Earth's surface depends to a certain extent on the state of the atmosphere which is experiencing the consequences of human activities and may be regulated by man.[lvi]

Contribution of Gas Flaring and Climate Change

Fogan stated that an ever increasing and uncontrolled pollution leaves us to perish in our own waste.[lvii] Okorodudu-Fubara argued that gas flaring is the cause of several health problems, e.g. asthma, bronchitis, skin problems and breathing problems in the Niger Delta areas.[lviii] The quantity of gas flared in Nigeria exceeds over 40% of the gas flared annually across Africa, which amounts to about $7 billion in waste. Apart from economic waste being a consequence of gas flaring, flared gas is also known to contain toxic substances which cause respiratory diseases and air pollution, leading to depletion of the ozone layer, ultimately having an adverse effect on weather and climate.[lix]Whilst many countries across the world have taken advantage of the economic benefits which flared gas may present, through its re-injection into the fields or conversion into liquefied natural gas, domestic cooking gas, plastic production, Nigeria rather welcome the fine for gas flaring rather than look into its damage to the environment. Gas flaring has remained unresolved in Nigeria for many decades.[lx]

ISSN 2581 3382

Reduction of Soil Fertility

The crude oil spills reduced soil fertility. It smothered economic trees and food crops, out rightly killing them or reducing their yield, causing a 60% reduction in household food security. The oil spills also reduced the quality of food crops; the ascorbic acid content of waterleaf was reduced while the crude protein content of cassava was also reduced. The food insecurity and deterioration of the quality of the staple food led to a 24% increase in the prevalence of childhood malnutrition in the affected communities. The crude oil spills also resulted in the bio-accumulation of heavy metals in the surviving food crops like cassava and pumpkin. The concentration of lead and cadmium increased in the leaves of pumpkin by 90 percent and 94.29 percent respectively. A study carried out in the mangrove wetland of the region recorded that crude oil spills reduced soil fertility[lxi] and also smothered economic trees and food crops, out rightly killing them or reducing their yield.

Soil and Groundwater Degradation.

Some of the harmful effects of oil pollution on the environment include killing of plants and animals in the estuary, poisoning of algae, disrupting of food chains, decrease in the yield of edible crustaceans, contamination of drinking water and farmland.[lxii] According to a report by the Nigerian Medical Journal,[lxiii] an average of 240,000 barrels of crude oil are spilled in the Niger Delta every year mainly due to unknown causes (3.85%), third party activity (20.74%), and mechanical failure (17.04%). The spills contaminated the surface water, ground water, ambient air, and crops with hydrocarbons including known carcinogens, naturally occurring radioactive materials, and trace metals that were further bio-accumulated in some food crops.

Impacts on Humans

Noise from gas flares have adverse health implications for population living in close proximity to gas flare sites. Noise is a stress, which could lead to neurosensory hearing losses for employees of Multi-National Oil Companies and unpleasant, impulsive noise patterns for communities that host oil activities.[lxiv] Likewise, exposures to the spilled crude oil were associated with significant increases in the period prevalence for diarrhoea, sore eyes, itching skin and occupational injuries. The implication of gas flaring on human health are all related to the exposure of those hazardous air pollutants emitted during incomplete combustion of gas flare. These pollutants are associated with a variety of adverse health impacts, including cancer, neurological, reproductive and developmental effects. Deformities in children, lung damage and skin problems have also been reported.[lxv]

Communal Clashes and Distrust among Indigenes

The reduction of derivation revenue in the wake of oil boom in the 1960, and 1970s led to series of conflict in the Niger Delta among various ethnic groups.[lxvi]The current conflict in the Niger Delta first arose in the early 1990s over tensions between foreign oil corporations and a number of the Niger Delta's minority ethnic groups who feel they are being exploited, particularly the Ogoni and the Ijaw.

Militancy and the Agitation for Resource Control

The Ogoni and Ijaw are important ethnic groups in understanding the story of the Niger Delta. While the Ogoni struggle was highly cerebral and led by the middle class and professionals, the Ijaw struggle has tended to be more militant and led by mainly unemployed youths.[lxvii] It has been stated that Shell acting in concert with the Nigerian Government has been actively involved in the militarization of the Niger Delta and that this strategy is to grant Shell unrestricted access to its production activities. Prior 1999, the quest for resource ownership and control was generally spearheaded by local communities and organisations. Upon assumption of office, former President Olusegun Obasanjo convened a national political conference to reassess, amongst other things, the practise of Nigeria's Federal structural imbalances in the Nigerian nation with a view to correcting perceived deficiencies and injustices. The Niger Delta delegates proposed an upward review of the derivation formula for the states in the region from the current 13% to 25%. This proposal was however refused by other region's delegates. Other conflicts and incidents of violence in the Niger Delta are fuelled by political office seekers and jobless youth who desperately want to acquire power.

THE EMERGENCE OF PETROLEUM INDUSTRY ACT (PIA) 2021

The PIA is the principal Act for the regulation of the Nigerian oil and gas sector, repealing various extant laws regulating the petroleum sector.[lxviii] The PIA overhauls the regulation and governance of the oil and gas industry. It provides for two regulatory agencies; the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA) that will be responsible for the technical and commercial regulation of petroleum operations in their respective sectors, and

ISSN 2581 3382

have the power to acquire, hold, and dispose of property, as well as sue and be sued in their own name. The PIA splits the extant Petroleum Profits Tax (PPT) into two, namely: Hydrocarbon Tax (HT)[lxix] and Companies Income Tax (CIT).[lxx] The Hydrocarbon Tax, together with Companies Income Tax is chargeable to companies engaged in upstream petroleum operations,[lxxi] subjecting these companies to a dual income tax regime. While the applicable CIT rate will be in line with the provisions of the Companies Income Tax Act (CITA),[lxxii] the HT rate will be graduated and dependent on the area of operation and the period the mining lease was granted.[lxxiii] Inversely, companies with downstream and midstream petroleum operations will only be taxable in line with the provisions of the CITA.[lxxiv]

Under the new tax regime, the income tax rate applicable to holders of Petroleum Mining Licences (PMLs) is capped at 60% while the income tax applicable to the holders of Petroleum Prospecting Licences (PPLs) is 45%, which is a reduction from the 85% rate applicable under the PPTA regime.[lxxv] All fiscal amendments as contained in Chapter 4 of the PIA, including the change in tax regime, shall only apply to operational companies in the petroleum industry, upon the conversion of existing Oil Prospecting Licences (OPLs) and Oil Mining Leases (OMLs) to Petroleum Prospecting Licences (PPLs) and Petroleum Mining Licences (PMLs), termination or expiration of unconverted licenses, and renewal of OMLs.[lxxvi] Consequently, holders of OPLs and OMLs that do not convert to PMLs will continue to be taxed under the current PPTA regime, pending the expiration of their licences. However, these holders may choose to convert their licences before expiration by executing conversion contracts.[lxxvii]

The PIA introduces a stricter penalty regime for defaults or offences committed under the fiscal framework of the petroleum industry. For instance, the late filing of actual and estimated Hydrocarbon Tax and Company Income Tax returns attracts a penalty of **₦10,000,000** for the first day of default and **₦2,000,000** for each subsequent day of the offence's continuance.[lxxviii] Where no penalty is prescribed for an offence, such an offence will attract an administrative penalty of **₦10,000,000** for the first day of default and **₦2,000,000** for each subsequent day of the offence's continuance.[lxxix] Conversely, where a person is adjudged guilty of such an offence and convicted by a court, the person shall be liable to pay a fine of **₦20,000,000,** or any other sum as may be prescribed by the Minister of Finance and **₦2,000,000,** or such other prescribed sum, for each subsequent day of the offence's continuance. Alternatively, such a

ISSN 2581 3382

person may be subjected to imprisonment for a term of six (6) months.[lxxx] The above-mentioned penalties and fines are not tax deductible.

Aside the tax discussed above, another welcome development is the possible ways oil companies can manage their relationship with host communities without hiccups. The PIA addresses this problem by creating the Host Community Development Trust Fund (HCDTF)[lxxxi] whose purpose will be to, among others, foster sustainable prosperity, provide direct social and economic benefits from petroleum to host communities, and enhance peaceful and harmonious coexistence between licensees or lessees and host communities. Specifically, the law stipulates that existing host community projects must be transferred to the HCDTF, and each settlor (or oil license holder) must make an annual contribution of an amount equal to three (3) percent of its operating expenditure for the relevant operations from the previous year. The management committee of the trust must include one member of the host community. In addition, the act stipulates a penalty for failure to comply with host community obligations, including revocation of license.[lxxxii]

Interestingly, the PIA also imposes the duty and responsibility to protect oil and gas assets on host communities. The Act[lxxxiii] stipulates that any host community that fails to protect oil assets in its community from vandalism will be held accountable for the repairs.

The PIA which seems to solve some of the problems facing the petroleum sector is not without shortcomings.

i. The PIA was not able to curb the persistent continued degradation of the host community environment and habitat from gas flaring associated with oil drilling. Nigeria has passed several laws to stop this with little effect. The PIA penalizes companies for gas flaring and provides that the revenues from the penalties will be used for environmental remediation and relief of the impacted host communities. However, the penalty seems more like a paper talk for it has not steep enough to achieve its intended purpose. The PIA gives room for flaring of gas with an option of fine. By this, the PIA did not envisage the concept of green energy as it is cheaper to pay fine than to take the precaution.[lxxxiv]

ii. The PIA is complex and complicated. While capacity in the oil and gas sector has been built over the years, the new legal provisions and fiscal framework will need new capacities to succeed, particularly where the major player, NNPC now wears the status of a company registered under Companies and Allied Matters Act. This challenge will

ISSN 2581 3382

be particularly acute in the new regulatory institutions; in the understanding, interpretation, and application of the law; and in the management of the funds, including the HCDTF.

iii. Tensions over Revenue Sharing: The law creates serious implications for the public finances of the Federation, its constituent States and Local Government Areas. First, the reduction in taxes and royalties will result in considerable reduction in revenues to the three tiers of government at a time they cannot afford it. Second, Nigeria's revenue law requires that entities or enterprises owned by the federation remit their profits to a pool, the Federation Account, for sharing among the three tiers of government.

iv. The PIA also comes with a challenge of equity between indigenous oil producers and multinational corporations. International producers such as Shell have largely disengaged from onshore oil exploration and production activities, concentrating instead on deep offshore.

v. Importantly, growing global concerns about the adverse consequences of climate change are leading to a decline in investments in oil and gas globally, and Nigeria has not been unaffected. However, another factor explaining the decline in foreign direct investment in Nigeria's oil and gas sector is the discovery of oil and gas in other parts of the world, including West Africa.

vi. PIA is silent on the relevant timelines for conduction of the host community needs assessment and submission of the host community development plan.

vii. The HCDT does not get to be involved in the conduct of the host community need assessment, which only makes it an implementation apparatus that has no role in the formulation of the settlor's strategy for its host communities.

viii. While PIA requires the settlor to consult with the host communities to appoint a BOT for the HCDT, there are no clear guidelines for making such appointments, which exposes the settlor to the risk of appointing persons that are not true representatives of the host communities.

ix. There is no clear provision that empowers the settlor to appoint its representatives (including its employees) into the BOT and the management committee. That may imply that the settlor has no direct involvement in how the HCDTs are governed and managed. As the settlor is empowered to appoint the secretaries of the BOT and the management committee, it may use that route to appoint its representatives as

ISSN 2581 3382

secretaries as no part of the PIA provides that the secretaries must be among persons already appointed as members of the BOT and management committee.[lxxxv]

x. Section 256 of the PIA exempts HCDTs from income tax. However, that exemption status does not extend beyond income taxes. HCDTs are required to comply with non-income tax obligations such as obligations relating to withholding taxes, value added tax, employees' personal income tax, stamp duties etcetera. The contributions payable by settlors into HCDTs are deductible for the purpose of computing hydrocarbon tax (HT) and Companies Income Tax (CIT).

PROSPECTS OF THE PIA IN AVERTING THE RESOURCE CURSE

The PIA has proffered solution towards averting the resource curse syndrome which has swallowed Nigeria hook line and sinker. Firstly, the PIA provides for two regulatory agencies; the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA) that will be responsible for the technical and commercial regulation of petroleum operations in their respective sectors, and have the power to acquire, hold, and dispose of property, this will foster more robust growth in the oil sector. The PIA also prepares the way for the professionalisation of the loss-making state-owned Nigerian National Petroleum Company as it transforms the company to NNPC Ltd, a quasi-commercial organisation that remains government-owned.

The PIA splits the extant Petroleum Profits Tax (PPT) into two, namely: Hydrocarbon Tax (HT)[lxxxvi] and Companies Income Tax (CIT).[lxxxvii] The Hydrocarbon Tax, together with Companies Income Tax is chargeable to companies engaged in upstream petroleum operations,[lxxxviii] subjecting these companies to a dual income tax regime. While the applicable CIT rate will be in line with the provisions of the Companies Income Tax Act (CITA),[lxxxix] the HT rate will be graduated and dependent on the area of operation and the period the mining lease was granted.[xc] Inversely, companies with downstream and midstream petroleum operations will only be taxable in line with the provisions of the CITA.[xci]

The PIA set the standard for managing natural resources with defined and distinct duties for the industry's subsectors. The Act establishes a profit-driven, commercially-inclined National Petroleum Corporation (NNPC). This contributes to the codification of accountability, good

ISSN 2581 3382

governance, and transparency in Nigeria's petroleum resources management.[xcii]The stipulation that 30 percent of the profit of NNPC Ltd. should be used to fund frontier basin development to include renewable energy as a frontier is a good start.[xciii]Another major impact of the PIA in curbing the resource curse is that the PIA contributes to host communities' social and economic development via environmental clean-up and a business climate favourable to the growth of oil and gas activities in the nation.[xciv]

THE WAY FORWARD

From the foregoing, there is no denial of the existence of resource curse in Nigeria which has plunged over 80 percent and millions of Nigerians into poverty.[xcv] More so, the resource curse persists not because the laws have not adequately made provisions to curb the resource curse, rather the absence of practical implementation of the laws have aided the resource curse. Also, the lack of institutional supports from both government and multinationals has led to the deplorable state of the Nigerian environment. It is on the strength of the above that the PIA provides for two regulatory agencies; the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, (NMDPRA) that will be responsible for the technical and commercial regulation of petroleum operations in their respective sectors. Secondly, the PIA direct responsibility to be on the mother body by distancing the Nigerian Government from NNPC which is now Nigerian National Petroleum Company Limited which contributes to the codification of accountability, good governance, and transparency in Nigeria's petroleum resources management. Thirdly, the PIA provides for an investment into renewable energy by directing the funds to be used.

CONCLUSION

This article discusses the conceptual analysis of resource curse, theoretical framework and resource curse hypothesis. It revealed that total reliance on revenue from crude oil and natural gas by successful Nigerian Governments without diversifying the Nigerian economy has plunged Nigeria into the recourse conundrum. The PIA was recently passed into law by the Nigerian Government with a view to revamp the ailing oil and gas industry and reposition it to attract foreign direct investments (FDI), and less reliance on petroleum due to its militating

ISSN 2581 3382

impacts on other sectors of the economy. In analysing the laws for the prevention the resource curse syndrome, it was discovered that existing legal frameworks aided the emergence of resource curse one way or the other. Nonetheless, the advent of the PIA has provided a way out by unbundling Nigeria's national oil company and reducing government interference as well as creating regulatory institutions whose decisions cannot be interfered with. The PIA has thus introduced measures to encourage community-based management of host community revenue as well as checks on both multinational oil companies and the Nigerian Government.

ENDNOTES

[i]See, M. A. El-Gamal and A. M. Jaffe, "The Oil Curse," Oil Magazine, October 2009, 32 (noting that oil wealth has financed an arms race in the Middle East). See also, P. Beaumont, "The $18bn Arms Race Helps Fuel Middle East Conflict," Guardian, April 23, 2015. <http://www.theguardian.com/world/2015/apr/23/the-18bn-arms-race-middle-east-russia-iran-iraq-un> accessed 23 January, 2023.

[ii] See G. G. Darah, *The Niger Delta Resource Control and the Quest for Justice* (Kraft Books Ltd, 2014) 9.

[iii] B. Garner's Black's Law Dictionary, 6 Edition.

[iv] See B. Posner, Introduction to Energy and Earth Sciences Economics. <https://www.e-education.psu.edu/> accessed 15 January, 2023.

[v]See J. Chen, Dutch Disease <https://www.investopedia.com/terms/d/dutchdisease.asp> accessed 7 February, 2022. See also International Monetary Fund. "Dutch Disease: Wealth Managed Unwisely."

<https://www.imf.org/external/pubs/ft/fandd/basics/dutch.htm> accessed 7 February, 2022. See also E. K., Agbaeze, and K. Ukoha, 'Oil a Blessing or a Curse: The Nigerian Experience' (2018) (56) (3) *European Journal of Social Sciences* <https://www.europeanjournalofsocialsciences.com/issues/PDF/EJSS_56_3_01.pdf> accessed 4 February 2023.

[vi]See The Economist. "The Dutch Disease."

<https://www.uio.no/studier/emner/sv/oekonomi/ECON4925/08/undervisningsmateriale/DutchDisease.pdf> accessed 7 February 2023. See also A. B.Oluwaseyi, The Prospects of Agriculture in Nigeria: How Our Fathers Lost Their Way - A Review. *Asian Journal of Economics, Business and Accounting*.

<https://www.academia.edu/search?q=The%20Prospects%20of%20Agriculture%20in%20Nigeria:%20How%20Our%20Fathers%20Lost%20Their%20Way%20-%20A%20Review> accessed 7 February 2023. Dutch disease specifically occurs when a country experiences a resource boom due to the discovery of a tradable resource. The country in question usually in time experiences a real appreciation of its exchange rate.

[vii] See P. Stevens et al, 'The Resource Curse Revisited' (Research Paper Chatham House the Royal Institutes of International Affairs, 2015).

<https://www.chathamhouse.org/sites/files/chathamhouse/ResourceCurseRevisited> accessed 25 January 2023.

See also S. Diden, The Legal Ownership of Petroleum Resources in Nigeria: The Reason for the Nigeria Resource Curse?

<https://www.academia.edu/39823898/the_legal_ownership_of_petroleum_resources_in_nigeria_the_reason_for_the_nigerian_resource_curse> Accessed 12 December, 2021

ISSN 2581 3382

See, also L.Wenar, 'Property Rights and the Resource Curse'

<http://siteresources.worldbank.org/INTDECINEQ/Resources/PropertyRights.pdf> accessed 25 January 2023.

See also J. D. Sachs and A. M Warner, 'Natural Resource Abundance and Economic Growth'

<http://www.cid.harvard.edu/ciddata/warner_files/natresf5.pdf> accessed 25 December 2022.

See also D. I. Lederman and W. F. Maloney, 'Does What You Export Matter? in Search of Empirical Guidance for Industrial Policies' (2012) International Bank for Reconstruction and Development The World Bank <https://www.imf.org/external/np/seminars/eng/2013/SPR/pdf/malo2.pdf> accessed 28 December 2022.

[viii] See R. M.Auty, *Sustainable Development in Minerals Economics: The Resource Curse Thesis* (Routledge, London: 1993).

[ix] See the explanation of J. C. Carbone and K. J. McKenzie, 'Going Dutch? The Impact of Falling Oil Prices on the Canadian Economy' accessed 8 February 2022.

[x]A .Ahmadov and F.Guliyev, 'Tackling the Resource Curse: The Role of Democracy in Achieving Sustainable Development in Resource-Rich Countries'<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2746878> accessed 22 February 2023.

[xi]Darah, (n2) 11-12.

[xii]See, the Saudi Arabian Monetary Agency (SAMA), 'First Fifty Annual Report' [2015] No. 51.

<http://www.sama.gov.sa/en-US/EconomicReports/AnnualReport/5600_R_Annual_En_51_Apx.pdf> accessed 22 February 2023.

[xiii]See, P. J.Neary and S. V.Wijnbergen, 'Natural Resources and the Macro economy: A Theoretical Framework' (1985) 36 <http://irserver.ucd.ie/bitstream/handle/10197/1423/wp85_36.pdf?sequence=1> accessed 22 Feb. 2023. See, also E.Weinthal and P. J. Luong, 'Oil Is Not a Curse: Ownership Structure and Institutions in Soviet Successor States' (Cambridge Studies in Comparative Politics).

<https://www.amazon.com/Oil-Not-Curse-Institutions-Comparative/dp/0521148081> accessed 22 February 2023

[xiv]Oxfam International <https://www.oxfam.org/en/what-we-do/countries/nigeria> accessed 22 February 2023.

[xv]See, A. J. Onyeukwu, 'Resource Curse in Nigeria: Perception and Challenges'

<https://www.semanticscholar.org/paper/Resource-Curse-in-Nigeria%3A-Perception-and-Onyeukwu/4e03f7a192> Accessed 13 February 2023.

[xvi]See, Weinthal and Luong, (n 14).

[xvii]See T. L. Karl, 'Understanding the Resource Curse, Covering Oil: A Reporters Guide to Energy and Development'. (2005) Open Society Institute 22-25.

<https://www.opensocietyfoundations.org/sites/default/files/osicoveringoil_20050803.pdf> accessed 21 December 2023. See also M.Mehrara and K. N. Oskoui, 'The sources of Macroeconomic Fluctuations in Oil Exporting Countries: A Comparative Study' (2007) 24(3) Economic Modelling 365-379. <http://dx.doi.org/10.1016/j.econmod.> accessed 20 February 2023. See also O.Manzano and R.Rigobon, 'Resource Curse or Debt Overhang?'

<http://web.mit.edu/rigobon/www/Robertos_Web/Research_files/resourcecurse.pdf> accessed 20 February, 2023.

[xviii]J. D. John, 'Oil Abundance and Violent Political Conflict: A Critical Assessment' [2007] 43(6) *Journal of Development Studies* 961-986. <http://www.tandfonline.com/doi/pdf/10.1080/00220380701466450> Accessed 15 January, 2023.

[xix] X. Sala-I-Martin and A. Subramanian, 'Addressing the Natural Resource Curse: An Illustration from Nigeria' (2003) Working Paper 9804 National Bureau of Economic Research. <http://www.nber.org/papers/w9804.pdf> accessed 12th February, 2023.

[xx] See, E. Weinthal and P. J. Luong, (n 14) 29. A practical example of the neglect for education sector if the fight between ASUU and Nigerian Government. ASUU had on February 14, 2022, embarked on the strike to demand the re-negotiation of the 2009 FG-ASUU agreement; adoption of UTAS as a replacement for IPPIS as a payment platform; payment of salary arrears for academic staff; payment of Earned Academic Allowances (EAA); revitalisation funds for the universities; release of White Paper on Visitation Panels that concluded their assignment last year; and non-proliferation of state universities. The strike was more than 9 Months. <https://dailytrust.com/asuu-fg-should-put-nigerian-students-first> accessed 8 September, 2022.

[xxi]P. Collier and A.Hoeffler, 'Greed and Grievance in Civil War'

<http://web.worldbank.org/archive/website01241/web/images/28126.pdf> Accessed 22 February 2023.

[xxii] See, Wenar (n 8)21. See, also A.Mähler, Nigeria: A prime example of the resource curse? Revisiting the oil-violence link in the Niger Delta.

<https://www.open.edu/openlearn/pluginfile.php/resource/content/1/ca1maehler.pdf> accessed 14th February, 2023.

[xxiii]V. Haufler, 'Disclosure as Governance: The Extractive Industries Transparency Initiative and Resource Management in the Developing World' (2010) 10 (3) *Global Environmental Politics*, 53-73.

[xxiv] Natural Resources Conflicts. https://www.sfcg.org/ accessed 24 January 2023.

[xxv] See, M. Z.Tadjoeddin, 'A Future Resource Curse in Indonesia: The Political Economy of Natural Resources Conflict and Development (2007) 35.

<https://www.researchgate.net/publication/228438882_A_future_resource_curse_in_Indonesia_The_political_economy_of_natural_resources_conflict_and_development> accessed 14 February, 2022.

[xxvi]Collier and Hoeffler, (n 22) 9. See, also G. B. Warren, 'Petroleum and The Nigerian Civil War' 1967-1970

<https://www.jstor.org/stable/45330966> accessed 27 August, 2023

[xxvii] Collier and Hoeffler (n 22) 17.

[xxviii] Ibid. 15

[xxix] See Darah, (n2) 19.

[xxx]E. O. Okumagba, 'Regulating Natural Gas Development and Utilization as a Palliatives to Climate Change and Energy Challenges in Nigeria' (2018) being a Thesis submitted to the Post Graduate School in partial fulfilment of the Requirements for the Award of Doctor of Philosophy in Law (Ph.D.) of the Delta State University, Abraka, Nigeria.

[xxxi]See, D. Yergin, *The Prize: The Epic Quest for Oil Money and Power* (Simon and Schuster: 2012) 11.

[xxxii] M. Ross, 'The Political Economy of the Resource Curse' (1999) 51 (2) *World Politics*, 297-322 in Adlai Erwin, The Resource Curse, Democratic Deterioration, and the Rise of Authoritarianism in Venezuela.

<https://www.academia.edu/40650462/The_Resource_Curse_Democratic_Deterioration_and_the_Rise_of_Authoritarianism_in_Venezuela> Accessed 14 February, 2023.

[xxxiii]NNPC: "History of the Nigerian petroleum industry". <http://www.nnpcgroup.com/history> accessed 4 April, 2023. See also Y. Omorogbe, *Oil and Gas law in Nigeria* (Malthouse:2001).

ISSN 2581 3382

[xxxiv] L. Atsegbua, *Oil and Gas Law in Nigeria, Theory and Practice* 3rd ed (Fifers Lane Publishers, 2012), and F. O.Ayodele-Akaakar, 'Appraising the oil & gas laws: A search for enduring legislation for the Niger Delta region" (2001) 3/2 (*Journal of Sustainable Development in Africa*) 1.

[xxxv] W.N. Akpan "Between the sectional and the national: Oil, grassroots discontent and civic discourse in Nigeria" in C.Nwapi, A Legislative Proposal for Public Participation in Oil and Gas Decision-Making in Nigeria (2010) 2 (*Journal of African Law*) 54 <https://www.researchgate.net/publication/231789594> accessed 2 April, 2023.

[xxxvi] See Y. Omorogbe, The Oil and Gas Industry: Exploration and Production Contracts (Malthouse, Lagos: 1997), and Y. Omorogbe, Oil and Gas Law in Nigeria (Malthouse Press: 2003).

[xxxvii] See, Usa, *Nigeria Oil and Gas Exploration Laws and Regulations Handbook* (2014) 31 International Business Publication.

[xxxviii]E. O. Okumagba, Oil and Gas Pipeline "Vandalism" in Nigeria: Analysing Alternative Options beyond the Traditional Legal Approach (2019) 37 (1) *International Energy Law Review*.

<https://www.researchgate.net/publication/342184010> accessed 21 November, 2021.

[xxxix]Oil production in Nigeria.<https://www.google.com/s=nigeria+produces+how+many+barrels+of+oil+per+day> accessed 21st February, 2022.

[xl]S. D. Kareem, et al,'Foreign Direct Investment into Oil Sector and Economic Growth in Nigeria'<http://www.TheInternationalJournalofAppliedEconomicsandFinance_1.pdf> accessed 2 April, 2022.

[xli]See, The Nigeria Oil and Gas Industry Content Development Act2010.

[xlii] See, The World Bank, Taxation and State Participation in Nigeria's Oil and Gas Sector. 2004

https://openknowledge.worldbank.org/handle/10986/18078 Accessed 12 February 2023.

[xliii] See, the Movement for the Survival of the Ogoni People Wikipedia, the free encyclopaedia.

<https://en.wikipedia.org/wiki/Movement_for_the_Survival_of_the_Ogoni_People> accessed 4 April, 2022.

[xliv]See, A.Omaka, 'Oil and Gas Pollution and the Challenges of Indigenous People in Quest of Environmental Right'. (2012) 4 (2) *Port Harcourt Law Journal,* 129.

[xlv] (1974) 2 Rivers State Law Report 1.

[xlvi]Darah, (n2)12. Darah, referred to the thorn using the Jesse fire outbreak of 1998 as "the peril of the pipeline economy".

[xlvii] See, Okumagba, (n 14)26. See also B. E.Umukoro, 'Gas Flaring, environmental corporate responsibility and the right to a healthy environment: the case of the Niger Delta', in F. O. Emiri, and G. Deinduomo,*Law and Petroleum Industry in Nigeria: Current Challenges, Essays in honour of Justice Kate Abiri*(Malthouse Press: 2009) 54.

[xlviii]See, Darah, (n2)19. See also L.Atsegbua, etal: Environmental Law in Nigeria: Theory and Practice (Isihor, Benin City Ambik Press: 2009).

[xlix]Darah, (n2)38.

[l] E. A. Jonathan, 'Human Rights Dimension to Corporate Responsibility for Environmental Degradation', in Emiri and Denduomo, (n 48) 67.

[li] P. O. Itsueli, 'Environmental Pollution in Nigeria: an Appraisal of Corporate Social Responsibility for Victims of Oil Pollution in Nigeria', in Law and Petroleum Industry in Emiri and Deinduomo, ibid. 108.

ISSN 2581 3382

[lii]S. E. Abila, 'Historical and Philosophical Foundation of Minority Movements in the Niger Delta' in Emiri and Deinduom, ibid, 189.

[liii] 'See, M. Mead', <www.brainyquotes.com/quotes/keywords...> accessed 4 January, 2022.

[liv]See, O.Fagbohun, 'Environmental degradation and Nigeria's National Security: Making Connections'

http://nials-nigeria.org/pub/OlanrewajuFagbohun.pdf accessed 2 March, 2023.

[lv] N. Bassey, *To Cook a Continent: Destructive Extraction and the Climate Crisis in Africa* (Pambazuka Press: 2012), cited in Okumagba, (n 31) 71, where estimates show that over 2,105,993 barrels (MB) of crude oil have been spilled into the Niger Delta environment, 1976 to 1990 in a total of 2,800 cases, the National Oil Spill Detection and Response Agency (NOSDRA), announced the 2,122 oil spill incidents were recorded between 2006 to 2009. See also C. I. Obi, 'The Oil Industry: A Paradox or spoiler of Development?' in E. Obadare and W. Adebamwi, *Nigeria at Fifty: The Nation in Narration* (Rouledge: 2011) 67.

See, Bassey, (n 56).

[lvi]See M. O. U. Gasiokwu, Ecology: Concept and Politics of Environmental Protection and Climate Change; Ecology: Concept, Politics and Legislation (Chenglo Books: 2013) 9.

[lvii]See P. K. Fogan, 'Company Law and the Corporate Polluter: Who to Blame', in Environmental Laws in Nigeria, Including Compensation. (Lagos: Faculty of Law, UNILAG, 1990) 98. See also The United States Environmental Protection Agency (EPA) Global Greenhouse Emission. <http://www/climatechange/ghgemissions/global.html> accessed 5th April, 2022. See also J. Speight, Handbook of Offshore Oil and Gas Operations (Elsevier, Amsterdam: 2015) 185. 2018, N. Bassey, (n 56) 85, and the United Nations Environmental Programme (UNDP) Report on Environmental Assessment of Ogoniland<https://www.unep.org/explore-topics/disasters-conflicts/where-we-work/nigeria/environmental-assessment-ogoniland-report>accessed 5 April, 2023.

[lviii]See M. T. Okorodudu-Fubara, *Law of Environmental Protection* (Caltop Publications (Nig.) Ltd. 1998) 402.

[lix]<https://www.vanguardngr.com/2017/06/nigeria-accounts-40-gas-flared-annually-africa-senate/> accessed 4 April, 2023.

[lx]A. Adejugbe and B. Onamade, 'Gas Flaring in Nigeria: Challenges and Investment Opportunities',

<http://mondaq.com/Nigeria/x/331578/Oil+Gas+Electricity/G> accessed 4 February, 2023.

[lxi] See L. C. Oju and I.Nwoye, 'An Appraisal of the Impact of Petroleum Hydrocarbons on Soil Fertility: The Owaza Experience'. (2007) 2 *African Journal of Agricultural Research* 318-324.

[lxii] See A. Omaka, 'Oil and Gas Pollution and the Challenges of Indigenous People in Quest of Environmental Right'. (2012) 4 (2) *Port Harcourt Law Journal*, 128.

[lxiii]B.Ordinioha and S.Brisibe, 'The Human Health Implications of Crude Oil Spill in the Niger Delta, Nigeria: An Interpretation of Published Studies'. (2013) 54 (1) *Nigerian Medical Journal*.

<www.ncib.nlm.nih.gov/pmc/articles/PMC3644738/> accessed 4 February, 2023.

[lxiv] F. B. Barry, 'Environmental Injustices: Conflict and Health Hazards in the Niger Delta'. (Being a Substantial Research Paper in fulfilment of the Dual Master's Degrees on International Affairs and Natural Resources and Sustainable Development, The American University, School of International Service, Washington, DC, 5 May 2010) 31-32.

[lxv] A. O.Ajugwo, 'Negative Effects of Gas Flaring: The Nigerian Experience' (2013) 1 (1) *Journal of Environment Pollution and Human Health*, 6-8

[lxvi] Barry, (n 65).

ISSN 2581 3382

[lxvii]See S. E. Abila, 'Historical and Philosophical Foundation of Minority Movements in the Niger Delta'inEmiri and Deiduomo (n 48) 203.

[lxviii] Some of the laws which have been repealed are Petroleum Act 2004, Associated Gas Reinjection Act 1979 and its amendments. Hydrocarbon Oil Refineries Act No. 17 of 1965, Nigerian National Petroleum Corporation (Projects) Act No. 94 of 1993 and Nigerian National Petroleum Corporation (NNPC) Act 1977 (as amended). The NNPC Act will be repealed when NNPC ceases to exist pursuant to s. 54(3) of the PIA. The Petroleum Profit Tax Act (PPTA) 2004. Chapter 4 of the PIA has repealed this Act by splitting the tax into Hydrocarbon Tax and Company Income Tax respectively. See s. 259 of PIA. Deep Offshore and Inland Basin Production Sharing Contract Act (DOIBPSCA) 1993 and its 2019 amendment has been repealed pursuant to s. 310(1) of the PIA. The Oil Pipeline Act is saved until termination or expiration of the relevant oil prospecting licenses and mining. Some of the major fiscal changes introduced by the PIA are encompassed in Chapter 4 of the Act. The objectives are well enumerated in s. 258 of the Act. See also s. 310 of the PIA

[lxix] See s. 259(I) and s. 260 of the Act. Hydrocarbon Tax shall be chargeable on the profits of upstream petroleum companies in the onshore and shallow water. Hydrocarbon Tax applies to crude oil, field condensates and natural gas liquids from associated gas, and does not apply to associated gas, non-associated gas and frontier acreage. Hydrocarbon Tax will **not** apply to deep offshore projects in order to encourage exploratory activities in that area.

[lxx] See s. 259(ii) of the PIA

[lxxi]See s. 260 of the PIA.

[lxxii] Cap C21, Laws of the Federation of Nigeria (LFN), 2004.

[lxxiii] See A.Lanre and O.Olayinka, 'Petroleum Industry Bill: Overview of Key Fiscal Changes'

<https://www.mondaq.com/nigeria/oilgaselectricity/19586/petroleum-industry-bill-overview-of-key-fiscal-changes> accessed on 12 April, 2023.

[lxxiv]See s. 302 of PIA.

[lxxv]'Petroleum Industry Act – A New Era for the Nigerian Oil and Gas Upstream Industry?

<https://www.agusto.com/publications/petroleum-industry-act-a-new-era-for-the-nigerian-oil-and-gas-upstream-industry/> accessed on 12th April, 2023.

[lxxvi] 'Petroleum Industry Bill (PIB) 2020 – A Game Changer?

<https://assets.kpmg/content/dam/kpmg/ng/pdf/tax/petroleum-industry-bill-(pib)-2020-%20a-game-changer.pdf> accessed 12 April, 2023.

[lxxvii]<https://www.spaajibade.com/resources/the-nigerian-guide-on-relevant-changes-to-the-fiscal-framework-in-the-petroleum-industry-act-2021/>**accessed 12 April, 2023.**

[lxxviii] See s. 277 (4), 280 (6) and 302(14) of the PIA.

[lxxix] See s. 97(1) of the PIA.

[lxxx] See s. 297(2) of the PIA.

[lxxxi] See s. 234 & 235 of the PIA.

[lxxxii] See generally Chapter 3 of the PIA.

[lxxxiii] See s. 257 of the PIA.

[lxxxiv]See K.Nwuke, 'Nigeria's Petroleum Industry Act: Addressing Old Problems, Creating New Ones'

<https://www.brookings.edu/blog/africa-in-focus/2021/11/24/nigerias-petroleum-industry-act-addressing-old-problems-creating-new-ones/> accessed 12 April, 2023.

ISSN 2581 3382

[lxxxv] Deloitte, The Petroleum Industry Act (PIA) – Host Communities Development.

<https://www.deloitte.com/content/dam/Deloitte/ng/Documents/energyresources/PIA_Tax_Newsletter_Host%20Communities%20Development.pdf> accessed 12 April, 2023.

[lxxxvi] See s. 259(I) and s. 260 of the PIA.

[lxxxvii] See s. 259 (II) of the PIA.

[lxxxviii]See s. 260 of the PIA.

[lxxxix] Cap C21, Laws of the Federation of Nigeria (LFN), 2004.

[xc] See,Lanre and Olayinka, (n 91).

[xci]See s. 302 of PIA.

[xcii]J. Ndwaru, 'Nigeria: The Transformative Effects of the Petroleum Industry Act (PIA) on the Oil and Gas Industry' https://theexchange.africa/oilgas/nigeria-the-transformative-effects-of-the-petroleum-industry-act-pia-on-the-oil-and-gas-industry/ accessed 30 October, 2023.

[xciii] See s. 9(4) PIA states that: "There shall be maintained, for the purpose of this section, a Frontier Exploration Fund which shall be 30 per cent of NNPC Limited's profit oil and profit gas in the production sharing, profit sharing and risk service contracts." Section 5 provides "NNPC Limited shall transfer the 30 per cent of profit oil and profit gas under subsection (4) to the Frontier Exploration Fund escrow account dedicated for the development of frontier acreages and utilise the funds to carry out exploration and development activities in the frontier acreages subject to appropriation by the National Assembly." See also the views of E. O. Okumagba, and K. O. Odhe, 'An Evaluation Of The Conundrum Of Crude Oil Theft And The Need For Petroleum Pipeline Surveillance Contracts In Nigeria' (2022) 15 (2) *Baltic Journal of Law and Politics*, 2263-2279 and E. O. Okumagba, 'Decommissioning of Oil and Gas Installations in Nigeria: A Critical Appraisal of The Impacts Of The Petroleum Industry Act 2021' (2022) 15 (7) Baltic Journal of Law and Politics, 1370-1393.

[xciv] See Chapter 3 of the PIA.

[xcv]See, M. Izuaka, '133 Million Nigerians Living in Poverty-National Bureau of Statistics' in the Premium Times Nigeria (17 November 2022) at:<https://www.premiumtimesng.com/business/565993-133-million-nigerians-living-in-poverty-nbs.html?tztc=1> accessed 10 January 2023, and A. Ojekunle, 'It's Official, More Than 80 Million Nigerians Are Extremely Poor – Living on Less Than N400 Per Day' in Dataphyte Nigeria (4 May 2020) at:https://www.dataphyte.com/latest-reports/development/its-official-more-than-80-million-nigerians-are-extremely-poor-living-on-less-than-n400-per-day/> accessed 23 January 2023.

ISSN 2581 3382