LAW

A CRITIQUE OF THE NIGERIAN PETROLEUM INDUSTRY ACT 2021 AND THE LACK OF ITS SUSTAINABLE DEVELOPMENT PRINCIPLES

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ABSTRACT

This paper critically examines the Petroleum Industry Act (PIA) 2021, the primary legislation regulating Nigeria's oil and gas industry, with a particular focus on its deficiencies in promoting sustainable development. The objective of the study is to assess the Act's governance, regulatory, fiscal, and environmental frameworks to determine whether it effectively addresses sustainability concerns. A doctrinal legal research methodology is employed, analyzing relevant sections and provisions of the Act to evaluate their alignment with sustainability principles. The study also explores how the absence of home-grown expertise in drafting the legislation has contributed to inefficiencies, corruption, and regulatory capture in the industry. Findings indicate that while the PIA 2021 aims to improve investment opportunities, resolve host community conflicts, and address fiscal challenges, it fails to incorporate key sustainability principles. Specific provisions of the Act lack long-term environmental protection measures, creating challenges related to governance, fiscal stability, and host community relations. The paper further reveals that inadequate sustainability measures in the Act exacerbate environmental degradation, economic inefficiencies, and social conflicts within the petroleum sector. The study concludes that an urgent review and amendment of the PIA 2021 is necessary to integrate sustainability-focused policies and frameworks. It is recommended that Nigeria adopts home-grown, context-specific solutions in revising the Act, ensuring that sustainability principles are embedded in legal, regulatory, and operational aspects of the oil and gas sector. Strengthening local expertise, addressing regulatory gaps, and enhancing environmental protections are crucial for achieving a more sustainable and efficient petroleum industry.

Keywords:
Petroleum Industry Act (PIA), Sustainability, Oil and Gas Regulation, Environmental Governance, Fiscal Stability, Host Communities.

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1. Introduction

This paper analyses and investigates whether the Petroleum Industry Act (PIA) of Nigeria of 2021 contain sustainable development principles. The PIA Act was enacted as a primary legislation to regulate the oil and gas industry. The Act saw many hiccups before it was passed into law in the 2021. The Act was enacted to provide for the legal, governance, regulatory, and fiscal framework for the Nigerian Petroleum Industry. It also provides the establishment of host communities fund and other related matters in the upstream, midstream and downstream sectors of the petroleum industry. It was aimed at revolutionizing the oil and gas industry so that it can pen up investment opportunities, solve host community issues and conflicts as well as improved the fiscal and financial issues in the sector and solve environmental problems bedeviling the oil and gas industry. However, despite the laudable aims and objectives of the Act, there remains unresolved issues and challenges especially those dealing with the sustainability and sustainable development of the industry and issues relating to environmental problems. It is against this problem statement that this paper uses doctrinal legal methodology to assess and discuss the problems of the PIA Act of Nigeria from the perspective of sustainable development. The paper argues that although the PIA Act contain basic issues on protecting the environment and the people from the impact of oil and gas activities, the Act lack adequate sustainable development principles. The paper reveals and analyses the sections and provisions of the Act that are not sustainable and noted that those provisions need to be holistically look at to ensure that an amendment is made. The paper also reveals how the lack of the sustainability of the PIA Act affects the fiscal, environment and community issues and problems of the Nigerian oil and gas industry. The paper noted that the lack of use of home-grown knowledge and expertise in drafting the PIA Act has created problems for the industry which are compounded by corruption and regulatory capture in the industry. Consequently, the makes some informed recommendations and suggestions that include the need to look inwards and come up with indigenous solutions on how to solve the lack of sustainability of the PIA and the oil and gas industry in Nigeria

2. An Overview of the Petroleum Industry Act (PIA) of 2021

The Petroleum Industry Act (PIA) is the current petroleum legislation regulating the oil and gas industry in Nigeria. It was signed into law by the President of Nigeria on the 16th of August, 2021. It came into being in 2021 after many failed attempts by successive Nigerian governments to enact similar legislation in the past. The PIA Act introduces changes to the legal, governance and fiscal structure of the oil and gas industry in Nigeria. Some of the aims and objectives of the Act include amongst other things the need to transform the oil and gas sector in Nigeria in line with global standards.

a. The Statistics and Strategic Importance of the Oil and Gas Sector in Nigeria and the Imperatives for the PIA Act of 2021

Nigeria is a country richly endowed with oil and gas resources. Oil is the major source of revenue for the Nigerian government (Fubara, 2022). It is ranked 11th largest producer of petroleum in the world (2022) and the 3rd African country with largest oil production capacity. In addition, Nigeria has 37.2 Billion proven oil reserves, 203 Trillion cubic feet of natural gas which is capable of growing up to 600 TCF. Gross yearly earnings from oil is of almost \$28 Billion US Dollars (Watts, 2003, Ojukwu-Ogba, 2009, 2024, Charles, 2025). Similarly, oil and gas account for more than 35 per cent of GDP while 95 per cent of foreign revenue earnings for Nigeria comes from oil and gas export (Ojukwu-Ogba, 2009, 2024). This goes to show how oil and gas revenue are central to revenue generation and expenditure for governments in Nigeria. This makes the PIA a very important legislation needed to regulate and manage the oil and gas industry in Nigeria.

b. The Historical Trajectory of the Petroleum Industry Act of 2021

The PIA Act saw arduous and difficult journey. Although, it is the current legislation for the oil industry in Nigeria it was not new. This is because several attempts have been made in the past by succeed governments to enact the legislation but all without success. However, it was enacted and signed into law by the then President of Nigeria on the 16th of August, 2021. But before that time, it took almost 20 years journey for the legislation to

come into being. Efforts to pass the PIA Act began in the year 2000 when the Oil and Gas Reform Committee was inaugurated to draw up the legislation. In the year 2007 the federal government of Nigeria draw up the National Oil and Gas Policy. In 2008, the Petroleum Industry Bill (PIB) was drafted and tabled before the National Assembly but later withdrawn. In 2012, the PIB Bill of 2012 was presented and passed by the Senate of that time. But same was not concurrently passed by the House of Representatives. This led to its natural death.
In the year 2015 Four (4) disaggregated and different bills on governance, administration, host communities and in the fiscal issues were drafted and tabled again before the National Assembly. But all the Bills could not scale through and were abandoned by the then legislature. In 2018, the Petroleum Industry Governance Bill (PIGB) was passed by the National Assembly but was refused assent by the President of the FGN. However, succor came when in the year 2020, the Petroleum Industry Bill (PIB) 2020 was tabled again before the NA and passed as law. It was later signed and assented to by President Buhari in August 2021. Hence called PIA 2021. Some of the reason for the non-passage of the PIA in the past include lack of synergy between the Executives and Legislature, lack of ownership and insistence of the bills by stakeholders, opposition to its fiscal terms and provisions, disagreements on host community issues, different vested interest from governments at both state and federal level, host communities, private sector and oil companies.

Despite the above problems, the Petroleum Industry Act of 2021 was necessary because of old, archaic and obsolete legislations for the industry. There was also over centralization of governance in the hands of few regulators eg Department of Petroleum Resources (DPR). There was also overlapping of governance in the sector, lack of strong but rather weak institutions of governance, corruption, lack of transparency and accountability from stakeholders. In addition, there was uncertainty and unpredictability of regulations and problems with host communities leading to insurgency, militancy, vandalism, oil theft, visible socio-economic benefits for host communities.

The importance of the Petroleum Industry Act of 2021 cannot be emphasized because it was necessary due to a lot of problem affecting the oil and gas sector and because of lack of focus and investment in midstream sector of the industry. There was also lack of new investment and competition, lack of infrastructure and over regulation of the sector.

c. The Structure of the PIA Act

This covers several areas in the industry from governance and regulatory institutions, government company, host community issues and funds, etc.

i. THE GOVERNANCE STRUCTURE

The governance structure adopted for the industry under the PIA Act is the dual model approach. This means that there is a separate regulator for the upstream and midstream/downstream sectors. In addition to regulators, there is a Minister for the sector appointed and answerable to the president. The Minister is the chief policy maker of the sector and representative of government who are the owner and drivers of all policies for the industry. His functions include policy formulation and directions and oversights. Other functions include supervisor for the industry as well as the promoter of new investment for the sector. Makes and administer policies. He also serves as the overall representative of the FGN at local and international levels and organization and treaties and foras, award licenses and leases with regulators recommendation and can halt oil and gas operations in the public interest or public safety.

The Nigerian Upstream Petroleum Regulatory Commission (NUPRC) is the regulator for the upstream part of the industry. They are created by section 4 of the Act. They serve as independent regulator for the upstream section of the industry, monitor regulation and operations of the entire upstream sector.

There is also the Nigerian Midstream and Downstream Petroleum Authority (NMDPA) created under section 29 of the Act. They regulate the midstream and downstream. They are independent regulators for the sector. There is also the investment arm of government in the sector called the Nigerian National Petroleum Company Limited (NNPC). NNPC Limited was created under the PIA Act as replacement if the national oil company called of NNPC created since 1977. It is now a limited liability company. It is national oil company with the need for efficient and effective structure and operations. There are other institutions like the Host Communities Development Fund. The Fund is created under section 234 as a fund for host communities' development. The Fund was meant to foster sustainable development of HCs and to provide direct social and economic benefit to HCs. The aim of the Fund was also meant to to tame insurgency, oil theft, militancy in HCs. The HCs are duty bound to protect oil and gas assets and heads of communities can be blamed.

d. The Impact of the PIA Act on the Nigerian Oil and Gas Industry

The impact of the PIA Act is many. However, the impact can be summarized as

a. Governance and institutional
b. Fiscal and Revenue
c. Host Communities

Consequently, it has changed the governance and institutional framework of the industry. It has created an efficient and effective governance and institutional structure with clear statutory and functional mandates. It has created strong legal and regulatory framework for the oil and gas industry. It is promoting new investment and development of the industry. It enhances and foster a good environment for oil and gas operations in the country. It has changes and transformed NNPC into NNPC Limited. In addition, NNPC Limited may become profitable as it was meant to be viable, self-sustaining and commercial entity. It creates good fiscal framework that may enhances investment and growth of FGN revenue. It has created strong legal and regulatory framework for the oil and gas industry. The Act may also improve transparency and accountability and less corruption in the oil and gas sector..

3. The PIA Act and Sustainable Development Principles

The argument of this paper is that the PIA Act lack adequate sustainable development principles. Sustainability is linked to sustainable development. Sustainable development by Brunt land report is development that meets the Sustainable development is a principle that recognizes the importance of sustaining human development. The principle integrates economic growth, social equity, and environmental protection into policies. The principles aim to fulfill the needs of the present without hindering future generation's ability to meet their own needs (World Commission on Environment and Development, 1987). The principle also emphasizes the interconnectedness of various systems, highlighting that economic development cannot be achieved at the expense of the environment or human social justice.

Sustainable development aims to integrate economic growth, social equity, and environmental protection. It also aims to fulfill the needs of the present generation without hindering future generation's ability to meet their own needs (World Commission on Environment and Development, 1987). Sustainable development according to World Urban Forum of 2002 has four pillars; economic, social, environmental and governance. Sustainable development is also guided by a set of goals aimed at addressing global challenges while promoting environmental sustainability, social equity, and economic growth. The most widely recognized framework for these goals is the United Nations Sustainable Development Goals (SDGs), established in 2015 as part of the 2030 Agenda for Sustainable Development. Sustainable development is guided by a set of goals aimed at addressing global challenges while promoting environmental sustainability, social equity, and economic growth. The most widely recognized framework for these goals is the United Nations Sustainable Development Goals (SDGs), established in 2015 as part of the 2030 Agenda for Sustainable Development. The United Nations Sustainable Development Goals (SDGs) comprise seventeen interconnected goals and objectives which are aimed at addressing social, economic, and environmental challenges. These goals are interconnected and aim to address the pressing challenges facing humanity, including poverty, inequality, biodiversity conservation, climate change, environmental degradation, and peace. They recognize that sustainable development must balance economic growth with social inclusion and environmental protection, thereby creating a comprehensive path towards a more sustainable future for all.

4. Review of Some of the PIA Provisions on Sustainability

a. *Gas Flaring*

The PIA Act was meant to be sustainable. It imposes responsibilities on regulators in the oil and gas industry on the need to maintain and uphold sustainability. These responsibilities include the power to maintain, promote and safeguard the environment from harm. NUPRC, NMDPRA have responsibilities to do that on enforcement of health, safety and environmental standards as provided under section 4, 6. The Act also empower the regulators to monitor oil and gas activities and to ensure reduction gas flaring. Gas flaring has been a thorny issue in the oil and gas industry and has been a source of environmental pollution for the hoist communities and environment. Section 96 of the PIA Act also imposes duty on industry players to reduce gas flaring and to adopt international standards and best practices failing which their operating license may be revoked.
Regulators are mandated to also take over responsibility for flaring gas and convert same for beneficial use e.g. for LNG, etc. In addition, section 105 of the PIA Act empowers regulators to enforce the collection of hydrocarbon tax to protect the environment.

b. *Environment Impact Assessment (EIA)*

Another section meant to make the oil and gas industry sustainable is the requirement for environ mental impact assessment of projects by regulator as provide under section 102 (1) and environmental restoration as provided under Chapter 3 of the PIA Act.

c. *Environmental Restoration*

Section 103 of the Act requires the setting up of a Fund Scheme which proceeds are to be used for environmental restoration.

5. The PIA Act and Lack of Sustainable Development Principles

Despite the above sections which are meant to make the PA Act sustainable, the Act is good on paper but lack practical concrete principles on sustainable development. Finding reveals inadequate sustainability measures in the Act which exacerbate environmental degradation, economic inefficiencies, and social conflicts within the petroleum sector. The study also finds gas flaring is still an issue and affects the environment. The PIA has not address that holistically, environmental pollution from oil activities still continues. Host community issues have not been addressed holistically and this affects the insecurity in the area leading to increased oil theft, insurgency and other forms of criminalities. The Host Community Development Fund has not been effectively designed because oil companies have major stake as trustees under the Fund instead of the communities. The PIA places obligation on communities for safety and security of oil and gas assets creating financial liabilities for them for vandalism and sabotage. This idea is not sustainable. There is also the politics of oil in Nigeria especially appointment, approval and dismissal of heads of regulators. The Act is also not climate changed focus because emphasis is on revenue from the industry and not on climate protection. There is also lack of capacity building of regulators, stakeholders, institutions, etc because the law is new for now.

6. Conclusion and Recommendations

In view of the above highlighted problems of the PIA Act 2021 from sustainable development perspectives some recommendations are made to improve the Act. In that regard, the PIA Act need to be amended to align and contain more sustainable development issues. The Act need to be amended to contain stringent requirement to curtail and even criminalize gas flaring to save the people and the environment. There is the need for awareness to improve the political will of policy makers on the need to curb and criminalize gas flaring and reduce and fight corruption in the sector. It is recommended that Nigeria adopts home-grown, context-specific solutions in revising the Act, ensuring that sustainability principles are embedded in legal, regulatory, and operational aspects of the oil and gas sector. Strengthening local expertise, addressing regulatory gaps, and enhancing environmental protections are crucial for achieving a more sustainable and efficient petroleum industry. Finally, it is concluded that an urgent review and amendment of the PIA 2021 is necessary to integrate sustainability-focused policies and frameworks.

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