

Costs and Benefits of Energy and Major Natural Resources Extractive Industrial Operations on Communities: Spotlight on Host Communities Development Regime in Nigeria's Petroleum Industry Act, 2021

Edward T. Bristol-Alagbariya*

Associate Professor of Law & Ag. Dean, Faculty of Law, University of Port Harcourt (UNIPORT), Nigeria

Doi: <https://doi.org/10.37745/ijdes.13/vol11n1136>

Published: 17th January 2023

Citation: Bristol-Alagbariya E.T. (2023) Costs and Benefits of Energy and Major Natural Resources Extractive Industrial Operations on Communities: Spotlight on Host Communities Development Regime in Nigeria's Petroleum Industry Act, 2021, *International Journal of Development and Economic Sustainability*, Vol.11, No.1, pp.1-36,

ABSTRACT: *Landmark studies and follow-up scholarly researches, as well as practical evidences around the globe on energy and major natural resources extractive industrial operations (EIOs), such as petroleum (oil and gas) and other mining and mineral resources EIOs, are consistently demonstrating that EIOs inhibit sustainable development (SD). Conversely, the findings of such foremost scholarly studies and their follow-up measures, as well as practical evidences regarding energy and major natural resources EIOs around the globe, are revealing that these operations may contribute to SD. In other words, EIOs may contribute to SD when they are implemented well, in conformity with international benchmarked standards and practices. In that case, EIOs are advantageous in the nooks and crannies of the world, when they are executed in a way that occasions socio-economic advancement in host countries, including resource-rich areas of such countries. In the circumstances, EIOs may be considered to have been implemented in ways that preserve the rights of members of the public, especially those that are adversely affected directly by extractive industrial projects, such as those of resource-rich communities, and when the benefits derived from these projects are directed towards overall public good in host countries. On this note, EIOs may contribute to SD in developing countries, through good environmental governance, towards generic good governance and overall public good. Considering the foregoing negative impacts and possible positive contributions of EIOs, this study will explore the costs and benefits*

* Associate Professor of Law & Ag. Dean, Faculty of Law, University of Port Harcourt (UNIPORT), NIGERIA; Visiting Research Fellow, Centre for Energy, Petroleum & Mineral Law and Policy (CEPMLP), Graduate School of Natural Resources Law, Policy & Management, University of Dundee, Scotland, UNITED KINGDOM; Founder of Ancient Grand Bonny (*Okoloamakoromabo*) XX, Kuruama Amadabo, Ancient Grand Bonny Kingdom: Emails: edward.bristol-alagbariya@uniport.edu.ng and ebristolalagbariya@gmail.com

Publication of the European Centre for Research Training and Development -UK

of petroleum EIOs on the resource-rich and other direct negatively impacted host communities of Nigeria, in the framework of the country's Petroleum Industry Act, 2021, concerning the development of host communities, and thereby arrive at appropriate findings.

KEYWORDS: Costs and Benefits; Energy and Major Natural Resources Extractive Industrial Operations; Petroleum Extractive Industrial Operations; Resource-rich Communities; Nigeria's Petroleum Industry Act, 2021; Host Communities Development; Contribution of Extractive Industries to Good Environmental Governance, Good Governance and Overall Public Good; Socio-economically Just and Equitable Sustainable Development

INTRODUCTION

Landmark studies around the world on energy and major natural resources extractive industrial operations (EIOs), such as petroleum (oil and gas) and other mining and mineral resources EIOs, particularly the Mining, Minerals and Sustainable Development (MMSD) project,¹ the World Bank Group (WBG) Extractive Industries Review (EIR)² and other follow-up scholarly initiatives of leading civil society groups like the International Association for Impact Assessment (IAIA)³ and International Association of Public Participation (IAP2),⁴ as well as practical evidences and/or experiences are consistently proving that these EIOs essentially inhibit

¹ International Institute for Environment and Development (IIED) and World Business Council for Sustainable Development (WBCSD), *Breaking New Ground: Mining, Minerals and Sustainable Development: The Report of the MMSD Project* (Earthscan, 2002); homepage of the WBCSD <<https://www.wbcd.org/>> Accessed 20 December, 2022.

² World Bank Group, 'Striking a Better Balance – The World Bank Group and Extractive Industries: The Final Report of the Extractive Industries Review, World Bank Group Management Response' <<http://documents.worldbank.org/curated/en/961241468781797388/pdf/300010GLB.pdf>>; The World Bank, 'Extractive Industries' <<https://www.worldbank.org/en/topic/extractiveindustries>> both Accessed 20 December, 2022.

³ Homepage of the IAIA <<https://www.iaia.org>> Accessed 20 December, 2022.

⁴ Homepage of the IAP2 <<https://www.iap2.org>>; IAP2, 'IAP2 Spectrum of Public Participation' <https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf> both Accessed 20 December, 2022.

sustainable development (SD).⁵ These operations degrade, devastate and despoil the environment in resource-rich communities.⁶ In the process, these operations, particularly petroleum EIOs devastate and despoil biodiversity,⁷ ecology and ecosystems, and thereby deteriorate ecosystem services in the oil-rich communities, such as those of the endangered oil-rich ethnic minority Niger Delta region⁸ and other oil producing areas of Nigeria. These operations also occasion crises and conflicts, such as violent conflicts in in resource-rich communities of developing countries, as those of the oil-rich Niger Delta region.⁹ The humongous and deplorable negative consequences of EIOs are thus very glaring in resource-rich developing countries, such as

⁵ E. T. Bristol-Alagbariya and U. Etemire, 'International Benchmarked Environmental Democracy and Impact-Benefit Agreements towards Sustainable Community and Petroleum Development in Nigeria's Oil Producing Communities and Sustainable Development in Nigeria at Large' [2021], 9 (8), *Global Journal of Politics and Law Research*, 20, 40 and 51; World Commission on Environment and Development, *Our Common Future* (Oxford University Press, 1987), 8, 40 and 43; homepage of the Earth Charter (Earth Charter Initiative) <<https://earthcharter.org/>> Accessed 20 December, 2022; P. B. Corcoran (ed), *The Earth Charter in Action: Toward a Sustainable Development* (KIT Publishers 2006); UN Association of Australia (UNAA), *The Earth Charter* (UNAA, 2017).

⁶ C. Aloni *et al.*, *Environmental Challenges of Niger Delta Region of Nigeria: Human Impact on the Environment* (LAP LAMBERT Academic Publishing, 2020).

⁷ C. N. C. Ugochukwu and J. Ertel, 'Negative Impacts of Oil Exploration on Biodiversity Management in the Niger Delta area of Nigeria' [2012], 26 (2), *Impact Assessment and Project Appraisal*, 139–147; T. A. Odisu, *The Nigerian State, Oil Multinationals and the Environment: A Case Study of Shell Petroleum Development Company (SPDC)* (GRIN Verlag, 2015).

⁸ D. M. J. Fubara (ed), 'The Endangered Environment of the Niger Delta: An NGO Memorandum of the Rivers Chiefs and Peoples' Conference', Port Harcourt, Nigeria, for the World Conference of Indigenous Peoples on Environment and Development and The United Nations Conference on Environment and Development, Rio de Janeiro, Brazil [1992], especially 1 and 16; E. T. Bristol-Alagbariya, *Participation in Petroleum Development: Towards Sustainable Community Development in the Niger Delta* (Centre for Energy, Petroleum & Mineral Law & Policy [CEPMLP]/Dundee University Press [DUP], 2010), 73 and 323; E. T. Bristol-Alagbariya, *Petroleum Development & the Environment in Rivers State Nigeria: Fallouts of the UNEP Report on Ogoniland, Environmental Regulatory Standards & Sustainable Development Laws & Practices* (LAP LAMBERT Academic Publishing, 2018/2020), 110.

⁹ T. Tamuno, *Oil Wars in the Niger Delta 1849–2009* (Stirling-Horden Publishers, 2011); E. T. Bristol-Alagbariya (2010 [n8]), xxxiii–xli and 317–337; I. Okonta, *When Citizens Revolt: Nigerian Elites, Big Oil and the Ogoni Struggle for Self-determination* (Africa World Press Inc., 2008); J. G. Frynas, *Oil in Nigeria: Conflict and Litigation between Oil Companies and Village Communities* (Lit Verlag, 2000); C. Obi and S. A. Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petroviolence* (Zed Books, 2011); I. Bannon and P. Collier (eds), *Natural Resources and Violent Conflict: Options and Actions* (The World Bank, 2003); A. Ajodo-Adebanjoko, *Conflict in the Niger Delta and Nigeria's External Relations* (Great Nex Publishers, 2021).

Nigeria,¹⁰ which are plagued by the resource curse.¹¹ Hence, as already exemplified by the case of resource-rich communities of the oil-rich Niger Delta region, EIOs in resource-rich developing countries, especially developing countries plagued by the resource curse, inhibit SD, by unleashing colossal negative effects on the environment and human wellbeing. Such colossal adverse environmental effects and enormous negative consequences of petroleum EIOs on human wellbeing include socio-economic deprivation like occasioning poverty in the midst of plenty, health consequences, human rights (particularly environmental human rights) abuses and violations.¹² Cases therefore abound in resource-rich developing countries, especially those plagued by the resource curse, where EIOs have monstrous adverse effects on resource-rich communities, often called host communities, which bear most of the costs, burdens or negative effects of these operations,¹³ due to marginalization by their host governments and neglect of

¹⁰ E. T. Bristol-Alagbariya, *Law & Ethical Conducts on Energy Resources Operations in Nigeria: Spotlight on Petroleum Development Operations* (LAP LAMBERT Academic Publishing, 2021), xxviii, xxx–xxxv, 10–11, 21, 65, 67, 74 and 82–83; E. T. Bristol-Alagbariya, *Permanent Sovereignty Over Natural Resources: Duties of Resource-Rich Developing Countries & Petroleum Development in Nigeria* (LAP LAMBERT Academic Publishing, 2020), xxxiv, xl, xli, 1–5, 7, 10, 15, 89, 111, 124–125 and 131; Y. Omorogbe and A. O. Ordor (eds), *Ending Africa's Energy Deficit and the Law: Achieving Sustainable Energy for All* (Oxford University Press, 2018).

¹¹ B. Smith, *Rethinking the Resource Curse* (Cambridge University Press, 2021); R. M. Auty and H. Furlonge, *The Rent Curse: Natural Resources, Policy Choice, and Economic Development* (Oxford University Press, 2019); S. M. Murshed, *The Resource Curse* (Agenda Publishing, 2018); R. M. Auty, *Sustaining Development in Mineral Economies: The Resource Curse Thesis* (Routledge, 1993); P. J. Stevens, 'The Resource Curse Revisited Appendix: A Literature Review' [2015], *The Royal Institute of International Affairs*, 1–42; F. van der Ploeg, 'Natural Resources: Curse Or Blessing?' [2011], 49 (2), *Journal of Economic Literature*, 366–420; W. Ascher, *Why Governments Waste Natural Resources: Policy Failures in Developing Countries* (John Hopkins University Press, 1999); J. Chen (Investopedia), 'Dutch Disease' <<https://www.investopedia.com/terms/r/resource-curse.asp>> Accessed 20 December, 2022.

¹² A. E. Boyle and M. R. Anderson (eds), *Human Rights Approaches to Environmental Protection* (Clarendon Press, 1998); S. Atapattu and A. Schapper, *Human Rights and the Environment* (Routledge, 2019); D. K. Anton and D. L. Shelton, *Environmental Protection and Human Rights* (Cambridge University Press, 2011); J. H. Knox and R. Pejan (eds), *The Human Right to a Healthy Environment* (Cambridge University Press, 2018); D. Augenstein, 'Paradise Lost: Sovereign State Interest, Global Resource Exploitation and the Politics of Human Rights' [2016], 27 (3), *European Journal of International Law*, 669–691; UN Environment Programme (UNEP), *Healthy Environment, Healthy People* (UNEP, 2016); Goal 1, UN Sustainable Development Goals (UN SDGs), captioned 'No Poverty', which is designed to end poverty in all its forms everywhere.

¹³ L. Barrera-Hernandez et al. (eds), *Sharing the Costs and Benefits of Energy and Resources Activity: Legal Change and Impact on Communities* (Oxford University Press, 2016),

extractive industries, most of which are multinational companies.¹⁴ This has been the situation in the oil-rich ethnic minority Niger Delta region, due to over six decades of petroleum EIOs in the oil producing communities of the region.¹⁵

The aforementioned foremost and other follow-up scholarly initiatives and practical evidences around the globe are also demonstrating that energy and major natural resources EIOs are advantageous when these operations are implemented well. That means when EIOs are carried out or embarked upon in compliance with international benchmarked standards and practices.¹⁶ This involves executing extractive industrial (EI) projects in a way that promotes international benchmarked impact-benefits,¹⁷ poverty alleviation, other socio-economic development and

¹⁴ B. Maiangwa and D. E. Agbibo, 'Oil Multinational Corporations, Environmental Irresponsibility and Turbulent Peace in the Niger Delta' [2013], 48 (2), *Africa Spectrum*, 71–83; D. A. Omoweh, *Shell Petroleum Development Company, The State and Underdevelopment of Nigeria's Niger Delta: A Study in Environmental Degradation* (Africa World Press, 2006); O. O. Oluwasanmi, 'Multinationals' Dominance and the Prospects for Development in the Nigerian Petroleum Industry' [2018], 5 (2), *International Journal of Social and Management Sciences*, 225–238; D. C. Korten, *When Corporations Rule the World* (Kumarian Press, 2001).

¹⁵ Rise to Peace, 'The Effects of Oil Production on the Niger Delta' <<https://www.risetopeace.org/2022/01/26/the-effects-of-oil-production-on-the-niger-delta/jmcdappa/>> J. B. Asuni, 'Blood Oil in the Niger Delta' [August 2009], Special Report, United States Institute of Peace, <https://www.usip.org/sites/default/files/blood_oil_nigerdelta.pdf> both Accessed 20 December, 2022; C. Udosen *et al.*, 'Fifty Years of Oil Exploration in Nigeria: The Paradox of Plenty' [2009], 8 (2), *Global Journal of Social Sciences*, 37–47; Department of Political Science, Niger Delta University, *International Conference on The Nigerian State, Oil Industry and the Niger Delta, Conference Proceedings* (Harey Publications Company, 2008); O. Osundina, *The Story of Nigeria's Petroleum Industry* (Novum Publishing, 2016).

¹⁶ Homepage of the International Association of Oil & Gas Producers (IOGP) <<https://www.iogp.org/>>; homepage of the International Petroleum Industry Environmental Conservation Association (IPIECA) <<https://www.ipieca.org/>>; homepage of the UN Global Compact <<https://www.unglobalcompact.org/>>; Area of the homepage of the UN Global Compact, with the caption 'Who are We' and the sub-caption 'One Global Compact: Uniting Business for A Better World' <<https://www.unglobalcompact.org/what-is-gc>> and <<https://www.unglobalcompact.org/what-is-gc/strategy>> all Accessed 20 December, 2022; S. Codling, *Best Practice Benchmarking: An International Perspective* (Gulf Pub Co., 1996).

¹⁷ Mineral Resources Authority, 'Impact Benefit Agreement (IBA)' <<https://govmin.gl/exploitation/get-an-exploitation-licence/impact-benefit-agreement-iba/>>; Government of Canada, Whitehorse Mining Initiative <<https://www.nrcan.gc.ca/science-data/science-research/earth-sciences/earth-sciences-resources/earth-sciences-federal-programs/whitehorse-mining-initiative/8698>>; C. Knotsch and J. Warda, *Impact Benefit Agreements: A Tool for Healthy Inuit Communities?* (National Aboriginal Health Organization, 2009); K. Yaworsky, 'First Nations Consultation and Impact Benefit Agreements' <<https://www.shk.ca/first-nations-consultation-impact-benefit-agreements/>>; A. J. Wright (The Canadian Community Economic Development Network [CCEDNet]), 'Impact and

advancement indices in host countries, such as implementing EI projects in ways that preserve the rights of members of the public, especially those that are adversely affected directly by these projects, namely resource-rich communities,¹⁸ This also involves when the benefits derived from EI projects are well-utilized towards overall public good, namely poverty alleviation,¹⁹ equitable socio-economic empowerment and generic improvement of the wellbeing of the citizenry. In essence, if EIOs, such as petroleum resources development projects, are governed in a classic manner, these operations can contribute to good environmental governance (GEG), based on careful, prudent and sound techniques of managing, protecting and conserving the environment,

Benefit Agreements: The Role of Negotiated Agreements in the Creation of Collaborative Planning in Resource Development' <<https://ccednet-rcdec.ca/en/toolbox/impact-and-benefit-agreements-role-negotiated-agreements>>; B. Gilmour and B. Mellett, 'The Role of Impact and Benefits Agreements in the Resolution of Project Issues with First Nations' <<https://www.albertalawreview.com/index.php/ALR/article/view/71>> all Accessed 20 December, 2022; B. Gilmour and B. Mellett, 'The Role of Impact and Benefits Agreements in the Resolution of Project issues with First Nations' [2013], 51 (2), Alberta Law Review, 385–400; S. A. Kennett, *A Guide to Impact and Benefits Agreements* (University of Calgary, 1999); C. O'Faircheallaigh, 'Community Development Agreements in the Mining Industry: An Emerging Global Phenomenon' [2013], 44 (2), *Community Development*, 222–238; E. T. Bristol-Alagbariya, *Governance Towards Sustainable Development in Nigeria: The Role of Strategic Assessment of Decisions & Actions* (CEPMLP/DUP, 2013),

¹⁸ J. G. Frynas (n9): K. S. A. Ebeku, *Oil and the Niger Delta People in International Law: Resource Rights, Environmental and Equity Issues* (Rüdiger Köppe Verlag Köln, 2006); E. T. Bristol-Alagbariya, 'Environmental Justice in Nigeria: Spotlight on Activism of Non-Governmental Organizations over Petroleum Development in the Oil-Rich Delta Region', *International Journal of Energy and Environmental Research* (IJEER), [2022], 10 (2), 15–49.

¹⁹ J. K. Wangbu, *The Niger Delta Paradox Impoverished in the Midst of Abundance* (Safari Books, 2018); Population and Human Resources Division, Western Africa Department, Africa Region, The World Bank, 'Nigeria Poverty in the Midst of Plenty: The Challenge of Growth with Inclusion: A World Bank Poverty Assessment' [1996] Report No. 14733-UNI, The World Bank <<http://documents.worldbank.org/curated/en/582991468759320261/pdf/multi0page.pdf>> Accessed 20 December, 2022; I. Gary and T. L. Karl, *Bottom of the Barrel: Africa's Oil Boom and the Poor* (Catholic Relief Services, 2003); South-South Governors' Forum Nigeria, *Braced for Global Competitiveness: Proceedings of First South-South Nigeria Economic Summit, 2009* (South-South Nigeria Economic Summit Committee 2009), particularly 267–269; J. C. Ebegbulem *et al.*, 'Oil Exploration and Poverty in the Niger Delta Region of Nigeria: A Critical Analysis' [2013], 4 (3), *International Journal of Business and Social Science*, 279–287; I. Bannon and P. Collier (eds) (n9); F. Allen, *Implementation of Oil Related Environmental Policies in Nigeria: Government Inertia and Conflict in the Niger Delta* (Cambridge Scholars Publishing, 2014); M. Bavinck *et al.* (eds), *Conflicts Over Natural Resources in the Global South: Conceptual Approaches* (CRC Press, 2014); M. Hemmati, *Multi-Stakeholder Processes for Governance and Sustainable Development: Beyond Deadlock and Conflict* (Earthscan, 2002); E. C. Onwuka, 'Oil Extraction, Environmental Degradation and Poverty in the Niger Delta Region of Nigeria' [2005], 62 (6), *International Journal of Environmental Studies*, 655–662.

towards improved healthy human livelihoods and generic human wellbeing,²⁰ human rights protection, especially environmental human rights protection,²¹ poverty reduction, socio-economic advancement and prosperity in resource-rich countries, and thus overall socio-economically just and equitable SD in such countries.²² This is particularly so, in resource-rich developing countries like Nigeria, which are being traumatized and agonized by the resource curse.²³

Thus, by and large, EIOs may contribute to SD in developing countries, and in the process promote the protection of environmental human rights, through the promotion of GEG, actualizing poverty alleviation and thereby boosting overall good governance (GG) in these countries. EIOs, including petroleum EIOs, may therefore be meaningfully or more meaningfully managed and/or directed to contribute to overall public good in the nooks and crannies of the

²⁰ The International Union for Conservation of Nature (The World Conservation Union [IUCN]) *et al.*, *World Conservation Strategy: Living Resource Conservation for Sustainable Development* (IUCN 1980); IUCN *et al.*, *Caring for the Earth: A Strategy for Sustainable Living* (Earthscan, 2009); IUCN Commission on Environmental, Economic and Social Policy, 'Human Wellbeing and Sustainable Livelihoods' <https://www.iucn.org/commissions/commission-environmental-economic-and-social-policy/our-work/human-wellbeing-and-sustainable-livelihoods>> Accessed 20 December, 2022; R. Prescott-Allen, *The Wellbeing of Nations: A Country-by-Country Index of Quality of Life and the Environment* (Island Press, 2001); *c/f* Section 102, Petroleum Industry Act, Act No. 6, 2021, captioned 'Environmental Management'; Section 114, Petroleum Industry Act, 2021, captioned 'Conditions in Licences or Permits', which include Sub-section 114 (1) (d), namely to 'comply with relevant industry codes, standards and market rules', and Sub-section 114 (4), 'Special Conditions'; Section 96, Petroleum Industry Act, 2021, captioned 'Grounds for Revocation of Licence or Lease', which grounds include Sub-section 96 (1) (i), compliance with environmental obligations ...'.

²¹ O. Douglas and I. Okonta (n9); D. K. Anton and D. L. Shelton, *Environmental Protection and Human Rights* (Cambridge University Press, 2011); S. Atapattu and A. Schapper, *Human Rights and the Environment: Key Issues* (Routledge, 2019).

²² UNEP and International Resource Panel, *Mineral Resource Governance in the 21st Century Gearing Extractive Industries towards Sustainable Development* (UNEP, 2020); E. T. Bristol-Alagbariya, 'Sustainable Development Law and Multidisciplinary Sustainable Development-oriented Efforts towards the Wellbeing of Humans and Overall Resources of Nature' [2020], 81, *International Affairs and Global Strategy*, 69–93.

²³ E. T. Bristol-Alagbariya (2021 [n10]), xxviii, xxx–xxxv, 10–11, 21, 65, 67, 74 and 82–83; E. T. Bristol-Alagbariya (2020 [n10]), xxxiv, xli, xli, 1–5, 7, 10, 15, 89, 111, 124–125 and 131; J. F. Sachs, *The Age of Sustainable Development* (University of Columbia Press, 2015); P. J. Cooper and C. M. Vargas, *Implementing Sustainable Development: From Global Policy to Local Action* (Rowman & Littlefield Publishers, 2004).

world where extractive industrial projects are taking place.²⁴ Consequently, this study is designed to examine the burdens, costs or consequences as well as the advantages and other benefits of petroleum EIOs on resource-rich and other direct negatively impacted host communities of Nigeria, in the framework of the country's Petroleum Industry Act, 2021, namely in Chapter Three (3) of the Act,²⁵ regarding the development of petroleum host communities *vis-à-vis* petroleum host communities development (petroleum HCD), so as to make appropriate findings and recommendations.

Overview of the Costs and Benefits of Energy and Major Natural Resources Extractive Industrial Operations Exemplified by Petroleum Extractive Industrial Operations in Nigeria

To start with, it is significant to point out that energy and major natural resources EIOs include oil, gas (petroleum) and other mining and mineral resources EIOs.²⁶

EIOs occasion enormous costs, burdens or negative consequences, as well as certain benefits or advantages accruing to host states (countries) and their resource-rich communities, and these may be exemplified by Nigeria²⁷ and her oil-rich minority ethnic Delta region and other Nigerian oil producing areas.²⁸

²⁴ C. George and C. Kirkpatrick (eds), *Impact Assessment and Sustainable Development: European Practice and Experience* (Edward Elgar Publishing, 2007); homepage of the UN Global Compact <<https://www.unglobalcompact.org/>> Accessed 20 December, 2022; homepage of the WBCSD (n1); IAP2, 'IAP2 Spectrum of Public Participation' (n4), which places final decisions in the hands of members of the public involved in the decision-making and decision-implementation processes.

²⁵ Chapter Three (3), Sections 234 – 257, Petroleum Industry Act, 2021, Act No. 6 of 2021, captioned 'Host Communities Development'.

²⁶ E. T. Bristol-Alagbariya (2021 [n10]), 8, 67, 78 and 98; E. T. Bristol-Alagbariya (2010 [n8]), 16, 28, 35, 41, 65–66, 69, 77–78, 317–318 and 326–329.

²⁷ O. Osundina, *The Story of Nigeria's Petroleum Industry* (Novum Publishing, 2016); E. T. Bristol-Alagbariya (2021 [n10]), 68–74.

²⁸ E. T. Bristol-Alagbariya, 'Primordial Niger Delta, Petroleum Development in Nigeria and the Niger Delta Development Commission Act: A Food For Thought!' [2020], 10 (3), *Developing Country Studies*, 106–128.

Synopsis of the Costs of Petroleum Extractive Industrial Operations in Nigeria

EIOs, which occasion humungous costs, burdens or negative consequences, may be exemplified by the negative effects of petroleum EIOs within and around the endangered communities of the oil-rich Niger Delta region and the communities of other oil producing areas of Nigeria.²⁹

From the background provided in the introductory aspect of this study, there are several costs, burdens or negative consequences of petroleum development operations in Nigeria, and these may be divided into those associated with the oil-rich Niger Delta region and other oil producing areas of Nigeria, as well as the costs associated with the generality of Nigerians and Nigeria at large.³⁰

Soon after the commencement of petroleum resources development operations in the oil producing communities of the oil-rich ethnic minority Delta region, in the late 1950s, the resources development operations began to generate adverse consequences on the environment, people and communities of the region. So, there have been decades of costs (burdens), negative effects and paradoxes of petroleum energy and major natural resources EIOs in the oil-rich ethnic minority Delta region of Nigeria, including other oil producing areas of the country.³¹

Essentially, the various costs, adverse effects and paradoxes of petroleum resources EIOs in the Delta region and other oil-producing areas of Nigeria may be classified into environmental, socio-economic and political consequences. These adverse consequences include paradox of poverty and misery in the midst of plenty, as well as lack of genuine engagement of the citizens and citizen-groups in the course of the resources development operations in their communal homelands. Other costs, adverse effects, paradoxes and challenges include ineffective development of project-level environmental assessment, namely Environmental Impact Assessment (EIA), lack of life-cycle assessment of petroleum development projects and absence of institutionalized Strategic Environmental Assessment (SEA) in Nigeria as well as lack of socio-economically just and equitable impact-benefit agreements (IBAs) and impact-benefits associated with the cost, burdens or negative consequences of petroleum EIOs in the country.³²

²⁹ *Ibid*; E. T. Bristol-Alagbariya, 'Niger Delta: Petroleum Development and Environmental Assessment in Nigeria', in E. J. Alagoa *et al.* (eds), *History Concourse 2011: The Niger Delta Environment as Resource and Reserve* (Onyoma Research, 2012), 217–267.

³⁰ E. T. Bristol-Alagbariya (2021 [n10]), 59–71.

³¹ E. T. Bristol-Alagbariya (n28), 108, 111 and 124; E. T. Bristol-Alagbariya (2010 [n8]), 31 and 35–36.

³² UNEP, *Environmental Assessment of Ogoniland* (UNEP, 2011).

Generally, there is lack of IBAs or other forms of Good Neighbour Agreements between oil companies and oil producing communities; rather, there is a regime of various forms of memorandum of understanding (MoU) between oil companies and oil producing communities, which are causing misunderstanding, confusion and crises in the communities, such as intra-community and inter-community crises and violent conflicts.³³ There are also such adverse consequences of petroleum EIOs in Nigeria as negative health impacts, human rights abuses and violations, oil pollution, degradation, devastation and despoliation of the environment, ecology and ecosystems, as well as deterioration of ecosystem services in the oil-rich Delta region and other oil producing communities and areas of Nigeria, thereby undermining the wellbeing of these communities. For instance, oil pollution takes place in the form of land pollution (soil degradation, devastation and despoliation), water pollution and air pollution within the communities of the oil-rich Niger Delta region and other oil producing areas of Nigeria.³⁴ Other negative fall-outs of petroleum development operations in Nigeria are vandalization of oil and gas pipelines, delivery lines, tie-in manifolds, and oil bunkering (illegal refining of crude oil),³⁵ *etcetera*. Also, petroleum EI operations occasion other adverse environmental consequences,

³³ E. T. Bristol-Alagbariya (2010 [n8]), 3, 14, 24, 317, 319–325, 327, 329 and 332–333; I. Bannon and P. Collier (eds) (n9).

³⁴ O. Awoyemi, *The Impact of Oil Pollution on the Environment of the Oil Producing Communities of Nigeria: A Critical Analysis of the Statutory and Regulatory ... and Regulatory Provisions in Nigeria* (M.O. Awoyemi & Co. Independent Law Publishing, 2014); K. Hollaender *et al.*, *Understanding the BP Oil Spill and Resulting Litigation: An In-Depth Look at the History of Oil Pollution and the Impact of the Gulf Coast Oil Disaster (Aspatore Special Report)* (Thomson West, Aspatore Books, 2010); W. Ross (British Broadcasting Corporation [BBC] News), 'Niger Delta Pollution: Fishermen at risk amidst the oil' <<https://www.bbc.com/news/world-africa-22487099>>; O. Sunday (Mongabay News & Inspiration from Nature's Frontline), 'Niger Delta Mangroves in 'Grave Danger' from Oil Spills, Poverty, Invasive Species' <<https://news.mongabay.com/2022/08/niger-delta-mangroves-in-grave-danger-from-oil-spills-extraction-invasive-species/>> both Accessed 20 December, 2022.

³⁵ M. Peel, *A Swamp Full of Dollars: Pipelines and Paramilitaries at Nigeria's Oil Frontier* (Lawrence Hill Books/Chicago Review Press 2009/I. B. Tauris & Co., 2011); C. Obi and S. A. Rustad (eds) (n9); The Nation Newspaper, Nigeria, 'Unending illegal refining in Niger Delta' <<https://thenationonlineng.net/unending-illegal-refining-in-niger-delta/>>; U. Akpan and P. Brisibe (Vanguard Newspaper, Nigeria), 'Panic as oil theft, illegal refining increase in Niger Delta' <<https://www.vanguardngr.com/2018/06/panic-oil-theft-illegal-refining-increase-niger-delta/>>; P. Okafor (Vanguard Newspaper, Nigeria), 'Why illegal refineries persist in Niger Delta region — Sylva' <<https://www.vanguardngr.com/2021/06/why-illegal-refineries-persist-in-niger-delta-region-sylva/>>; F. Chukwurah, 'Nigeria's illegal oil refineries thriving' <<https://www.dw.com/en/nigeria-illegal-oil-refineries-thrive-despite-government-crackdown/a-62696018>> all Accessed 20 December, 2022.

which include environmental human rights abuses and violations, as well as gas flaring³⁶ in the oil-rich Delta region and other oil producing areas of Nigeria. Besides, burning fossil fuels in the Nigerian oil-rich Delta region in the course of petroleum EIOs, by MNOCs, via gas flaring and illegal refining of crude oil, are harmful to the environment, as same degrade, devastate and despoil the environment, ecosystems and ecosystem services in the region.³⁷

Notably, carbon is the main element in fossil fuels. For this reason, the millions of years' duration leading to the formation of fossil fuels is called carboniferous period. When burnt, fossil fuels release carbon dioxide, a key greenhouse gas, into the atmosphere, which leads to climate change and global warming.³⁸ Among others, the negative effects of increased emission of

³⁶ S. Giwa, *Emission Inventory for Gas Flaring in Nigeria: Baseline Black Carbon Emission Inventory for Gas Flaring in the Niger Delta Region of Nigeria* (LAP LAMBERT Academic Publishing, 2014); F. S. Eseduwo, *Gas Flaring and Reinjection Policy-Making in Nigeria: Why Gas Reinjection Policies work in other Oil-producing Countries and Fail in Nigeria* (LAP LAMBERT Academic Publishing, 2014); E. Odigie, *Associated Gas Injection Feasibility in the Niger Delta: A Case Study of the Southern Swamp Fields* (Nigeria) (LAP LAMBERT Academic Publishing, 2013); A. Ogidiolu, 'Effects of Gas Flaring on Soil and Vegetation Characteristics in Oil Producing Region of Niger Delta, Nigeria' [2003], 1 (1), *International Journal of Ecology and Environmental Dynamics*, 47–53.

³⁷ A. E. Boyle and M. R. Anderson (eds) (n12); S. Atapattu and A. Schapper (n12); D. K. Anton and D. L. Shelton (n12); J. H. Knox and R. Pejan (eds) (n12); D. Augenstein (n12); UNEP (n12); Goal 3, UN SDGs, captioned 'Good Health and Wellbeing'; *Oronto Douglas v The Shell Petroleum Development Company of Nigeria Limited & 4 Ors* [1999], 2 NWLR (Pt. 591), 466–467; *Centre for Oil Pollution Watch v N. N. P. C.* [2019], 5 Nigerian Weekly Law Reports (NWLR), 519–601; *Gbemre (Jonah Gbemre) v The Shell Petroleum Development Company Nigeria Ltd. & 2 Ors* [2005] FHC/B/CS/53/05); K. S. A. Ebeku, 'Constitutional Right to a Healthy Environment and Human Rights Approaches to Environmental Protection in Nigeria: Gbemre v. Shell Revisited' [2007], 16 (3), *Review of European Community and International Environmental Law* (RECIEL), 312–320; C. Gonzalez, 'Environmental Justice, Human Rights, and the Global South' [2015], 13, *Santa Clara Journal of International Law*, 151–195; A. Sanni, 'Fundamental Rights Enforcement Procedure Rules, 2009 as a Tool for the Enforcement of the African Charter on Human and Peoples' Rights in Nigeria: The Need for far-Reaching Reform' [2011], 11 (2), *African Human Rights Law Journal*, 511–531; E. P. Amechi, 'Litigating Right to Healthy Environment in Nigeria: An Examination of the Impacts of the Fundamental Rights (Enforcement Procedure) Rules 2009, in Ensuring Access to Justice for Victims of Environmental Degradation' [2010], 6 (3), *Law, Environment and Development (LEAD) Journal*, 322–334; I. L. Worika, 'Deprivation, Despoliation and Destitution: Whither Environment and Human Rights in Nigeria's Niger Delta?' [2001], 8 (1), *ILSA Journal of International & Comparative Law*, 1–30.

³⁸ E. T. Bristol-Alagbariya (2021 [n10]), xxxvi, 53, 65–67, 78 and 106; E. T. Bristol-Alagbariya (2018/2020 [n8]), 6, 59–60 and 71; M. T. Ladan, *Sustainable Development Goals, Climate Change and Extractive Resource Management in Africa* (Ahmadu Bello University Press, 2017); UN, 'Climate Action: Causes and Effects of Climate Change' <<https://www.un.org/en/climatechange/science/causes-effects-climate->

discrimination, neglect and deprivation, as well as unfairness, inequities and outright injustices,⁴³ led to declaration of Bill of rights, and other forms of community declarations, ultimatums and other related pronouncements. These pronouncements include the Ogoni Bill of Rights of 1990, the Kaiama Declaration of 1998, the Resolution of the First Urhobo Economic Summit, the Warri Accord, the Aklaka Declaration of the Egi People, the Oron Bill of Rights, the Demand of the First Niger Delta Indigenous Women's Conference for Women of Bayelsa State, the Declaration of the Ikwerre Rescue Charter, the Declaration of the Niger Delta Bill of Rights, and other related declarations, pronouncements and demands of other community-based groups of the region.⁴⁴ These pronouncements, which placed demands of the oil-rich communities of the Niger Delta region on oil and gas companies, especially MNOCs, and the Nigerian state, snowballed into the region's resource control movement (for economic sovereignty, poverty alleviation, greater, socially justifiable and equitable impact-benefits), in the course of petroleum EIOs in the communities of the region.⁴⁵ It may be remarked that concerning citizens and citizen-groups of the communities of the oil-rich ethnic minority Niger Delta region making such pronouncements in reaction to adverse consequences of petroleum EIOs in their region implies that these citizens and citizen-groups of region and other oil producing communities and areas of Nigeria have internationally acknowledged and widely accepted rights to employ modern civilized measures, to secure their wellbeing and the wellbeing of their communal homelands.⁴⁶

⁴³ S. Azaiki, *Inequities in Nigerian Politics* (Treasure Communications Resource 2003); R. T. Suberu, *Ethnic Minority Conflicts and Governance in Nigeria* (Spectrum, 2003); R. T. Suberu, *Federalism and Ethnic Conflict in Nigeria* (United States Institute of Peace, 2001); Southern Minorities Movement, *Appraisal of the Nigerian Crisis and Solution* (Southern Minority Movement, 1995); Southern Minorities Movement, *Roots, the Struggle and the Future* (Southern Minority Movement, 1995); Southern Minorities Movement, *What All Southern Minorities Must Know* (Southern Minority Movement, 1995).

⁴⁴ E. T. Bristol-Alagbariya (2018/2020 [n8]), 33–35; E. T. Bristol-Alagbariya (2010 [n8]), 3 and 318.

⁴⁵ E. T. Bristol-Alagbariya (n18); O. V. C. Okene (ed), *Readings in Law and Policy (Current Issues and Trends): (In Commemoration of the Golden Jubilee of Rivers State (1967–2017))* (Faculty of Law, Rivers State University, 2017), 129–144; E. T. Bristol-Alagbariya, 'Theories and the Legal Principle of Permanent Sovereignty over Natural Wealth and Resources in Relation to Petroleum Development in Nigeria' [2019], 4 (2), *University of Port Harcourt Journal of Private Law*, 208–209; E. T. Bristol-Alagbariya (2010 [n8]), 40–43; A. Ogbuigwe, *Offended: Legal Issues in the Niger Delta Struggle* (Anpez Centre for Environment and Development, 1999), 15 and 17; A. Ogbuigwe, *Legal Issues in the Niger Delta Resource Dilemma: A Collection of Essays* (Anpez Centre for Environment and Development, 2018), 7.

⁴⁶ Universal Declaration of Human Rights, 1948; African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, No.3 1983, Cap A9, Federation of Nigeria (LFN) 2004; J. Guze (Senior Fellow, Legal Studies, John Locke Foundation, September 27, 2018), "Self-Preservation is the Most Basic and Fundamental Natural Right Any Individual Possesses" (LAW & PUBLIC SAFETY, REGULATION) <<https://www.johnlocke.org/self->

Yet, other negative costs, burdens and negative outcomes of petroleum EIOs in Nigeria include corrupt practices, such as oil theft (stealing of crude oil and liquefied natural gas), by leading officials of the Federal Government (FG), including those of the Nigerian National Petroleum Company Limited (NNPC) and MNOCs operating in Nigeria. So, syndicates associated with Nigeria's apex government officials, namely FG officials, are involved in oil theft.⁴⁷ Other forms of corrupt practices associated with petroleum resources EIOs in Nigeria include mismanagement, misappropriation and expropriation of the enormous wealth accruing from these EIOs by government officials at all levels of government,⁴⁸ which undermine generic

preservation-is-the-most-basic-and-fundamental-natural-right-any-individual-possesses/>; North Carolina Court of Appeals Judge John M. Tyson's opinion in *North Carolina v. Ayers* [2018], No.CO17-725, Court of Appeals of North Carolina, USA <<https://www.nccourts.gov/judicial-directory/john-tyson> <<https://appellate.nccourts.org/opinions/?c=2&pdf=37292>>;<<https://law.justia.com/cases/north-carolina/court-of-appeals/2018/17-725.html>>; homepage of the Unrepresented Nations and Peoples Organization (UNPO) <<https://www.unpo.org/>> all Accessed 20 December, 2022.

⁴⁷ Sahara Reporters (October 16, 2022), Top Nigerian Government Officials, Security Operatives Involved in Oil Theft —Report <<https://saharareporters.com/2022/10/16/top-nigerian-government-officials-security-operatives-involved-oil-theft-report>>; Vanguard Newspaper, Nigeria, 'Oil Theft: How security operatives, govt officials run bunkering cartel' <<https://www.vanguardngr.com/2022/08/oil-theft-how-security-operatives-govt-officials-run-bunkering-cartel/>>; J. Agbakwuru (Vanguard Newspaper, Nigeria), 'Highly-placed Nigerians involved in crude oil theft – NNPC boss, Kyari' <<https://www.vanguardngr.com/2022/08/highly-placed-nigerians-involved-in-crude-oil-theft-nnpc-boss-kyari/>>; K. Jeremiah (Guardian Newspaper, Nigeria), 'Government dilly-dallies as oil theft flourishes' <<https://guardian.ng/sunday-magazine/newsfeature/government-dilly-dallies-as-oil-theft-flourishes/>> W. Onuku (Daily Post Newspaper, Nigeria), 'Oil theft: Ships come into Nigeria legally, sneak out to steal crude in Niger Delta – NPA' <<https://dailypost.ng/2022/10/25/oil-theft-ships-come-into-nigeria-legally-sneak-out-to-steal-crude-in-niger-delta-npa/>>; T. Olatokunbo (The Source Magazine), 'Oil Theft: Falana Says N17bn Allocation To Protect Oil Assets Missing' <<https://thesourceng.com/oil-theft-falana-says-n17bn-allocation-to-protect-oil-assets-missing/>>; S. Adewole (Punch Newspaper, Nigeria), 'N17bn allocated to stop oil theft diverted – Falana' <<https://punchng.com/n17bn-allocated-to-stop-oil-theft-diverted-falana/>> all Accessed 20 December, 2022.

⁴⁸ J. Chen (Investopedia), 'Corruption' <<https://www.investopedia.com/terms/c/corruption.asp>> Accessed 20 December, 2022; D. E. Agbibo and B. Maiangwa, 'Corruption in the Underdevelopment of the Niger Delta in Nigeria' [2015], 5 (6), *International Journal of Humanities and Social Science*, 108–132; R. Rose and C. Peiffer, *Bad Governance and Corruption: Political Corruption and Governance* (Palgrave Macmillan, 2019); D. J. Smith, *A Culture of Corruption: Everyday Deception and Popular Discontent in Nigeria* (Princeton University Press, 2008); N. Okonjo-Iweala, *Fighting Corruption Is Dangerous: The Story Behind the Headlines* (The Massachusetts Institute of Technology [MIT] Press, 2018); T. S. Akinyetun, *Developing in Underdevelopment in Nigeria: The Hand of Corruption* (CreateSpace Independent Publishing Platform, 2016); A. Mungiu-Pippidi, *The Quest for Good Governance: How Societies Develop Control of Corruption* (Cambridge University Press 2015); E. T. Bristol-Alagbariya (2020 [n10]), xlii – xlv, 4, 73, 108 – 109 and 127.

public good, and thereby impeding the development and advancement of the country.⁴⁹ Corruption in government in Nigeria has intensified the adverse effects of the ongoing global economic meltdown in the country.⁵⁰

Fundamentally, environmental degradation, devastation and despoliation occasioned by petroleum EIOs in Nigeria militate against traditional means of livelihood, in the oil producing areas, especially traditional means of livelihood based on fishing and seafood gathering, as well as farming in the oil-rich Delta region.⁵¹ By and large, petroleum resources development operations in Nigeria led to the abandonment of traditional means of livelihood, especially fishing and seafood gathering, as well as farming in the oil producing areas, Yet, the people of these areas are not engaged in modernized agriculture, towards accelerated development, growth and/or advancement. This is from the background that modernized agriculture has potential to

⁴⁹ W. Ascher (n11); W. Asher and R. Healy, *Natural Resources Policymaking in Developing Countries: Environment, Economic Growth, and Income Distribution* (Duke University Press, 1990); Organisation for Economic Co-Operation and Development (OECD), *Natural Resources and Pro-Poor Growth: The Economics and Politics* (OECD, 2008); UN Department of Economic and Social Affairs, Office for ECOSOC Support and Coordination, *Achieving Sustainable Development and Promoting Development Cooperation: Dialogues at the Economic and Social Council* (UN, 2008); E. B. Barbier, *Natural Resources and Economic Development* (Cambridge University Press, 2010); I. Coxhead, 'Natural Resources and Economic Development by Edward B. Barbier' [2007], 83 (1), *Recent Developments in Fisheries Economics*, 104–107; T. Jackson, *Prosperity without Growth: Economics for a Finite Planet* (Earthscan, 2011); T. Jackson, *Prosperity without Growth?: The Transition to a Sustainable Economy* (Sustainable Development Commission, 2009).

⁵⁰ K. Maier, *This House Has Fallen: Nigeria in Crisis* (Westview Press Books, 2000/Basic Books, 2002); S. Chayes, *Thieves of State: Why Corruption Threatens Global Security* (WW Norton & Co., 2015); A. R. Menocal (Overseas Development Institute) and N. Taxell (UK Department for International Development [DFID]). *Why Corruption Matters: Understanding Causes, Effects and How to Address Them: Evidence Paper on Corruption* (UK DFID, 2015); The World Bank Press Release (June 26, 2020), 'Nigeria's Economy Faces Worst Recession in Four Decades, says New World Bank Report' <<https://www.worldbank.org/en/news/press-release/2020/06/25/nigerias-economy-faces-worst-recession-in-four-decades-says-new-world-bank-report>>; Punch Newspaper, Nigeria, 'Jumbo severance package: Buhari, Osinbajo, others to get N63bn, pensioners kick' <<https://punchng.com/jumbo-severance-package-buhari-osinbajo-others-to-get-n63bn-pensioners-kick/>> both Accessed 21 December, 2022.

⁵¹ W. Ross (British Broadcasting Corporation [BBC] News), 'Niger Delta Pollution: Fishermen at risk amidst the oil' <<https://www.bbc.com/news/world-africa-22487099>>; O. Sunday (Mongabay News & Inspiration from Nature's Frontline), 'Niger Delta Mangroves in 'Grave Danger' from Oil Spills, Poverty, Invasive Species' <<https://news.mongabay.com/2022/08/niger-delta-mangroves-in-grave-danger-from-oil-spills-extraction-invasive-species/>> both Accessed 21 December, 2022; L. C. Nwaogu, *FISH FARMING IN NIGERIA: Fish Breeding, Technology and Management* (Kindle Edition, 2022).

guarantee environmental sustainability.⁵² This is more also as modernized agriculture has potential to guarantee environmental sustainability.⁵³ By and large, all over Nigeria, oil boom made the people and governments of the country to abandon agriculture as a means of livelihood and socio-economic development and advancement.⁵⁴ On the whole, oil-rich modern Nigeria is unable to diversify its economy towards socio-economic development, advancement and SD, towards overall public good in the country.⁵⁵ Some are therefore arguing that Nigeria's major development challenge is not petroleum resource (oil) curse, but of achieving economic diversification beyond the country's dependence on oil revenues, in the course of which misdirected politics plays an important role in transient and unsustainable policy choices that have created and exacerbated the challenge of the country's inability to diversify its economy towards SD and advancement.⁵⁶

Suffice it to mention also that the problem of lack of good oilfield standards and practices,⁵⁷ in Nigeria, such as lack of technological and managerial prowess, is essentially determining the country's low status as a 21st Century oil producing country, and thus Nigeria's continued existence as a rentier state, with its petroleum-based industrial economy managing to thrive as a rentier economy.⁵⁸

⁵² I. D. Ekpebu and I. G. Ukpong, *Rethinking Agricultural Development in Nigeria (The Paradox of Oil Wealth): A Textbook on Agriculture and Environmental Sustainability* (AuthorHouse, 2013).

⁵³ *Ibid*; O. O. Waheed, *Planning and Strategies in Agricultural Development in Nigeria* (LAP LAMBERT Academic Publishing, 2015); I. Arnon, *Modernization of Agriculture in Developing Countries: Resources, Potentials and Problems* (Wiley–Blackwell, 1987); J. W. Mellor, *Agricultural Development and Economic Transformation: Promoting Growth with Poverty Reduction* (Palgrave Macmillan, 2017).

⁵⁴ *Ibid*; N. Grünewälder, *The Impact of Crude Oil in Nigeria. A Blessing or a Curse?* (GRIN Verlag, 2013); E. U. Nnadozie, *Oil and Socio-Economic Crisis in Nigeria: A Regional Perspective to the Nigerian Disease and Rural Sector* (Edwin Mellen Press, 1995); A. A. Ikein, *The Impact of Oil on a Developing Country: The Case of Nigeria* (Praeger Publishers, 1990); S. A. Madujibeya, 'Oil and Nigeria's Economic Development' [1976], 75 (300), *African Affairs*, 284–316.

⁵⁵ Z. Usman, *Economic Diversification in Nigeria: The Politics of Building a Post-Oil Economy* (Zed Books, 2022).

⁵⁶ *Ibid*; S. O. Oyedepo, 'Energy and sustainable development in Nigeria: The Way Forward' [2012], 2 (1), *Energy, Sustainability and Society*, 1–17.

⁵⁷ M. J. Hatami, *Oilfield Survival Guide, Volume One: For All Oilfield Situations* (Oilfield Books, 2016); Law Insider, 'Definition of good oil-field practice' <<https://www.lawinsider.com/dictionary/good-oilfield-practice>>; Drilling Lexicon, 'Good Oilfield Practice' <<http://www.iadclexicon.org/good-oilfield-practice/>> both Accessed 21 December, 2022.

⁵⁸ E. Rutledge, 'Oil Rent, the Rentier State/Resource Curse Narrative and the GCC Countries' [2017], 41 (2), *Organization of Petroleum Exporting Countries (OPEC) Energy Review*, 132–152; K. Omeje (ed), *Extractive*

Obviously, the negative consequences of EIOs are more conspicuous in developing countries, where these operations take place in poor, rural and marginalized communities, such as those of the oil-rich Delta region of Nigeria. These negative effects are worse in resource-rich developing countries, like Nigeria, which are still plagued by the resource curse.⁵⁹

Synopsis of the Benefits of Petroleum Extractive Industrial Operations in Nigeria

Definitely, there are certain advantages and/or benefits being derived by resource-rich communities and resource-rich countries (sovereign states) from petroleum and other energy and major natural resources EIOs. This is the case in Nigeria, given that there are such advantages and/or benefits, as those discussed hereunder.

One, there are impact-benefits associated with the EIA regime of petroleum EI projects, which assessment process and practice are yet to be efficient as those of advanced countries, especially in relation to SEA, which is yet to be institutionalized in Nigeria.⁶⁰

Two, there is the Nigerian Oil and Gas Industry Content Development Act (NOGICDA), 2010, which basically promotes the participation of Nigerian indigenous companies and manpower in the Nigerian oil and gas industry by ensuring that priority is given to Nigerian indigenous oil and gas companies and the utilization of Nigerian human and material resources for the provision of goods and services in the industry within acceptable operational quality and Health, Safety and Environment (HSE) standards.⁶¹ Specifically, NOGICDA's Section 26 (captioned 'Personnel for

Economies and Conflicts in the Global South: Multi-Regional Perspectives on Rentier Politics (Ashgate Publishing, 2008); K. Omeje, 'The Rentier State: Oil-related Legislation and Conflict in the Niger Delta, Nigeria' [2007], 6 (2), *Conflict, Security & Development*, 211–230; D. S. Olawuyi, *Extractives Industry Law in Africa* (Springer Nature Switzerland AG, 2018); P. D. Cameron and M. C. Michael, *Oil, Gas, and Mining: A Sourcebook for Understanding the Extractive Industries* (World Bank Group, 2017); A. K. Usman, *Nigerian Oil and Gas Industry Laws* (Malthouse Press, 2017); IGI Global, 'What is Rentier State' <<https://www.igi-global.com/dictionary/rentier-state/44104>> Accessed 21 December, 2022.

⁵⁹ E. T. Bristol-Alagbariya (2021 [n10]), 66–67.

⁶⁰ E. T. Bristol-Alagbariya (n17), especially 288–289; R. Therivel, *Strategic Environmental Assessment in Action* (Earthscan, 2010); M. R. Partidario, *Strategic Environmental Assessment Better Practice Guide - Methodological Guidance for Strategic Thinking in SEA* (Portuguese Environment Agency and Redes Energéticas Nacionais [REN], 2012).

⁶¹ Nigerian Oil and Gas Industry Content Development Act, Act No. 2, 2010,

Local Office’),⁶² Section 27 (captioned ‘Office in Community of Operation’)⁶³ and Section 28 (headed ‘First Consideration for Employment and Training’)⁶⁴ should exceptionally benefit the oil-rich communities of the Niger Delta region and other oil producing areas, as catchment areas of petroleum EIOs in Nigeria.⁶⁵

Three, there are development projects and programmes of the Niger Delta Development Commission (NDDC), premised on the NDDC (Establishment) Act,⁶⁶ as well as the intervention mechanisms of the Federal Ministry of Niger Delta Affairs (MNDA) towards the development of the oil-rich Niger Delta region and other oil producing areas of Nigeria. This Ministry of Nigeria’s federal civil service system was established by the Federal Government (FG), led by President Umaru Musa Yar’Adua, on 10 September, 2008, to cater for the development of the oil-rich Niger Delta region, in the course of petroleum development in the region and the overall context of nation-building in Nigeria.⁶⁷

Four, there is revenue allocation based on the principle of derivation, and on the prevailing 13 per cent allocation of revenue to Nigeria’s oil producing states, by virtue of Section 162 (2) of the 1999 Constitution of the Federal Republic of Nigeria (CFRN) (as amended).⁶⁸ Ironically,

⁶² Section 26, Nigerian Oil and Gas Industry Content Development Act, 2010, captioned ‘Personnel for Local Office’, provides that the operator shall locate, within the project office, personnel with decision-making authority in accordance with a list of personnel to be approved by the Board.

⁶³ Section 27, Nigerian Oil and Gas Industry Content Development Act, 2010, captioned ‘Office in Community of Operation’, provides that subject to Section 25 of this Act, the Board shall have powers to require any operator to maintain an office in a Community where the operator has significant operations.

⁶⁴ Section 28 (1), Nigerian Oil and Gas Industry Content Development Act, 2010, provides that subject to section 10 (1) (b) of this Act, Nigerians shall be given the first consideration for employment and training in any project executed by any operator or project promoter in the Nigerian oil and gas industry; Section 28 (2), Nigerian Oil and Gas Industry Content Development Act, 2010, provides that the Board shall ensure that the operator or project promoter maintains a reasonable number of personnel from areas it has significant operation; Section 28, Nigerian Oil and Gas Industry Content Development Act, 2010 is captioned ‘First Consideration for Employment and Training’,

⁶⁵ E. T. Bristol-Alagbariya (2020 [n10]), 102–104.

⁶⁶ The Niger-Delta Development Commission (Establishment) Act, No. 6, LFN 2000, Cap N86, LFN 2004; The Niger Delta Development Commission (Establishment) Amendment Act (NDDC [Amendment]) Act, 2017.

⁶⁷ E. T. Bristol-Alagbariya (2020 [n10]), 106–107.

⁶⁸ Section 162, 1999 Constitution of the Federal Republic of Nigeria (CFRN) (as amended), captioned ‘Distributable Pool Account’; Allocation of Revenue (Abolition of Dichotomy in the Application of the Principle of Derivation)

during the Nigerian regional era, when the majority ethnic groups produced the resources of Nigeria, such as groundnut from Northern Nigeria and cocoa from Western Nigeria (in other words when these two cash crops were the mainstay of Nigeria's economy), revenue allocation formula was in favour of the resources producing major ethnic groups. At the time, revenue allocation based on the principle of derivation was good and appreciable, in the interest of the resource producing areas of the countries.⁶⁹

By and large, petroleum and other energy and major natural resources EIOs ought to promote socio-economic development and advancement of resource-rich countries. Hence, scholarly studies and real life evidences indicate that some resource-rich countries have so far derived measurable benefits from EIOs by greatly transforming endowments from EIOs into sustainable benefits, such as managing petroleum and other EI projects to produce positive socio-economic and financial benefits to enhance the development and advancement of resource-rich states. Such resource-rich countries have endeavoured to implement the WBG guidelines for mitigating adverse environmental and social impacts of EIOs. Also, the governments of such resource-rich countries have measurably succeeded in managing and utilizing revenues being derived from petroleum and other EI projects wisely, in a transparent, accountable manner, towards their socio-economic development and advancement and overall public good.⁷⁰ So far therefore, some resource-rich countries have been able to derive measurable benefits from petroleum and other EIOs. Such countries have greatly transformed endowments from EIOs into sustainable benefits, such as managing petroleum and other EI projects to produce positive economic and financial results for their socio-economic development and advancement, especially by properly implementing the WBG guidelines for the mitigation of adverse environmental and social impacts, as well as in the form of governments managing and utilizing revenues arising from

Act, 2004; J. I. Elaigwu (ed), *Fiscal Federalism in Nigeria: Facing the Challenges of the Future* (Adonis & Abbey Publishers, 2008).

⁶⁹ Thus, the trend of derivation as basis for revenue-allocation provides as follows: 1953 (Chicks Commission) – 100%; 1960 (Independence Constitution/Alhaji Tafawa Balewa) – 50%; 1970–72 (Gowon) – 45%; 1975 (Murtala/Obasanjo) – 20%; 1982 (Shagari) – 2%; 1984 (Buhari) – 1.5%; 1986–91 (Babangida) – 0%; 1992 (Babangida/Abacha) – 3%, and 1999 – present (Abubakar/Obasanjo/Yaradua) – 13%; E. T. Bristol-Alagbariya (2010 [n8]), 61; A. Ogbuigwe, *Offended: Legal Issues in the Niger Delta Struggle* (1999 [n45]), 19–20.

⁷⁰ The International Bank for Reconstruction and Development (IBRD)/The World Bank (A. Liebenthal, R. Michelitsch and E. Tarazona), *Extractive Industries and Sustainable Development: An Evaluation of World Bank Group Experience* (IBRD/The World Bank, 2005).

such projects in a transparent, accountable manner towards assessable, greatly significant or overall public good in resource-rich countries.⁷¹

Suffice it however to consider international benchmarked standards and practices associated with EIOs, true federalism and good governance (GG), especially good environmental governance (GEG), in the particular context of the plights and predicaments of the neglected, impoverished and environmentally and ecologically endangered oil-rich ethnic minority Niger Delta region and other oil producing areas of Nigeria. On this note, it has been argued over and over again that the foregoing and other advantages and/or benefits accruing from EIOs to these resource-rich communities and areas of the Federal Republic of Nigeria (FRN) are at best merely partial and palliative measures in the realm of strategic, efficient and/or prosperous modern nation-building, which cannot guarantee environmentally-sound, ecologically-centred and socio-economically just and equitable SD in these communities and areas of the federation.⁷²

Evaluation of the Costs and Benefits of Petroleum Extractive Industrial Operations in Nigeria

From the foregoing overview of the costs and benefits of petroleum EIOs, it may be observed that these industrial operations inhibit SD more than they contribute to SD in the communities of

⁷¹ E. S. Reinert, *How Rich Countries Got Rich ... and Why Poor Countries Stay Poor* (Constable & Robinson, 2008).

⁷² Southern Minorities Movement, *Appraisal of the Nigerian Crisis and Solution* (Southern Minority Movement, 1995 [n43]); Southern Minorities Movement, *Roots, the Struggle and the Future* (Southern Minority Movement, 1995 [n43]); Southern Minorities Movement, *What All Southern Minorities Must Know* (Southern Minority Movement, 1995 [n43]); S. Azaiki (n43); R. T. Suberu (2003 [n43]); R. T. Suberu (2001 [n43]); E. T. Bristol-Alagbariya, 'NIGERIA: The Role of Law in Nation-building' [2016], 1 (1), UNIPORT Journal of Public Law, 113–136; A. E. Bastida, *The Law and Governance of Mining and Minerals: A Global Perspective* (Hart Publishing, 2020); M. Chêne, *Natural Resource Management Transparency and Governance: A Literature Review Focusing on Extractive Industries* (U4 Ant-Corruption Resource Centre [Chr. Michelsen Institute [CMI] and Transparency International Chr. Michelsen Institute [CMI], 2017); H. Clark, *The Importance of Governance for Sustainable Development* (The Institute of Southeast Asian Studies [ISEAS] Publishing, 2012); K. Ginther *et al.* (eds), *Sustainable Development and Good Governance* (Martinus Nijhoff Publishers, 1995); S. O. Aghalino, *History and The Niger Delta: Oil, Politics and Culture* (Nigerian Defence Academy Publishers, 2021); Relief Web, 'Nigeria: Niger Delta: Yar'Adua's amnesty deal - Palliative or cure?' <<https://reliefweb.int/report/nigeria/niger-delta-yaraduas-amnesty-deal-palliative-or-cure>> Accessed 21 December, 2022.

the oil-rich Niger Delta region and other Nigeria's oil producing areas⁷³, as well as in the entire Nigerian polity. The need therefore arises for petroleum EIOs to be progressively carried on in compliance with international benchmarked standards and practices governing these operations, so as to make them contribute more to SD in the oil-rich Niger Delta region and other Nigeria's oil producing areas, as well as in the entire country, so as to enhance socio-economic development and advancement, towards environmentally-sound, ecologically-centred and socio-economically just and equitable SD in the country.⁷⁴

Nigeria's Petroleum Industry Act, 2021, on the Development of Host Communities in Relation to International Benchmarked Standards and Practices on Impact-benefits of EIOs in Resource-rich Communities and Resource-rich Countries

Precisely, Chapter Three, Sections 234 – 257, of Nigeria's Petroleum Industry Act, 2021, captioned 'Host Communities Development', provides for the development of the country's petroleum host communities *vis-à-vis* petroleum host communities development (HCD), for purposes of the benefit of these communities. Hence, Sections of Chapter Three of the Petroleum Industry Act, 2021, are captioned in the following manner. Section 234, 'Objectives and Regulations'; Section 235, 'Incorporation of Host Communities' Development Trusts'; Section 236, 'Timeframe for Incorporation of Host Communities Development Trust'; Section 237, 'Transfer of Settlor's Interest and Obligations Subject to Host Communities Development Trust Obligation'; Section 238, 'Failure to Incorporate Host Communities Development Trust';

⁷³ S. Van Der Ryn and P. Calthorpe, *Sustainable Communities* (Sierra Club Books, 1991); S. Van der Ryn and P. Calthorpe, *Sustainable Communities: A New Design Synthesis for Cities, Suburbs and Towns* (New Catalyst Books, 2008); D. J Wellman, *Sustainable Communities* (World Council of Churches, 2001); M. Sato and P. Dunn, *Legacy: The Sustainable Development Goals in Action* (Dean Publishing, 2019); E. T. Bristol-Alagbariya, 'Environmental Assessment Law and Practice in Nigeria towards Achieving the UN Sustainable Development Goals (UN SDGs) in the Country: Cases of SDGs 13 and 17' [2019], 92, *Journal of Law, Policy and Globalization*, 66–77; Goal 11, UN Sustainable Development Goals (SDGs), captioned 'Sustainable Cities and Communities', which is designed to make cities and human settlements inclusive, safe, resilient and sustainable; UN, 'Sustainable Development Goals Knowledge Platform' <<https://sustainabledevelopment.un.org/topics/sustainabledevelopmentgoals>>; The World Bank, 'Sustainable Cities and Communities' <<https://www.worldbank.org/en/topic/sustainable-communities>>; J. C. Bridger and A.E. Luloff, 'Sustainable Community Development: An Interactional Perspective' <<https://aese.psu.edu/nercrd/community/community-a-different-biography/legacy/sustainable-community-development-an-interactional-perspective>> all Accessed 21 December, 2022.

⁷⁴ E. T. Bristol-Alagbariya (2021 [n10]), xxxv, 21, 24, 74, 84, 88–89, 95 and 109; E. T. Bristol-Alagbariya (2020 [n10]), 7, 10, 16, 125 and 129.

Section 239, 'Objectives of Host Communities Development Trust'; and Section 240, 'Sources of Funding for Petroleum Host Communities Development Trust'. Other Sections are Section 241, 'Matters on Which the Funds May be Utilised'; Section 242, 'The Board of Trustees, Composition and Management'; Section 243, 'Duties and Functions of the Board of Trustees'; Section 244, 'Allocation of Funds'; Section 245, 'Matrix for Distribution of Trust Fund'; Section 246, 'Engagement of Fund Managers'; Section 247, 'Management Committee, Composition and Powers'; Section 248, 'Duties and Functions of the Management Committee'; and Section 249, 'Host Communities Advisory Committee and Composition'. The rest of the Sections are Section 250, 'Duties and Functions of the Host Communities Advisory Committee'; Section 251, 'Host Communities Needs Assessment'; Section 252, 'Host Communities Development Plan'; Section 253, 'Financial Year of the Host Communities Development Trust'; Section 254, 'Accounts and Audit'; Section 255, 'Mid-year and Annual Reports'; Section 256, 'Exemption from Income Tax'; and Section 257, 'Deduction of Payment for Petroleum Host Community Development'. Also, Section 316 of the Petroleum Industry Act, 2021, captioned 'Transfer of Existing Host Communities Development Projects and Host Communities Development Schemes', is relevant in the context of transfer of existing host communities development projects and host communities development schemes. This Section of the Petroleum Industry Act provides as follows:

- (1) Every settlor shall transfer any existing host communities' development project or scheme under its corporate social responsibility or memorandum of understanding or any other agreement to a host communities' development trust established under this Act.
- (2) Every applicable settlor shall notify the Commission or Authority, as the case may be, upon completion of any transfer under Sub-Section (1) to any one or more host communities' development trusts of any of its existing host communities development projects or schemes.
- (3) Any financial contribution made by a settlor from the effective date until the date falling 12 months after the effective date to any ongoing host communities development project or scheme in accordance with their terms, shall be deemed to constitute a contribution made by such holder or holder nominee under section 240 (2) of this Act.⁷⁵

⁷⁵ Section 316, Petroleum Industry Act, 2021, captioned 'Transfer of Existing Host Communities Development Projects and Host Communities Development Schemes',

Accordingly, Section 96 of the Petroleum Industry Act, 2021, captioned ‘Grounds for Revocation of Licence or Lease’, which provisions are similar to the provisions of Section 238 of the Act, is relevant to petroleum HCD in Nigeria.

It may be pertinent to state at this juncture that statutory institutionalization of HCD of EIOs in Nigeria may be traced to the Nigerian Minerals and Mining Act, 2007,⁷⁶ which came into being before the Nigerian Petroleum Industry Act was enacted in 2021. Hence, Section 318 of the Petroleum Industry Act, 2021 (the interpretation section of the Act), defines the term ‘host communities’ as ‘communities situated in or appurtenant to the area of operation of a settlor, and any other community as a settlor may determine under Chapter 3 of this Act’.⁷⁷ Section 318 of the Petroleum Industry Act, 2021, also defines a ‘settlor’ as *the holder of an interest in a petroleum prospecting licence or petroleum mining lease, whose area of operations is located in or appurtenant to any community or communities*.⁷⁸ Thus, Section 234, Sub-Section (1) of the Petroleum Industry Act, 2021, outlines the objectives of developing petroleum host communities, for the benefit of these communities, for which the settlers⁷⁹ are responsible, in the following words: to (a) foster sustainable prosperity within host communities; (b) provide direct social and economic benefits from petroleum operations to host communities; (c) enhance peaceful and harmonious co-existence between licensees or lessees and host communities; and (d) create a framework to support the development of host communities. Sub-Section 2 of Section 234 of the Petroleum Industry Act, 2021, further provides that the Nigerian Upstream Petroleum Regulatory Commission and Nigerian Midstream and Downstream Petroleum Regulatory Authority may make regulations with respect to the development of petroleum host communities (host communities’ development [HCD]), in areas within the competence and jurisdiction of the

⁷⁶ Section 116, Nigerian Minerals and Mining Act, 2007, captioned ‘Community Development Agreement’, which is designed to ensure the transfer of social and economic benefits to the host community, so as to enhance sustainability in the community; Section 117, Nigerian Minerals and Mining Act, 2007, captioned ‘Objectives of the Community Development Agreement’.

⁷⁷ Section 318, Petroleum Industry Act, 2021, captioned ‘Interpretation’, also defines ‘area of operation’ as the territory which hosts a lessee’s or licensee’s operational or designated facilities and any other ancillary facilities related to upstream and midstream petroleum operations; Regulation 41, Part VII, Regulation 37, Nigerian Upstream Host Communities Development Regulations, 2022, which Regulation is captioned ‘Interpretation’.

⁷⁸ Section 318, Petroleum Industry Act, 2021, captioned ‘Interpretation’; Regulation 41, Part VII, Regulation 37, Nigerian Upstream Host Communities Development Regulations, 2022, which Regulation is captioned ‘Interpretation’.

⁷⁹ Section 318, Petroleum Industry Act, 2021 (the interpretation section of the Act), defines the term, ‘settlor’.

Commission and Authority, as specified in the Act.⁸⁰ In a nutshell, key issues concerning the development of petroleum host communities may be considered to include (i), incorporation of host communities development trusts (HCDTs) by settlors, in consultation with host communities; (ii), Board of Trustees (BoTs) of the host communities; (iii), management committee of the host communities, (iv), host communities advisory committee, as well as (v) host communities needs assessment; and (vi) host communities development plan. By and large, Chapter Three (3) of the Petroleum Industry Act, 2021, provides a framework for the development of petroleum host communities, by settlors, for the benefit of the communities, in a prescribed manner, such as when the settlor transfers its interest (namely petroleum prospecting licence [PPL] or petroleum mining lease [PML]) along with its corresponding obligations in the realm of HCD.⁸¹ In the process, the representatives of the petroleum host communities are enlisted into (i) BoTs of the communities development trusts HCDTs, (ii) management committees and (iii) advisory committees, which are designed to assess the needs of the communities and to consider their development plans, in order to develop the communities.⁸² Thus, there is a statutory obligation on the part of each settlor embarking on petroleum EIOs, as a PPL or a PML holder, to contribute, through its actual operator, as the case may be, an annual contribution equal to 3 per cent of its actual annual petroleum operating expenditure (of the preceding financial year), which operations affect the host communities for which the development trust funds are established, for the benefit of their communities.⁸³ Such petroleum

⁸⁰ Part III, Section 4, Petroleum Industry Act, 2021, captioned ‘Establishment of the Nigerian Upstream Regulatory Commission’; Part III, Sections 4 – 28, Petroleum Industry Act, 2021, accordingly captioned ‘The Commission’; Part IV, Section 29, Petroleum Industry Act, 2021, captioned ‘Establishment of the Nigerian Midstream and Downstream Petroleum Regulatory Authority’; Part IV, Sections 29 – 52, Petroleum Industry Act, 2021, accordingly captioned ‘The Authority’.

⁸¹ Section 318, Petroleum Industry Act, 2021, captioned ‘Interpretation’; H. T. Terry, ‘Legal Duties and Rights’ [1903], 12 (4), *The Yale Law Journal*, 185–212; D. Lyons, ‘The Correlativity of Rights and Duties’ [1970], 4 (1), *Noûs*, 45–55; N. Schrijver, *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge University Press, 1997); E. T. Bristol-Alagbariya (2020 [n10]).

⁸² Section 251, Petroleum Industry Act, 2021, captioned ‘Host Communities Needs Assessment’; Section 252, Petroleum Industry Act, 2021, headed ‘Host Communities Development Plan’.

⁸³ Section 240 (2), Petroleum Industry Act, 2021, which provides that *each settlor, where applicable through the operator, shall make an annual contribution to the applicable host communities development trust fund of an amount equal to 3% of its actual annual operating expenditure of the preceding financial year in the upstream petroleum operations affecting the host communities for which the applicable host communities development trust fund was established*; Section 240 of the Petroleum Industry Act, 2021, is captioned ‘Sources of funding for petroleum host communities development trust.’

operations include deep offshore, upstream and shallow water operations, as well as those covering other littoral and the communities determined by each settlor.⁸⁴ As specified in the Petroleum Industry Act, 2021, other sources of funding for petroleum HCDTs are donations, gifts, grants or honoraria that are provided to such HCDTs, towards the attainment of their objectives, as well as the profits and interest accruing to the reserve fund of each HCDT.⁸⁵

As the case may be, the Nigerian Upstream Petroleum Regulatory Commission or Nigerian Midstream and Downstream Petroleum Regulatory Authority may exercise statutory responsibility and obligation to make regulations for the smooth administration, as well as to guide and safeguard the utilization of the petroleum HCD trust fund, beside exercising oversight responsibility for ensuring that the projects proposed by the BoTs of various petroleum HCDTs are implemented in accordance with the provisions of the Petroleum Industry Act, 2021.⁸⁶ Thus, as part of its statutory functions, as a fall-out regulatory agency from the erstwhile Department of Petroleum Resources, the Nigerian Upstream Petroleum Regulatory Commission provides regulations, as well as regulatory guidelines and standards for operations across the entire oil and gas value chain. For instance, concerning HCD, the Nigerian Upstream Petroleum Regulatory Commission has introduced such regulations and regulatory guidelines and standards as the Nigerian Upstream Petroleum Host Communities Development Regulations, 2022; Host Communities Development Trust Implementation Template, 2022, and Template of the Constitution of Host Community Development Trust, under the Companies and Allied Matters Act, 2020.⁸⁷ In effect, the Nigerian Upstream Petroleum Regulatory Commission administers,

⁸⁴ Sub-Sections 2 and 3, Section 235, Petroleum Industry Act, 2021, which section is captioned ‘Incorporation of Host Communities’ Development Trusts’; Sub-Section 2, Section 240 Petroleum Industry Act, 2021, captioned ‘sources of funding for petroleum host communities development trust’.

⁸⁵ Sub-Sections 3 and 4, Section 240 Petroleum Industry Act, 2021, which section is captioned ‘Sources of funding for petroleum host communities development trust’.

⁸⁶ Sub-Sections 6 (a) and (b), Section 235, Petroleum Industry Act, 2021, which section is captioned ‘Incorporation of Host Communities’ Development Trusts’.

⁸⁷ Area of the homepage of the Nigerian Upstream Petroleum Regulatory Commission, captioned ‘About Us’, with the sub-caption ‘Functions of NUPRC: What We Do’ <<https://www.nuprc.gov.ng/functions-of-nuprc/>>; area of the homepage of the Nigerian Upstream Petroleum Regulatory Commission, captioned ‘Guidelines’ <<https://www.nuprc.gov.ng/nuprc-guidelines/>>; area of the homepage of the Nigerian Upstream Petroleum Regulatory Commission, headed ‘Regulations’, with the sub-heading ‘Regulations Development PIA 2021’, <<https://www.nuprc.gov.ng/regulations-development-pia-2021/>> all Accessed 21 December, 2022; *c/f* Securities and Exchange Commission (SEC), *Code of Corporate Governance for Public Companies in Nigeria* (SEC, 2011); Section 28, *Code of Corporate Governance for Public Companies in Nigeria*, 2011, captioned ‘Sustainability Issues’,

manages and/or superintends over petroleum HCD, in a way that deepens local content in practice, so as to give host communities a statutory guaranteed Impact-benefit oriented sense of belonging, as major stakeholders of the Nigerian petroleum industry.⁸⁸

From the foregoing, it may be indicated that the Petroleum Industry Act, 2021, makes it compulsory and thus obligatory on a petroleum licence or petroleum lease holder to accomplish its host communities obligations stipulated in the Act.⁸⁹ The Act makes it a statutory obligation for settlers, to make specified financial contribution towards the development of their host communities, by giving host communities a statutory guaranteed impact-benefit oriented sense of belonging, as major stakeholders of the Nigerian petroleum industry. This reinforces the impact-benefit framework of EIA, Environmental Assessment or Impact Assessment process and practice, towards deepening local content in practice, in the course of petroleum EIOs in Nigeria, other related objectives of the Petroleum Industry Act, 2021,⁹⁰ and the particular objectives of the HCD trust enshrined in the Act.⁹¹ In effect, the development of petroleum host communities by a petroleum EI company, which is a holder of PPL or PML, is now obligatory in Nigeria, as petroleum HCD is no longer a matter of discretion or mere unregulated and non-binding social responsibility of petroleum EI companies in Nigeria.⁹²

particularly Section 28 (1) of this Code; Section 36, Code of Corporate Governance for Public Companies in Nigeria, 2011, captioned ‘Code of Ethics’.

⁸⁸ Section 2, Petroleum Industry Act, 2021, captioned ‘Objectives’, especially Sub-Sections 2 (b), 2 (c) and 2 (e) of the Act.

⁸⁹ Section 96, Petroleum Industry Act, 2021, captioned ‘Grounds for Revocation of Licence or Lease’, which grounds include Sub-Section 96 (1) (n), namely failure to comply with the host communities obligations under this Act’; Section 238, Petroleum Industry Act, 2021, captioned ‘Failure to Incorporate Host Communities Development Trust’, which may be or constitute a ground for revocation of the licence or lease of a settlor embarking on petroleum EI operations.

⁹⁰ Sub-Sections 2 (c) and 2 (e), Petroleum Industry Act, 2021, captioned ‘Objectives’ of the Act, provides that the objectives of this Chapter are to; Sub-Section 2 (b) promote transparency, good governance and accountability in the administration of the petroleum resources of Nigeria; Sub-Section 2 (d) provides for fostering of a business environment conducive for petroleum operations; accordingly Sub-Section 2 (e) provides for deepening local content practice in Nigeria oil and gas industry; the Nigerian Oil and Gas Industry Content Development Act, 2010, Act No. 2, 2010.

⁹¹ Sections 239, Petroleum Industry Act, 2021, captioned ‘Objectives of Host Communities Development Trust.’

⁹² Section 96, Petroleum Industry Act, 2021, captioned ‘Grounds for Revocation of Licence or Lease’, which grounds include Sub-Section 96 (1) (n), namely failure to comply with the host communities obligations under this Act’; Section 238, Petroleum Industry Act, 2021, captioned ‘Failure to Incorporate Host Communities Development Trust’.

Section 257 of the Petroleum Industry Act, 2021, captioned ‘Deduction of Payment for Petroleum Host Communities Development’, however imposes the cost of repair of damage to petroleum and designated facilities or disruption of production activities within each host community, such as by way of vandalism, sabotage or other civil unrest, on an affected host community or communities, within each financial year. Thus, as consideration for settlers developing their host communities, the communities are under obligation to police petroleum facilities of the FG and its partners (the country’s petroleum EI operating companies) carrying out their operations in the communities, in a way that attracts penalty in the event of failure to do so, which occasions damage to petroleum and designated facilities or disruption of production activities within the communities. In effect, under the regime of the Petroleum Industry Act, 2021, regime of petroleum HCD features as two sides of a coin. This is because the communities whose members are considered to have damaged petroleum facilities or disrupted production activities in their domain are to be deprived of their quantum of community development fund and as well, affected members of such communities are to be subjected to relevant criminal charges, such as those stipulated for sabotage or vandalization of petroleum production activities.⁹³ For instance, Sub-regulation 1 of Part VII, Regulation 37, Nigerian Upstream Host Communities Development Regulations, 2022, which section is captioned ‘Vandalism’, provides as follows:

Where an act of vandalism, sabotage or civil unrest is suspected to have occurred, that causes damage to the facilities used in upstream petroleum operations of the settlor within the host communities or disrupt production activities, the settlor shall notify the Commission within 24 hours of the disruptive act.

Furthermore, sub-regulations 6 and 7 of Part VII, Regulation 37, Nigerian Upstream Host

Communities Development Regulations, 2022, provide as follows:

⁹³ Part VII, Regulation 37, Nigerian Upstream Host Communities Development Regulations, 2022, which Regulation is captioned ‘Vandalism’; Petroleum Production and Distribution (Anti-Sabotage) Act, No. 35 of 1975, Cap 353, LFN 1990, Cap P12, LFN 2004, establishes an offence of sabotage for aiding, inciting, counseling or procuring any obstruction or prevention of production or distribution of petroleum products in any part of Nigeria, and thus any person who commits such an offence shall be liable to on conviction to be sentenced either to death or imprisonment for a term not exceeding twenty-one years; *c/f* Part VII, Regulation 39, Nigerian Upstream Host Communities Development Regulations, 2022, which Regulation is captioned ‘Grievance Mechanism and Conflict Resolution Procedure’.

(6) The Commission shall on the basis of the report of the joint investigation team, determine whether the disruptive act was due to technical or mechanical cause or third-party interference and establish the costs and tax recovery under regulation 37 (3) of these Regulations and any adjustment required in the cash-flow pursuant to regulation 37 (3) (g) of these Regulations.

(7) The decision of the Commission shall be binding on the settlor and the host communities.

Consequently, it may be emphasized that the provisions of the Petroleum Industry Act, 2021, on petroleum HCD amounts to two sides of a coin in the realm of petroleum EI operations in Nigeria, namely (i) the side of the coin for developing petroleum host communities (petroleum HCD), and (ii) the other side of the coin that imposes a cost, burden or consequence on petroleum communities, by engaging these communities to police petroleum facilities, such as oil and gas installations, in their respective domains, which may deprive them *vis-à-vis* criminalize and punish any of their citizen or citizen-groups, in the event of damage of such facilities or disruption of petroleum production activities, due to vandalism, sabotage or civil unrest in the communities. This scenario or situation of two sides of a coin evidences (i) an impact-benefit framework, as well as (ii) the costs, burdens or negative consequences of petroleum EIOs in Nigeria, being experienced in the oil-rich Niger Delta region and other target petroleum host communities of the country. Besides, petroleum HCD fund provided under Section 240 (2) of the Petroleum Industry Act, 2021, is meager because it stipulates for merely 3 per cent of each settlor's actual annual operating expenditure of the preceding financial year in the upstream petroleum operations affecting petroleum host communities of Nigeria.⁹⁴ Hence, considering the regime of Nigeria's Petroleum Industry Act, 2021, regarding petroleum HCD, against the background of international benchmarked standards and practices on impact-benefits associated with petroleum and other EIOs, particularly good international petroleum industry standards and practices, the said regime petroleum HCD may be described as insufficient, or at best a partial or palliative measure.⁹⁵

⁹⁴ Sub-Section 240 (2), Petroleum Industry Act, 2021; Section 240, Petroleum Industry Act, 2021, is captioned 'Sources of funding for petroleum host communities development trust.'

⁹⁵ Section 318 of the Petroleum Industry Act, 2021 (the interpretation section of the Act), defines 'good international petroleum industry practices' as those uses and practices that are, at the time in question, generally accepted in the international petroleum industry as being good, safe, economical, environmentally sound and efficient in petroleum operations and should reflect standards of service and technology that are either state-of-the-art or otherwise appropriate to the operations in question and should be applied using standards in all matters that are no less

By and large, international benchmarked standards and practices on development are that development is a domestic affair, which is the responsibility of government, in the realm of the right to development. As such, development of petroleum host communities (petroleum HCD) by business organizations, namely the private sector (in which albeit the FG owns shares), is complementary to the traditional or principal role of government, namely GSR embedded in GG.⁹⁶ Essentially, CSR is not an alternative to GSR, which is embedded in GG.⁹⁷ Lack of infrastructural and other aspects or forms of developing the oil producing areas of Nigeria generated and/or necessitated the statutory obligatory provisions for petroleum HCD, by the country's petroleum EI companies. Such provisions of law and regulatory practices should not make government, at all levels of governance, in Nigeria to abandon their primary role, responsibility and/or obligation under the social contract of governance to provide development amenities and/or facilities for communities and citizens of the country.⁹⁸

rigorous than those in use by petroleum companies in global operations; E. T. Bristol-Alagbariya and U. Etemire (n5), E. T. Bristol-Alagbariya (n73), 66–77; Goal 3, UN SDGs, captioned ‘Good Health and Wellbeing’, which is designed to ensure healthy lives and promote wellbeing for all at all ages; Goal 13, UN SDGs, captioned ‘Sustainable Cities and Communities’, which is designed to make cities and human settlements inclusive, safe, resilient and sustainable; Goal 17, UN SDGs, captioned ‘Partnerships for the Goals’, which is designed to strengthen the means of implementing partnerships for SD; Article 22 (2), African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, No.3 1983, Cap A9, LFN 2004, which provides that ‘States shall have the duty, individually or collectively to ensure the exercise of the right to development’; Article 25 (1), Universal Declaration of Human Rights, 1948.

⁹⁶ Y. V. Kiran Kumar, *Right to Development: Legal Dimensions of the Right to Development* (LAP LAMBERT Academic Publishing, 2015); Centre for Development and Human Rights, *The Right to Development: A Primer* (SAGE Publications Pvt., 2004); S. R. Chowdhury *et al.* (eds), *The Right to Development in International Law* (Martinus Nijhoff Publishers, Springer, 1992); E. T. Bristol-Alagbariya (2020 [n10]).

⁹⁷ E. T. Bristol-Alagbariya (2010 [n8]), 16–17, 325 and 330–331.

⁹⁸ J. Rousseau, *The Social Contract or Principles of Political Right* (Aziloth Books, 2011); M. Lessonoff (ed), *Social Contract Theory* (Basil Blackwell, 1990); McCombs School of Business, ‘Social Contract Theory’ <<https://ethicsunwrapped.utexas.edu/glossary/social-contract-theory/>>; G. A. Oguntade, ‘The Social Contract: Which Way Nigeria?’ <<https://thenationonlineng.net/social-contract-way-nigeria/>>; The Editors of Encyclopædia Britannica, Inc., ‘Social Contract: political philosophy’ <<https://www.britannica.com/topic/social-contract>> all Accessed 21 December, 2022; K. Nweke and J. O. Nkwede, ‘The Nigerian State and Hobbes’ Social Contract Theory: An Albatross around the Collective Will of the People’ [2019], 152 (3), *European Journal of Scientific Research*, 304–321; E. T. Bristol-Alagbariya (n17), 44–45, 55, 59–60, 64–65, 111–112, 155, 249–250, 258, 289 and 292; Preamble and Section 14 (2) (b), 1999 CFRN (as amended), which provides that the security and welfare of the people are the primary purposes of government; Section 14 of the Constitution is captioned ‘The Government and the People’.

From the foregoing, considering the regime of petroleum HCD in the framework of Nigeria's Petroleum Industry Act, 2021, against the background of international benchmarked standards and practices on impact-benefits associated with petroleum and other EIOs as well as the provision of development amenities and/or facilities on the threshold of the social contract of governance, it may be asserted that the said regime is insufficient, or at best partial or palliative measure.⁹⁹ This is more so, as other categories of petroleum EI companies, such as marginal field operators, which have designated petroleum facilities¹⁰⁰ may be interpreted as distinct from being 'settlers' provided in the definition or interpretation section of the Petroleum Industry Act, 2021. These other EI operators include Nigeria LNG Limited (NLNG),¹⁰¹ whose operational ambits or frameworks include huge forcefully (involuntarily) acquired and economically displaced areas as its (i) gigantic plant area complex and (ii) residential area complex (in Finima, along Bonny Island, (iii) High Fish-catch Exclusion Zone covering an estimated area of 1.681km² (168.1 hectares) along the Bonny estuarine front of the NLNG plant area complex,¹⁰² as well as (iv) NLNG's about 110 gas transmission system (pipeline) right of way communities within Rivers State,¹⁰³ which are not altogether captured by the limited definition or

⁹⁹ S. O. Aghalino (n72); V. Ojakorotu, *Anatomy of the Niger Delta Crisis: Causes, Consequences and Opportunities for Peace* (LIT Verlag, 2010); Relief Web, 'Nigeria: Niger Delta: Yar'Adua's amnesty deal - Palliative or cure?' (n72).

¹⁰⁰ Section 318 (the interpretation Section) of the Petroleum Industry Act, 2021, defines 'designated facilities' as crude oil and natural gas transportation pipelines, bulk storage tank farms, refineries, and gas processing plants in midstream petroleum operations and petrochemical plants.

¹⁰¹ Homepage of Nigeria LNG Limited (NLNG) <<https://www.nigeriaing.com/Pages/index.aspx>>; homepage of Indorama Eleme Petrochemicals Limited/ Indorama Corporation (operating Eleme Petrochemicals) <<https://www.indoramaeleme.com/>>; Encyclopædia Britannica, Inc., 'Petrochemicals' <<https://www.britannica.com/technology/petroleum-refining/Petrochemicals>>; Encyclopædia Britannica, Inc., 'petrochemicals: chemical compound' <<https://www.britannica.com/science/petrochemical>> all Accessed 22 December, 2022.

¹⁰² E. T. Bristol-Alagbariya, 'Compulsory Relocation of Finima Community for the Nigeria LNG Project and the International Regime on Involuntary Resettlement' (2017), 2, *UNIPORT Journal of Public Law*, 375–411; Ensusdev Resource Limited, 'Environmental Impact Assessment for the Nigeria LNG Train 7 Volume 2: Appendices Part D, Appendix 11 Fish Catch Study of the Bonny River Estuary' [2015], NLNG; Ensusdev Resources Limited report captioned 'Fish Catch Study of the Bonny River Estuary' [2015], NLNG Contract No.b110213HSEQ; BGI Energy Services Limited, 'Environmental Impact Assessment for the Nigeria LNG Train 7 Project Volume 1: Impact Assessment (Environmental, Social and Health Assessment)' [2018], NLNG; Bight of Bonny Act, No. 4 of 1975, Cap B7, LFN 2004.

¹⁰³ Homepage of NLNG captioned 'Latest News', with the sub-caption 'Our Host' <<https://www.nigeriaing.com/csr/Pages/OurHost.aspx>> Accessed 23 December, 2022.

interpretation of ‘settlor’ provided in the Petroleum Industry Act, 2021. Hence, based on the objectives of the Petroleum Industry Act, 2021, and the objectives of petroleum HCD trust relating to impact-benefit¹⁰⁴ enshrined in the Act, these other identified categories of petroleum EI companies should also embark on HCD in a statutorily institutionalized and obligatory manner, so as to deepen local content practice in the Nigerian oil and gas industry and thereby actualize the same in the realm of environmental human rights,¹⁰⁵ towards environmentally-sound, socio-economically just, equitable and prosperous sustainable community development.¹⁰⁶ To do so would be better, rather than allowing the identified other categories of petroleum EI companies to continue with their prevailing non-statutory and thus flexible and non-binding HCD social responsibility measures¹⁰⁷ in Nigeria’s oil producing areas.

¹⁰⁴ Environmental Impact Assessment Act, Cap 86, LFN 1992 (now Cap E12, LFN 2004); UNEP (n32); E. T. Bristol-Alagbariya (n18), 15–49; Section 2, Petroleum Industry Act, 2021, captioned ‘Objectives’, especially Sub-Sections 2 (b), 2 (c) and 2 (e) of the Act; Sections 239, Petroleum Industry Act, 2021, captioned ‘‘Objectives of Host Communities Development Trust’; E. T. Bristol-Alagbariya and U. Etemire (n5); C. Knotsch and J. Warda, *Impact Benefit Agreements: A Tool for Healthy Inuit Communities?* (National Aboriginal Health Organization, 2009); Mineral Resources Authority, ‘Impact Benefit Agreement (IBA)’ <<https://govmin.gl/exploitation/get-an-exploitation-licence/impact-benefit-agreement-iba/>>; Government of Canada, Whitehorse Mining Initiative <<https://www.nrcan.gc.ca/science-data/science-research/earth-sciences/earth-sciences-resources/earth-sciences-federal-programs/whitehorse-mining-initiative/8698>>; homepage of the IAIA<<https://www.iaia.org>> all Accessed 23 December, 2022.

¹⁰⁵ A. E. Boyle and M. R. Anderson (eds) (n12); S. Atapattu and A. Schapper (n12); D. K. Anton and D. L. Shelton (n12); J. H. Knox and R. Pejan (eds) (n12); D. Augenstein (n12); UNEP (n12); *Centre for Oil Pollution Watch v N. N. P. C.* [2019], 5 NWLR, 519–601; *Gbemre (Jonah Gbemre) v The Shell Petroleum Development Company Nigeria Ltd. & 2 Ors* [2005] FHC/B/CS/53/05; K. S. A. Ebeku (n37).

¹⁰⁶ Goal 3, UN Sustainable Development Goals (UN SDGs), captioned ‘Good Health and Wellbeing’; Goal 11, UN SDGs, captioned ‘Sustainable Cities and Communities’; Goal 17, UN SDGs, captioned ‘Partnerships for the Goals’, which is designed to strengthen the means of implementation and revitalize the global partnership for SD; Section 67, Petroleum Industry Act, 2021, captioned ‘Management of Petroleum Resources’, which provides that *the administration and management of petroleum resources and their derivatives shall be conducted in accordance with this Act and the principles of good governance, transparency and sustainable development of Nigeria*; E. T. Bristol-Alagbariya (2010 [n8]), E. T. Bristol-Alagbariya (n17).

¹⁰⁷ R. B. Gibson (ed), *Voluntary Initiatives: The New Politics of Corporate Greening* (Broadview Press, 1999); P. deLeon and J. E. Rivera (eds), *Voluntary Environmental Programs: A Policy Perspective* (Lexington Books, 2010); c/f E. T. Bristol-Alagbariya, ‘The UN Global Compact as a Soft Law Business Regulatory Mechanism Advancing Corporate Responsibility towards Business Sustainability and Sustainable Development Worldwide’ [2020], 94, *Journal of Law, Policy and Globalization*, 27–39.

CONCLUSION: FINDINGS, CONCLUDING REMARKS AND RECOMMENDATIONS

So far, this study has examined the subject-matter of costs and benefits of energy and major natural resources EIOs on communities in the context of petroleum HCD in the framework of Nigeria's Petroleum Industry Act, 2021. The subject-matter has been discussed from the background of international benchmarked standards and practices on how to equitably share the costs and benefits of energy and major natural resources EIOs in the interest of resource-rich but impoverished, marginalized and neglected communities, which mostly bear the negative consequences of EIOs in resource-rich developing countries, such as Nigeria, which are plagued by the resource curse.

It is on this note that the study explores the costs and benefits of petroleum EIOs in the endangered oil-rich ethnic minority Niger Delta region and other oil producing areas of Nigeria within the rubrics of the recently introduced and statutorily institutionalized impact-benefit regime of petroleum HCD within the rubric of Nigeria's Petroleum Industry Act, 2021. So, the impact-benefit regime of petroleum HCD enshrined in the Petroleum Industry Act, 2021, reinforces the impact-benefit framework of the EIA, Environmental Assessment or overall Impact Assessment process and practice in Nigeria, in order to deepen local content associated with petroleum EIOs, towards socio-economically just and equitable sustainable development and prosperity in the country's petroleum host communities.

Essentially, landmark studies on energy and major natural resources EIOs, such as petroleum and other mining and mineral resources EIOs, particularly the Mining, Minerals and Sustainable Development project, the World Bank Group Extractive Industries Review, and other follow-up scholarly initiatives of leading civil society groups, such as those of the International Association for Impact Assessment and International Association of Public Participation, as well as practical evidences around the globe, continue to demonstrate that these industrial operations inhibit SD. The deplorable negative consequences of EIOs are glaring in resource-rich developing countries and resource-rich communities of these countries, as those of the endangered oil-rich ethnic minority Niger Delta region, which bear most of the burdens, costs or negative impacts of petroleum EIOs in Nigeria. Conversely, the findings of such foremost scholarly works and their follow-up measures, as well as practical evidences regarding energy and major natural resources EIOs around the globe, are revealing that these operations may contribute to SD. In other words,

EIOs may contribute to SD when they are implemented well, in conformity with international benchmarked standards and practices. Accordingly, petroleum EIOs may contribute to SD when they are implemented well, in conformity with good international petroleum industry standards and practices. Hence, EIOs are advantageous in the nooks and crannies of the world, when they are executed in a way that occasions socio-economic advancement in host countries, including resource-rich areas of such countries. In the circumstances, EIOs may be considered to have been implemented in ways that preserve the rights of members of the public, those that are adversely affected directly by extractive industrial projects, such as those of resource-rich communities, and when the benefits derived from these projects are directed towards overall public good in host countries. In that case, EIOs may contribute to SD in developing countries by protecting environmental human rights, through promotion of good environmental governance (GEG), poverty alleviation and generic good governance (GG), in these countries. EIOs may also contribute to SD in developing countries, through GEG, towards overall GG and generic public good in these countries. EIOs, including petroleum EIOs, may thus be more meaningfully managed and/or directed to contribute to overall public good in the nooks and crannies of the world, where extractive industrial projects are taking place. It is on this note that this study has attempted to explore the costs and benefits of petroleum EIOs on the resource-rich and other direct negatively impacted host communities of Nigeria, in the framework of the country's Petroleum Industry Act, 2021, concerning HCD, in order to arrive at appropriate findings, conclusions and recommendations.

It is therefore pertinent to reiterate that development is a domestic responsibility, premised on GSR, which is embedded in GG. So, community development, which is organized and actualized by business, namely the private sector, as shareholders with the FG of Nigeria (FGN), is not an alternative to sustainable community development. Sustainable and efficient community development should therefore be embarked upon as a measure of GSR, embedded in GG, based on the social contract of governance between government and the governed. In Nigeria, the social contract of governance between government and the governed is duly enshrined in Preamble and Section 14 (2) (b) of the 1999 CFRN (as amended), which provides that the security and welfare of the people are the primary purposes of government. Accordingly, the right to development is enshrined in Article 22 (2) of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, No.3 1983, Cap A9, Laws of the Federation of Nigeria (LFN) 2004, provides that 'States shall have the duty, individually or collectively to ensure the exercise of the right to development'.

It is noteworthy that international benchmarked standards and practices on impact-benefit arrangements associated with petroleum and other EIOs, discussed in this study, are those capable of contributing to socio-economically just and equitable SD, in the form of promoting and/or enhancing sustainable human wellbeing, as well as sustainable communities and cities, and partnerships towards SD, in conformity with Goals 3, 13 and 17 of the UN SDGs. It is therefore the finding of this study that the provisions of the Petroleum Industry Act, 2021, on petroleum HCD amounts to two sides of a coin in the realm of petroleum EIOs in Nigeria, namely (i) one side of the coin for developing petroleum host communities (HCD), and (ii) the other side that imposes a cost, burden or consequence on petroleum communities, by engaging these communities to police petroleum facilities, such as oil and gas installations, in their respective domains, which may deprive them *vis-à-vis* criminalize and punish any of their citizen or citizen-groups, in the event of damage of such facilities or disruption of petroleum production activities, due to vandalism, sabotage or civil unrest in the communities. This scenario of two sides of a coin evidences (i) an impact-benefit framework, as well as (ii) the costs, burdens or negative consequences of petroleum EIOs in Nigeria, being experienced in the oil-rich Niger Delta region and other target petroleum host communities of the country. It is therefore another finding of this study that the right to development of petroleum host communities (HCD) enshrined in *vis-à-vis* guaranteed by Nigeria's Petroleum Industry Act, 2021, is at best a partial or palliative measure, and as such, insufficient to achieve just, equitable and sustainable development in these communities. This is more so, as other categories of petroleum (oil and gas) EI companies, such as marginal field operators and others having designated petroleum facilities, which may be exemplified by NLNG, whose operational frameworks are not captured by the limited definition or interpretation of the term 'settlor' provided in the Petroleum Industry Act, 2021, so as to strengthen the objectives of the Act and the objectives of petroleum HCD trust associated with impact-benefits and deepening of local content in favour of petroleum host communities and areas of operation, as enshrined in the Act.

From the foregoing, we assert that the objectives of the Petroleum Industry Act, 2021, in relation to those of Chapter 3 of the Act on HCD may precisely be summarized as to statutorily institutionalize petroleum HCD in the Nigerian petroleum EI sector, in order to make petroleum EI companies operating in the country to deepen local content, so as to ensure socio-economically just and equitable sustainable development and prosperity in their host communities, by developing these communities in an obligatory manner. Hence, we recommend

that relevant provisions of Chapter 3 and Section 318 of the Petroleum Industry Act, 2021, be amended, in order to broaden or fully capture the interpretation of the term ‘settlor’, for purposes of petroleum HCD, so as to include the following: any petroleum company, having oil and/or gas concession, namely petroleum prospecting licence (PPL), petroleum mining lease (PML), as well as any oil and/or gas company having designated petroleum facilities, such as marginal field, oil and pipeline, delivery line, right of way, exclusion zone and any other compulsorily acquired area. Compulsorily acquired petroleum operation areas may include areas acquired by force or involuntary resettlement and/or economic displacement of a petroleum host community, involving involuntary acquisition of a plant site area, residential area, etcetera, for petroleum EIO. Doing so would strengthen the objectives of the Petroleum Industry Act, 2021, pertaining to deepening local content in relation to impact-benefit(s) accruable to host communities, as well as the objectives of petroleum HCD trust, which include to give host communities a statutory guaranteed impact-benefit oriented sense of belonging, as major stakeholders of the Nigerian petroleum industry, which objectives are duly enshrined in the Act. Thus, the net result hereof is to deepen local content in the process of HCD, in the realm of environmental and socio-economic stewardship of oil and gas companies, towards socio-economically just, equitable and prosperous sustainable community development in the oil producing areas of Nigeria. To achieve or actualize this recommendation, towards classic socio-economically just and equitable SD-oriented petroleum HCD in Nigeria, should make it impossible for other identified categories of petroleum EI companies, such as NLNG, to continue with their ongoing non-statutorily, flexible, mere philanthropic, voluntary, self-regulatory and thus non-obligatory and non-binding HCD social responsibility measures in the country. These are petroleum EI companies like NLNG, which have designated and other associated petroleum facilities in the oil producing areas, such as pipelines, other forcefully acquired and economically displaced industry areas like plant area and residential area complexes and livelihood exclusion zones. Hence, Nigeria’s petroleum industry regulatory agencies, namely the Nigerian Upstream Petroleum Regulatory Commission and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, should ensure that non-statutorily prescribed and thus non-obligatory and non-binding HCD social responsibility measures of Nigeria’s oil and gas companies, such as discretionary HCD plans, policies, programmes and projects, no longer exist or prevail in the oil producing areas of the country. Rather, what should exist or prevail is a regime of statutorily obligatory and thus legally binding classic socio-economically just and equitable SD-oriented petroleum HCD regime, involving SD-centred HCD plans, policies, programmes and projects of oil and gas companies operating in the endangered oil-rich ethnic minority Niger Delta region and other oil producing

areas of Nigeria. Hence, by virtue of Section 316 of the Petroleum Industry Act, 2021, captioned ‘Transfer of Existing Host Communities Development Projects and Host Communities Development Schemes’, there should be efficient transfer of existing host communities development projects and host communities development schemes to newly HCDTs in the endangered oil-rich ethnic minority Niger Delta region and other oil producing areas of the country.

Furthermore, we conclude and recommend that in order to improve on relevant provisions of the Petroleum Industry Act, 2021, governments directly responsible for the states and local government areas of the endangered oil-rich ethnic minority Niger Delta region and other oil producing areas of Nigeria as well as the FG should robustly furnish government responsibilities and/or obligations under the social contract of governance. Governments in Nigeria, particularly relevant tiers, agencies and parastatals of governments in the country, should thus fundamentally exhibit GSR, which is embedded in GG, to effectively develop the country’s petroleum host communities, so as to achieve environmentally-sound, ecologically-centred and socio-economically just and equitable SD in these communities. May we finally conclude by recommending that the entire traditional arms and tiers of government in Nigeria should radically exhibit GSR, inherent in GG, towards actualizing environmentally-sound, socio-economically just, equitable and prosperous sustainable community development, as well as all-embracing SD and all-round prosperity in the country.