RETHINKING THE EFFECTIVENESS OF STATUTORY RESOURCE ALLOCATION TO DRIVE SUSTAINABLE DEVELOPMENT IN NIGERIA

Ekundayo O Babatunde* and Babajide Oyemakinde**

Abstract
This study evaluates the effectiveness of the Host Community Development Trust (HCDT) created under Chapter 3 of the Petroleum Industry Act, 2021 as a tool for sustainable growth in Nigeria's oil-producing areas. In the past, the Niger Delta suffered from great mismanagement of natural resources. It heavily relied on international oil companies who did this voluntarily and through Global Memorandum of Understanding (GMoU). However, this method was faulty hence leading to issues which led to the establishment of the HCDT. The PIA represents a noteworthy legislative change by requiring oil companies ("settlors") to contribute 3% of their actual operating expenditures (OpEx) annually into legally established trusts. This study conducts a doctrinal analysis of the structural improvements in this new regulatory framework, focusing on the 75/20/5 financial partitioning model, and evaluates the ongoing obstacles obstructing its implementation. Results indicate that although the HCDT framework offers a unique legal basis for community development, its effectiveness is presently hindered by internal governance issues like elite capture, boundary disputes between communities, and the contentious liability clauses in Section 257(2). The study further looks at how recent onshore asset sales by international Oil companies affect the status of the HCDT and its implications on the Host Communities. The study finds that for the HCDT to succeed, it requires more than legal framework. It requires strict regulatory enforcement, independent financial reviews and involvement of the community.
Keywords: Host Communities Development Trust, Nigerian Midstream and Downstream Petroleum Regulatory Authority, Nigerian Upstream Petroleum Regulatory Commission, Petroleum Industry Act 2021.

1. Introduction

Oil was first discovered in commercial quantities in 1956 at Oloibiri village in the Niger Delta. This action was done by Shell British Petroleum Company, who at that time was the only foreign company given concessionary rights to explore and prospect for oil in all of Nigeria's region.[1] The discovery of oil in Nigeria led to an opened gate of improved economy for the country, such as in the generation of revenue from the production of oil barrels reaching up to 2.5 million by year 2004, membership into the Organization of Petroleum Exporting Countries in 1971[2] and establishment of the Nigerian National Petroleum Company in 1977 to manage the state's commercial interests, alongside the Department of Petroleum Resources (DPR) which has since then till now regulates the oil and gas industry[3]. A prominent benefit of oil discovery in Nigeria is

*Ph.D. Reader, Department of Public and International Law, Faculty of Law, Kola Daisi University, Ibadan, Nigeria. oluekundayo@yahoo.com
**Ph.D. ACIS ACIArb. Ag Head Department of Public and International Law, Faculty of Law, Kola Daisi University, Ibadan. babajide.oyemakinde@koladaisiuniversity.edu.ng
[1] Shell Nigeria, The History of Shell in Nigeria (Shell Nigeria) <https://shell.com.ng/about-us/shell-nigeria-history.html> accessed 20 June 2026
[2] Organisation of Petroleum Exporting Countries (OPEC), 'Nigeria Facts and Figures' https://www.opec.org/opec_web/en/about_us/167.htm accessed 20 June 2026
[3] Nigerian National Petroleum Company Limited (NNPC Ltd), 'History of the Nigerian Oil and Gas Industry' https://www.nnpcgroup.com accessed 19 May 2026

the immigration of other foreign oil companies into Nigeria to also explore, prospect and develop oil leading to massive growth in the economy.[4]

As they say though. There are no benefits without consequences. This consequence unfortunately has greatly fallen on the host communities where crude oil is being obtained. Because of the chemicals in the properties of crude oil and natural gas which are seen to be harmful, these harmful chemicals in the extraction of crude oil inevitably cause damage or degradation to the environment of the host communities and incidentally harm to the health of these host communities' inhabitants. In Nigeria, there are majorly nine oil-producing states namely; Ondo, Edo, Delta, Bayelsa, Rivers, Imo, Abia, Akwa Ibom and Cross River. These nine states collectively make up the oil-producing Niger Delta region.

For a long time now, the Niger Delta has been experiencing an irony of its expectations. The Niger Delta as mentioned previously, is the major site where oil in commercial quantities was discovered. The Niger Delta is a major host community to oil companies. However, the inhabitants of its community suffer adversely from the exploration and development of oil in its region. There have been prevailing issues of environmental degradation, ill-health and lack of employment due to the oil activities going on in its region. For a while, foreign oil companies tried to assist and develop the community through voluntary "Global Memorandums of Understanding" (GMoUs) which refers to an agreed and signed initiative by companies to empower host communities, foster sustainable development and create an amicable long-standing relationship between oil companies and its host communities,[5] as well as Corporate Social Responsibility (CSR) framework[6]. However, these initiatives failed leaving behind, shattered hope and distrust from the communities. This hopelessness however changed with the enactment of the Petroleum Industry Act (PIA) in 2021. Which stipulated mandatory provisions for host communities. Under chapter 3 of the Petroleum Industry Act, particularly section 234, the Federal government made provision for the establishment of the Host Communities Development Trust (HCDT) which is primarily regulated and overseen by the Nigerian Upstream Petroleum Regulatory Commission and the Nigerian Midstream and Downstream Petroleum Regulatory Authority.[7] The Petroleum Industry Act mandates oil and gas companies to register a trust and contribute "3% of their annual operating expenditures" to the fund[8]. The essence of the fund shall be to provide education, healthcare and other infrastructure facilities to the host communities.

The mandate in the Petroleum Industry Act by the Federal government intends to bring development to the host communities by making the oil companies often called 'settlors' accountable to the communities without just exploiting them, however, this is far from its realization. The reality of the Mandate has brought about delays in carrying out community development, administrative bottlenecks, political tensions and lack of transparency from major stakeholders[9].

This study attempts to examine the effectiveness of the Host Community Development Trust under the New Regulatory Regime. To achieve this, an in-depth analysis shall be carried out into the

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[4] School Software Pro, 'History of Oil and Gas in Nigeria' (School Software Pro, 2022) <https://www.schoolsoftware.com.ng/history-of-oil-and-gas-in-nigeria/> accessed 19 May 2026

[5] Nigeria LNG Limited, 'Communities' (NLNG, 2025) <https://www.nlng.com/sustainability/communities> accessed 19 May 2026

[6] AO2 LAW, 'Host Communities Development Trusts under the PIA: Policy vs Practice' <https://ao2law.com/host-communities-developement-trusts-under-the-pia-policy-vs-practice/> accessed 19 May 2026

[7] Petroleum Industry Act 2021, s234(2) <https://pia.gov.ng/wp-content/uploads/2022/08/PIA-2021_compressed-1.pdf> accessed 19 May 2026

[8] Petroleum Industry Act 2021, s240(2

[9] The Nation, 'Forces against oil companies' 3% fund allocation to host communities' (*The Nation Newspaper*, 2025) <https://thenationonlineng.net/forces-against-oil-companies-3-fundallocation-to-host-communities/> accessed 19 May 2026

benefits of the framework as well as the challenges faced with its implementation. This study shall explore whether the Host Community Development Trust is truly carrying out its intended aim to develop host communities or if it is going to be another failed initiative.

2. The Period that Precedes Host Community Development Trust Era

Before the implementation of the Petroleum Industry Act, 2021 and the establishment of the Host Community Development Trust, the method used to regulate resources was often characterized with fragmented and paternalistic structure. For over 60 years after the commercial discovery of oil in Oloibiri in 1956, the Petroleum Industry Act and the oil companies lacked a structure for the management of host communities. The Host Communities depended heavily on Corporate Social Responsibility (CSR) efforts, private agreements and state-driven development intervention organizations. This arrangement rendered host communities wholly reliant on unstable corporate generosity and susceptible to pervasive state corruption.[10]

Initially, corporate intervention in the Niger Delta region manifested as simple, benevolent assistance. In the early years of the petroleum exploration and production industry, International Oil Companies (IOCs) like Shell Petroleum Development Company (SPDC), Chevron Nigerian Limited, Mobil Producing Nigeria (now ExxonMobil) and Nigeria Agip Oil Company (NAOC) tried to establish good relations with the host communities by making philanthropic gestures and providing ad hoc community assistance programmes.[11]

As the oldest and biggest oil company in Nigeria, Shell Petroleum Development Company often donated to community leaders, gave scholarships to students in the community, built classroom blocks, health centres and boreholes, and sometimes repaired local roads. Most of these interventions were company-led and there was little community involvement in project selection and implementation. As a result, numerous projects did not consider the developmental requirements of host communities.[12]

Likewise, Chevron Nigeria Limited introduced a community relations policy that focused on the delivery of social facilities such as water projects, electrification projects, scholarships, health outreach and employment of identified local residents. The company also had contacts with traditional rulers via consultation and financial support. The uneven distribution of benefits, however, did create conflicts within communities and the perception of inequality.[13]

Mobil Producing Nigeria spent on educational support programmes, health services, road construction and community donations, especially in Akwa Ibom State. Yet, the local communities continued to complain about the lack of adequate compensation for the environmental impacts of the oil exploration and production activities.[14]

Nigeria Agip Oil Company also engaged in community assistance activities including building of schools, portable water facilities, scholarship programmes and health programmes. However, these interventions were mostly of a philanthropic character and failed to solve the underlying problems of environmental degradation, unemployment, poverty and underdevelopment in host communities.[15]

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[10] O Egbon, U Idemudia and K Amaeshi, 'Shell Nigeria's Global Memorandum of Understanding and corporate-community accountability relations' *Accounting, Auditing & Accountability Journal* (2023) 36 (2) 520-545.

[11] Michael Watts, Curse of the Black Gold: 50 Years of Oil in the Niger Delta (PowerHouse Books 2008) 25-32.

[12] Jedrzej George Frynas, Oil in Nigeria: Conflict and Ligitation Between Oil Companies and Village Communities (LIT Verlag 2000) 97-112

[13] Consensus Building Institute, Corporate and Community Engagement in the Niger Delta: Lessons Learned from Chevron Nigeria's GMOU Process (2012) 4-8.

[14] Jedrzej George Frynas, Corporate and State Responses to Anti-Oil Protests in the Niger Delta (2001) 27 New Political Economy 35, 41-44.

[15] Cyril Obi, Oil Extraction, Dispossession, Resistance and Conflict in Nigeria's Oil-Rich Niger Delta (Nordiska Afrikainstitutet 2010) 18-23.

These early corporate interventions were ultimately limited and revealed the shortcomings of the philanthropic community relations strategy. Host communities increasingly called for more participatory and rights-based approach that would ensure sustainable development and accountability and equitable benefit sharing from petroleum operations. Such demands eventually culminated in the development of structured Corporate Social Responsibility (CSR) initiatives and more recently in the Host Communities Development Trust framework provided by the Petroleum Industry Act 2021.[16]

International Oil Companies provided occasional donations, minor infrastructural development and symbolic payments to local authorities and traditional leaders to establish harmonious relationship with the community and short-term operational stability.[17] This hierarchical corporate giving consistently overlooked the fundamental environmental harm and socio-economic exclusion happening in oil-producing areas. Since these initial social investments were created unilaterally by corporate leaders disconnected from the local actual needs, they often led to "white elephant" initiatives like unrequested health centers, inadequately supplied schools, and ineffective water pumps which did little to curb the rising regional poverty.[18]

In response to this, the Global Memorandum of Understanding (GMoU) was introduced. Multinational oil companies like Chevron Nigeria Limited and Shell Petroleum Development Company adopted the GMoU in the 2000s. Chevron Nigeria Limited adopted the GMoU in 2005 and Shell Petroleum Development Company adopted the GMoUs in 2006. The GMoU created groups like Regional Development Councils for Chevron and the Cluster Development Boards for Shell. These groups comprised members tasked with managing corporate funds and implementing development initiatives selected by the community.[19]

The GMoU framework introduced fundamental agreements for host community involvement. However, due to the fact that these agreements were not statutory laws and were contracts, the host communities could not legally enforce them in court. This prevented the host communities from seeking redress when the oil companies (settlors) underfunded or delayed projects. The GMoU was utilized by these oil companies to censor whatever information they shared with the communities, leaving the communities to rely on vague information.[20] Furthermore, since the GMoU involved money, disputes often arose within different groups in the communities as to who got to control the funds given out by the oil companies and how it shall be spent.[21]

In tandem with these corporate approaches, the Federal Government worked together with companies to address the Niger Delta issue. They introduced the Oil Minerals Producing Areas Development Commission (OMPADEC) through No.23 of 1992.[22] The OMPADEC was required by law to allocate some of the revenue obtained from oil income to tackle the environmental problems, improve infrastructures and others in the Niger Delta region. Nonetheless, OMAPADEC had a short lifespan. It most fell through due to inefficiency, political favoritism and large debts

[16] Petroleum Industry Act 2021, ch 3, ss 234-257; Michael Watts, Curse of the Black Gold: 50 Years of Oil in the Niger Delta (PowerHouse Books 2008) 213-220.

[17] Consensus Building Institute, *Case Study: Chevron Nigeria Case: Social Management Responsiveness in Business* (Emerald Publishing, Bingley 2022).

[18] S Nwaigwe, 'Responding Creatively to Faulty Corporate Social Responsibility Practices: The Case of Nigeria's Niger Delta' in *IntechOpen* (ed), *Corporate Social Responsibility* (IntechOpen, London 2023) Ch 3.

[19] F Allen and C Eze, 'Achieving Sustainable Development Goals in the Niger Delta: A Corporate Social Responsibility Pathway' *European Journal of Sustainable Development Research* (2019) 3 (4) 1-6.

[20] O Egbon, U Idemudia and K Amaeshi, 'Shell Nigeria's Global Memorandum of Understanding and corporate-community accountability relations' *Accounting, Auditing & Accountability Journal* (2023) 36 (2) 520-545.

[21] E Ubini and R Oji, 'Niger Delta Indigenes' Perception of Community Participation in The Development Communication Strategies and Practices of Oil Companies in Nigeria' *European Journal of Training and Development Studies* (2021) 8 (2) 15-32.

[22] C Obi, *The Oil Paradox: Reflections on the Violent Dynamics of Petrol-Politics and Mis-governance in Nigeria's Niger Delta* (Africa Institute of South Africa, Occasional Paper No 73, 2004).

from unfulfilled contracts. The OMAPADEC was later replaced by the Niger Delta Development Commission (NDDC) in the year 2000.[23]

In the end, efforts implemented by the Federal Government yielded minimal results as the NDDC like its predecessor became a symbol of corruption and institutional problems. Billions of Naira were wasted spent on political ambitions rather than relevant host community development.[24] As the pre-HCDT came to an end, the shortcomings of corporate agreements and state-led agencies resulted in a very precarious set-back. This failure highlighted that only a thorough, enforceable statutory reform could bring about true responsibility and lasting improvements for the host communities. This statutory reform was evidenced through the 3% OpEx requirement under the PIA.[25]

3. Host Community Development Trust

Prior to the current legal framework on Oil and Gas, development of the host communities was dependent on voluntary Global Memorandum of Understanding (GMoUs). These agreements were often vague, unevenly distributed and heavily dependent on the benevolence and financial capability of the settlors (oil companies).

The Petroleum Industry Act changed this status by making provisions for a mandatory statutory funding. Every settlor i.e. oil and gas companies/operators are legally required to create an HCDT for its host communities. The Act additionally stipulates the amount to be contributed to the trust fund.

The Host Community Development Trust is provided for in Chapter three of the Petroleum Industry Act, 2021 with provisions ranging from sections 234 to 257 of the Act[26]. The Host Community Development Trust refers to a mandatory 3% annual contributions from oil companies set aside for the development of Host Communities.

According to the Act, the objectives of Chapter three is 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 licenses or lessees and host communities; and
d. create a framework to support the development of host communities[27]

From the above objectives, it is inferred that the aim of chapter three is to develop host communities.

To achieve this, the Act vests on the Nigerian Upstream Petroleum Regulatory Commission and the Nigerian Midstream and Downstream Petroleum Regulatory Authority, the powers to make regulations concerning host communities as it pertains to their jurisdictions especially for the purpose of dispute resolution[28].

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[23] K Omeje, *High Stakes and Stakeholders: Oil Conflict and Security in Nigeria* (Ashgate Publishing, Aldershot 2006).

[24] Y George, *Pumping Oil and Pumping Money: Impact on Local Cultures in Niger Delta Region of Nigeria* (Emerald Insight, 2006).

[25] CB Naeyor, 'The Nigerian Petroleum Industry Act (PIA), 2021: Environmental and host communities challenges and way forward in the Niger Delta Region, Nigeria' *International Journal of Advanced Multidisciplinary Research and Studies* (2025) 5 (5) 695-701.

[26] A Nnaji, 'Forces against oil companies' 3% fund allocation to host communities' *The Nation Newspaper* (5 August 2025) <https://thenationonlineng.net/forces-against-oil-companies-3-fundallocation-to-host-communities/> accessed 20 May 2026

[27] Petroleum Industry Act 2021, s 234

[28] Petroleum Industry Act 2021, s 234(2)

The Host Community Development Trust must be incorporated at the Corporate Affairs Commission as a corporate body under the Companies and Allied Matters Act, 2020[29]. It shall fully comply with the Companies and Allied Matters Act, 2020 having a Board of trustee and a Memorandum and Article of Association. Furthermore, in fulfillment of the Act, every host community development trust must be incorporated within 12 months of receiving an oil mining lease, having designated oil and gas activities facilities. As well as prior to application for field development plan for existing oil prospecting licenses or prior to commencement of commercial operations for licenses of designated facilities granted under the Act[30]. Failure to incorporate a host community development trust can lead to the revocation of oil licenses or lease[31].

The objectives of the host community development trust according to the Act are to;

(a) fund and carry out initiatives for the advantage and sustainability growth of the local communities;

(b) carry out infrastructural development for the host communities within the range of financial resources accessible to the Board of Trustees for these objectives:

(c) promote opportunities for economic empowerment in the host neighborhoods;

(d) promote and spread educational advancement for the advantage of participants from the local communities;

(e) assist in the advancement of healthcare for the local communities;

(f) assist grassroots projects in the local communities that aim to improve safeguarding of the ecosystem;

(g) assist local projects in the host communities that aim to improve safety;

(h) allocate a portion of the available funds for and in the name of the host neighborhoods; and

(i) help in any other developmental aim considered advantageous to the community hosts as may be decided by the Board of Trustees.[32]

According to section 240 of the Act, every settlor or member of the host community development trust must make an annual contribution of 3% of its annual earnings to the trust. Apart from that, donations, gifts, grants or honoraria given to the trust fund as well as profits or interests accrued to the HCDT fund must be utilized for the fulfilment of the objectives of this Act.[33] And the implementation of host communities' development[34].

The Petroleum Industry Act provides that the Host Community Development Fund shall have a Board of Trustees which is to be set up by the settlor or settlors. The Board of Trustees shall consist of persons with high integrity and professional standing, who shall come from the host communities.[35] The Board of Trustees shall be headed by the Chairman. The Board of Trustees shall be saddled with the responsibility of:

a. Specifying the standards, procedure and ratio of the host development trust fund for communities to be designated for specific development programs
b. Endorsing the initiatives aimed at the advancement of the host communities which is the intended use of the trust fund
c. Offering overall supervision of the projects for the host communities
d. Endorsing the appointment of fund managers for the purpose of overseeing the reserve fund;

[29] Petroleum Industry Act, 2021 s235
[30] Petroleum Industry Act, 2021 s236
[31] Petroleum Industry Act, 2021 s238
[32] Petroleum Industry Act, 2021 s239
[33] Ibid
[34] Petroleum Industry Act, 2021 s241
[35] Petroleum Industry Act, 2021 s242

e. Establish the management committee for the host community's development trust and appointing its members
f. Deciding the distribution of resources to local communities based on the matrix supplied by the settlor[36]

The Board of Trustees shall annually and pursuant to section 240 of this Act designates from the development trust fund of host communities, an amount comparable to-

a. 75% allocated to the capital fund from which the Board of Trustees will allocate funds for initiates within each of the host communities as necessary to be established by the management committee to advance the goals outlined in section 234 of this Act, on the condition that any amounts not used in a financial year in question will be carried over and used in the following year.
b. 20% into the reserve fund, which amounts will be invested for use of the host communities whenever there is a halt in the payment due from the settlor.
c. a sum not surpassing 5% to be used exclusively for administrative expense of managing the trust and specific initiatives, which will be assigned by the Board of Trustees to the settlor, ensuring that at the conclusion of each fiscal year, the settlor must provide a complete report on the use of the fund to the Board of Trustees and in cases where any segment of the fund remains unspent in a
for the specified year, it will be returned to the capital fund.[37]

The Act mandates the Board of Trustees to set up a management committee for the host community development trust. The members of the management committee shall consist of one representative from every host community, selected by its community as a non-executive member, and executive members selected by the Board of Trustees who could be one not necessarily member of the host communities.[38] The management committee is then mandated to set up a host community advisory committee. The advisory community shall consist of one member of each host community.[39]

As mentioned above, the Act vests the Commission and the Authority with regulatory oversights over the host community development trust.[40] The Commission oversees the HCDT for oil exploration and petroleum activities in the upstream sector, whereas, the Authority ensures and manages compliance for processing, refining and distribution of petroleum products. These two bodies act as referees to the HCDT. They issue strict operational guidelines, set timelines for a trust must be incorporated, and enforce heavy financial penalties on oil companies that fail to set up their trusts or attempt to underreport their annual OpEx. With the Commission and Authority involvement in the HCDT, the host communities are given a legal forum to log grievances and enforce compliance against defaulting operators.

4. What the Regime Is Getting Right

The establishment of a host community development trust under the Petroleum Industry Act, 2021 have made significant impacts. One of which is the mandatory creation of a trust fund, which is intended for the development of host communities, this is coupled with the creation of a board of trustee to manage and ensure proper administration of the trust. This move has eliminated the feeling of benevolence and charity often extended by the settlors, as well as the use of GMoUs by transforming the act of developing the host communities into a legal duty. This has in turn given a

[36] Petroleum Industry Act, 2021 s243
[37] Petroleum Industry Act, 2021 s240
[38] Petroleum Industry Act, 2021 s247
[39] Petroleum Industry Act, 2021 s249
[40] Petroleum Industry Act, 2021 s234(2)

sense of hope and right to these host communities, lifting the burden of getting back its community to shape after being degraded by the acts of oil exploration and other activities.[41]

The creation of the HCDT promises an efficient structured system of implementation in the form of an annual contribution of an amounting to 3% of the company's actual OPEX from the previous year. The PIA also emphasizes the importance of community representation within the fund's management framework. The estimated direct transfer of funds to host communities ranges from US$500-800 million each year (200-330 billion in naira), which is nearly tenfold the average yearly social expenditure of oil and gas companies ($72 million or NGN19 billion). Stakeholders agree that with effective management, the 3% funding of the HCDT can foster a new phase of rapid development and enduring stability in host communities over the medium to long term.[42]

The establishment of a HCDT has also helped to resolve classic issues of poor management, corruption, failed promises, lack of transparency and internal conflict over community funds.[43] It has also ensured proper administration of its funds to host communities when settlors exploit oil from. This is evident in a report tendered by the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) on the 13th of October, 2025. The report states that the Commission executed over 10 projects under the Obagi Host Community Development Trust in Rivers state, operated by Total Energies. The projects included the reconstruction of a two-story building filled with eighteen fully furnished classrooms, the remodeling of a cottage hospital and other infrastructures.[44]

The punishments for host communities or settlers that violate Chapter 3 of the PIA are noteworthy. According to the Act, failure of a settlor i.e. any holder of a license or lease to comply with the obligations of chapter 3 such as setting up a HCDT, incorporating it, setting up a Board of Trustee and other obligations, after being given a written notice can lead to revocation of such license or lease.[45] Furthermore, the Nigerian Upstream Host Communities Development Regulations[46] stipulates that where a settlor fails to incorporate a trust without a valid reason accepted under the framework, he shall be liable to pay $2,500 or its equivalent in naira as penalty from the date of expiration of the 45 days' notice period.[47] For the Host communities, accordingly, the Act stipulates that in the event, where vandalism, sabotage or civil disturbance takes place in a host community resulting in harm to petroleum facilities or interruptions in production, the host community loses its financial rights equivalent to the repair costs.[48] These provisions cautions both the settlors and host communities to abide the provision of chapter 3.

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[41] M Uzoigwe and V Ibezim-Ohaeri, 'Giving Host Communities Their Due: Revisiting the 3% OPEX Funding Framework for Host Community Development Trusts in Nigeria' (Spaces for Change, February 2025) <https://spacesforchange.org/wp-content/uploads/2025/03/GIVING-HOST-COMMUNITIES-THEIR-DUE.pdf> accessed 20 May 2026

[42] Ibid

[43] OD Ovwoshokpite Esq, 'The Host Communities Development Trust Under the PIA: A Trap or a Tool for Peacebuilding?' *SSRN Electronic Journal* (2023) <https://ssrn.com/abstract=4463428> accessed 22 May 2026

[44] Nigerian Upstream Petroleum Regulatory Commission, 'Host Community Fund rises to N373bn as NUPRC oversees 536 projects' (NUPRC, 13 October 2025) <https://www.nuprc.gov.ng/host-community-fund-rises-to-n373bn-as-nuprc-oversees-536-projects/> accessed 22 May 2026

[45] Petroleum Industry Act, 2021 s238

[46] Draft Amendment Sections of the Nigeria Upstream Petroleum Host Communities Development Regulations 2023, para 9 <https://www.nuprc.gov.ng/wp-content/uploads/2023/07/Draft-Amendment-Sections-of-the-Nigeria-Upstream-Petroleum-Host-Communities-Development-Regulations.pdf> accessed 22 May 2026

[47] I Ozuo and E Cyril-Hart, 'Incorporation of host communities' development trust under Petroleum Industry Act' *The Guardian Newspaper* (28 February 2023) <https://guardian.ng/features/incorporation-of-host-communities-development-trust-under-petroleum-industry-act-2/> accessed 22 May 2026

[48] Petroleum Industry Act, 2021 s257(2)

5. Operational and Structural Challenges of the HCDT

The HCDT as created by the PIA is aimed at relieving the living problems of host communities, who suffer backlash from petroleum exploration and exploitation activities that leaves these host communities with environmental degradation, poor living standards and harmful chemicals that harms the health of its citizens. The process of drilling for oil, as well leaves the land dug out, eliminating hope of soil fertility for planting or land for infrastructures. The mandatory creation of a HCDT is intended to instill on settlors the obligation of developing their host communities, thereby removing full burden of restoring these exploited communities back to shape. This is the intended aim, however, realization of this is far from its intention. For the purpose of this study, the operational and structural challenges of the HCDT shall be discussed.

According to Ambrose Nnaji, shows that, since the enactment of the PIA and mandatory establishment of an HCDT for every host community, there have been recorded to show that 140 HCDT have been created and almost 200 projects carried out, however, its effect is little to nothing. With the number of HCDTs existing in the Nigeria Delta region, there are still issues of delays, internal strife, lack of transparency and execution issues. The HOSTCOM National President's Tamaranebi stated that "Money has been paid to these trusts, and each of them holds billions. Yet, no trust in trust in the Niger Delta can point to even a billion naira's worth of visible projects, despite these funds being meant for development". There are also issues of internal corruption by the members of the Board, who would rather prioritize their personal interests over the common good, making disbursement for the necessary obligations subjected to delays and controversies.[49]

Section 257(2) of the Act withdraws the HCDT funds from the host communities, where vandalism, sabotage or civil unrest within the community causes an interruption or harm to petroleum activities or facilities of the settlors.[50] This provision can prove to be inadvertently disadvantageous to the general host community, who suffers the consequences for the tortious act of a few members of the community. This provision of the PIA has also sparked a lot of debate among commentators, owing to the fact that while disadvantageous to the host community, it serves as protection to the settlors. This is due to the consideration that petroleum facilities of the settlors could be victim of sabotage, vandalism and other mischief, which results in financial losses, delay in production and other frustrations. It will be seen as unequitable for the settlors to shoulder the burden of restoration and still coerced to assist its assailants.[51]

The PIA stipulates that every settlor must make a yearly contribution of an amount equal to 3% of its annual earnings from the previous year to the HCDT funds[52], however, it failed to provide a structure for making sure there is transparency from the settlors when paying its contributions. The lack of a structure, encourages lack of transparency and in extreme situations an opportunity to invade payments of contributions.[53]

The Act vests the authority to appoint the members of the Board of Trustees on the settlors only mandating that such individuals to be appointed must be persons of "high integrity and professional standing".[54] However, the Act fails to stipulate a process of selection for the members of the Board of Trustees. This vague provision has resulted many cases of litigation and protests

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[49] A Nnaji, 'Forces against oil companies' 3% fund allocation to host communities' *The Nation Newspaper* (5 August 2025) <https://thenationonlineng.net/forces-against-oil-companies-3-fundallocation-to-host-communities/> accessed 23 May 2026

[50] Petroleum Industry Act, 2021

[51] Ibid

[52] Petroleum Industry Act, 2021 s240(2)

[53] M Uzoigwe and V Ibezim-Ohaeri, 'Giving Host Communities Their Due: Revisiting the 3% OPEX Funding Framework for Host Community Development Trusts in Nigeria' (Spaces for Change, February 2025) <https://spacesforchange.org/wp-content/uploads/2025/03/GIVING-HOST-COMMUNITIES-THEIR-DUE.pdf> accessed 23 May 2026

[54] Petroleum Industry Act, 2021 s242(2)

in different oil producing communities.[55] This can also produce situations where those occupying the Board of Trustees are local power middlemen such as traditional rulers, community chiefs, political elites and influential youth leaders representing the wider populace. Inadvertently, these people can be selected have being bribed and persuaded to emphasize corporate peace of the settlors over strict community development. The PIA also enables the settlors to enjoy a massive leverage over the selection of Board of Trustees, Management committees and advisory committees, vesting on them the power of vetting, screening and final nomination of members to the Board of Trustees and other representational positions. This constitutional loophole allows the settlors to select docile local elites who may prioritize corporate peace over genuine community development.

The grassroots perspective is intended to be communication via the Host Community Advisory Committee; the legislation renders their true authority vaguely outlined. Members of the community on these panels are frequently labeled as non-executive participants, holding minimal voting influence over final capital distributions. This poses a danger where the required "Community Needs Assessment" turns into nothing more than a superficial formality, with the real allocation of funds being settled through covert discussions between the Board of Trustees and the oil companies.

The advantages of the HCDT framework does not apply to petroleum operation. Professor Iledare explained that if a company is working under the lease regulated by the Petroleum Act instead of the PIA of 2021, the provisions for host communities in the PIA do not apply. This requirement is only limited to companies whose assets were issued following the PIA enactment or those that have chosen to adopt the new fiscal conditions under the Act. Firms functioning under the previous system continue to depend on the traditional GMoUs to facilitate community progress. Some oil companies have started receiving community funds since compliance is necessary for getting development approval from the Commission, whereas others possess leases that were established before the Act and cannot be forced to transition until their leases end.[56] This implies that the mandatory Host Community Development Trust framework does not apply uniformly across the entire Nigerian oil industry, leaving a dual system where older assets remain under the legacy GMoU model while newer or converted ones follow the PIA 2021. Consequently, oil companies holding pre-PIA leases are legally insulated from the 3% operational expenditure contribution until their licenses either expire or undergo voluntary conversion. However, the regulatory reality forces a middle ground, as these legacy operators must still comply with HCDT requirements if they seek approvals for new field development plans from the Commission.

6. Divestment and the Future of Host Community Development Trust

Recent studies show that international oil companies (IOC) are selling their assets. The likes of Shell, ExxonMobil, Eni and Total Energies are gradually migrating from onshore and shallow water holdings in the Niger Delta, to deep water regions to mitigate risks related to security and environmental responsibilities.[57]

This migration means that indigenous companies like Seplat, Oando, Aradel and Renaissance are obtaining the onshore blocks. Therefore, the confluence of assets divestments and what this means

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[55] Spaces for Change, 'S4C unveils new report on HCDT implementation in Nigeria' (Spaces for Change, 10 March 2024) <https://spacesforchange.org/s4c-unveils-new-report-on-hcdt-implementation-in-nigeria/> accessed 23 May 2026

[56] A Nnaji, 'Forces against oil companies' 3% fund allocation to host communities' *The Nation Newspaper* (5 August 2025) <https://thenationonlineng.net/forces-against-oil-companies-3-fundallocation-to-host-communities/> accessed 23 May 2026

[57] Y Oke, C Ozuzu and C Ogbonnaya, 'Exit, But At What Cost? Decommissioning and Environmental Risks in Nigeria's Petroleum Sector Divestments' <https://ao2law.com/exit-but-at-what-cost-decommissioning-and-environmental-risks-in-nigerias-petroleum-sector-divestments/> accessed 23 May 2026

for the Host Community Development Trust has emerged for discussion and especially as a vital area for regulatory control.

A key regulatory issue during an asset transfer is to guarantee that the legal rights of the host communities are not diminished or lost. According to the Petroleum Industry Act (PIA) 2021, the HCDT responsibilities are specifically linked to the associated petroleum prospecting license (PPL) or petroleum mining lease (PML), instead of the unique corporate identity of the operator.[58] Consequently, when an IOC sells an onshore asset, the acquiring local company automatically takes on the legal designation of the Settlor and inherits all of the legacy HCDT liabilities, comprising the obligatory 3% OpEx yearly contribution.

The Nigerian Upstream Petroleum Regulatory Commission (NUPRC) under the leadership of Engr. Gbenga Komolafe has taken concrete steps to make this transition institutionalized. The NUPRC determined that meeting HCDT compliance and securing structural handovers are essential requirements prior to granting final ministerial approval for any divestment application. Some of the notable deals approved under this rigorous system consist of; the divestment of Equinor (Project Odinmim), The Seplat Energy transaction involving Mobil Producing Nigeria Unlimited (MPNU), the divestment of 10% of assets from TotalEnergies to Telema Energies, the prominent divestment of Shell Petroleum Development Company (SPDC). [59]

To address critiques that divestments permit International Oil Companies to neglect their local socio-economic responsibilities, regulatory measures have mandated significant capital realizations precisely at the exit stage. Information from the NUPRC verifies that the commission has effectively supervised the transfer of ₦261.88 billion to host communities through the HCDT framework. This sum includes: N78.8 billion sent directly in the local currency. $122million about (N183 billion) sent in foreign currency reserves. By mid-2026, this enforcement approach has led to the official establishment of 138 to 150 functioning Host Community Development Trust among 83 acknowledged settlors.[60] This financial fund guarantees that new indigenous operators assume control of trusts that are already operational and well-capitalized.

The structural weaknesses confronting the future of the Host Communities Development Trust (HCDT) after divestment emerge from two closely linked friction points: outstanding environmental responsibilities and localized economic pressure. According to the Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2023[61], agencies such as the National Oil Spill Detection and Response Agency (NOSDRA) are tasked with confirming environmental remediation prior to the completion of asset handovers, necessitating that operators sustain a specific Decommissioning and Abandonment (D&A) fund. However, the incoming domestic businesses assume these major environmental duties if previous, unresolved pollution in aged oil fields is not properly documented or is not rectified during the transfer process[62]. If these historic oil spills lead to local protests, facility blockades, or acts of sabotage, the newly appointed operator might have to activate Section 257(2) of the Petroleum Industry Act (PIA) subtracting the

[58] Ibid

[59] P Ukpe, 'NUPRC Surpasses 2024 Revenue Target By 184.26%, Highest Ever' *The Whistler Newspaper* (16 February 2025) <https://thewhistler.ng/nuprc-surpasses-2024-revenue-target-by-184-26-highest-ever/> accessed 24 May 2026

[60] Open Government Partnership Independent Reporting Mechanism, 'IRM Results Report: Nigeria 2023-2025' (Open Government Partnership, April 2026) <https://www.opengovpartnership.org/wp-content/uploads/2026/04/Nigeria_Results-Report_2023-2025_EN.pdf> accessed 24 May 2026

[61] Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2023, Federal Republic of Nigeria Official Gazette No 129, Vol 110, pp B1321-1342, SI No 50 of 2023 <https://www.nuprc.gov.ng/wp-content/uploads/2023/07/DECOMMISSIONING-REGULATIONS.pdf> accessed 24 May 2026

[62] Y Oke, C Ozuzu and C Ogbonnaya, 'Exit, But At What Cost? Decommissioning and Environmental Risks in Nigeria's Petroleum Sector Divestments' <https://ao2law.com/exit-but-at-what-cost-decommissioning-and-environmental-risks-in-nigerias-petroleum-sector-divestments/> accessed 24 May 2026

resultant asset repair expenses directly from the community's HCDT capital funding unjustly punishing local populations for environmental harm caused long ago by divesting multinationals[63]. Adding to this ecological risk is a pressing liquidity crisis; contrary to global conglomerates that have the substantial cash flows necessary to easily accommodate the 3% operating expenditure (OpEx) requirement, independent indigenous purchasers are often heavily indebted, depending on intricate, large-scale bank syndications to finance their multi-billion-dollar buys[64]. As a result, in the early stages of operational transition, these local companies must prioritize optimizing production intensely to manage their substantial acquisition debts, leading to a significant capital shortage that pressures their liquidity and directly causes compliance setbacks or persistently underfunded regional project pipelines.[65]

The transition of ownership from international multinationals to local operators ultimately signifies a double-edged sword for the prospects of host communities: Although independent companies encounter stringent capital restrictions, they possess a unique proximity benefit. In contrast to foreign leaders overseeing community relations from afar, local operators are closely woven into Nigeria's socio-political landscape. Since they depend solely on these domestic onshore areas for their operational viability, they have a fundamental motivation to guarantee the HCDT operates effectively. A financially supported, harmonious community results in continuous production, giving local businesses a solid rationale to uphold the legal commitment of the PIA.

7. Recommendations

The contribution of an amount equal to 3% of settlors preceding revenue, serves as the main force driving the implementation of the HCDT, therefore, the regulators that is, the Nigerian Upstream Petroleum Regulatory Commission and the Nigerian Midstream and Downstream Petroleum Regulatory Authority must move away from depending exclusively on operator's self-reported financial statements. They need to conduct unbiased, clear forensic audits of the previous year's operating expenses. These financial statements must be available on the newly launched host community development trust portal to enable communities to confirm that their 3% allocation has not been artificially reduced.

The Chapter 3 mandate of the Petroleum Industry Act, 2021 has been seen to spark up controversies and debates leading to litigations and other forms of dispute resolution mechanism. To resolve these conflicts such as contentious inter-community and coastal boundary conflicts, authorities should create a clear, data-informed geographical framework for identifying an "appurtenant host community". This procedure can be carried out in close cooperation with the Natural Boundary Commission to prevent legal obstacles.

In accordance with the Nigerian Upstream Petroleum Regulatory Commission latest directives, the Commission and Authority must rigorously monitor the implementation of section 257(2). Operators should be prohibited from subtracting asset repair expenses from a community's Capital Fund at source without independent third-party verification of the vandalism cause, a comprehensive joint investigation visit (JIV) report, and a transparent, clear presentation of the repair invoice to the impacted community entities.

Communities need to go beyond the legal HCDT structures and create independent, community-driven civic monitoring groups. These organizations can oversee the implementation of the 5years

[63] CB Naeyor, 'The Nigerian Petroleum Industry Act (PIA) 2021: Environmental and host communities challenges and way forward in the Niger Delta Region, Nigeria' *International Journal of Advanced Multidisciplinary Research and Studies* (2025) 5(5), 695–701

[64] (N 53)

[65] Open Government Partnership, 'Independent Reporting Mechanism (IRM) Results Report: Nigeria 2023–2025' (OGP Global Bureau, April 2026) <https://www.opengovpartnership.org/wp-content/uploads/2026/04/Nigeria_Results-Report_2023-2025_EN.pdf> accessed 25 May 2026

and 10years Host Community Development Plans, observing projects in the field to confirm that resources are not misappropriated for wasted projects or taken by local influential figures. While carrying out the required Host Communities Needs Assessments, the Advisory Committees ought to move away from temporary, low-impact solutions. They need to actively prioritize capital investments in clean energy accessibility, sustainable agricultural value chains, vocational training, and regional university scholarships ensuring that the 20% Reserve Fund effectively fosters a resilient post-oil economy.

To reduce the risk of elite capture by the settlors, operators need to give up complete unilateral authority over the nomination process for the Board of Trustees. A democratized, open vetting process should be established, incorporating various community demographics, such as youth leaders, professional associations, and women's groups, ensuring the Board has local legitimacy and professional integrity.

Departing global corporations must implement organized, clear transfers of current HCDT responsibilities to local independent purchasers. A part of the divestment funds should be held in escrow or verified under the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) oversight to ensure that new domestic companies possess the financial stability and compliance rigor necessary to maintain yearly trust contributions.

8. Conclusion

The implementation of the Petroleum Industry Act (PIA) 2021 and the establishment of the Host Communities Development Trust (HCDT) signify a significant legal advancement in Nigeria's resource governance system. For over sixty years after the commercial discovery of oil in Oloibiri, the connection between extractive multinational companies and local communities did not have a legally enforceable statutory foundation. Rather, it depended on random corporate charity and private Global Memorandums of Understanding (GMoUs) that rendered the oil-rich Niger Delta area susceptible to systemic neglect, substantial ecological damage, and internal social tensions. The newly implemented regulatory framework under the NUPRC and NMDPRA has created a formal system for grassroots self-determination and organized local development by requiring a compulsory 3% annual operating expenditure (OpEx) contribution managed by designated trustees. This assessment illustrates that converting a forward-thinking legal framework into an effective on-the-ground situation poses considerable structural obstacles. Although the new regime effectively creates well-defined legal boundaries—like limiting administrative expenses and allocating 75% of funds to capital projects—its success is jeopardized by internal and external barriers to implementation. The controversial collective punishment mechanism outlined in Section 257(2) poses a threat to local development funds, potentially draining them to cover repairs for assets damaged by security shortcomings. Within the system, the framework is susceptible to elite takeover, conflicts regarding boundaries, and political strife concerning who is deemed a "host". Moreover, the current trend of selling onshore assets to independent local companies brings about a period of reduced financial liquidity that may postpone compliance or pressure project delivery.

In the end, the Host Communities Development Trust cannot be deemed entirely successful or a failed effort based solely on its documented stipulations. Its actual effectiveness will rely on strong regulatory enforcement, detailed monitoring of OpEx responsibilities via digital tools like "HostComply," and the inclusive engagement of marginalized community perspectives in needs evaluations. The HCDT can evolve from a complicated compliance framework into a robust catalyst for peace and regional growth in the Niger Delta solely by aligning the corporate interests of new settlors with complete financial transparency and community supervision.