



# FACT SHEET ON THE PETROLEUM INDUSTRY ACT

The Petroleum Industry Act was passed in 2021, following more than two decades of legislative efforts to modernize Nigeria's petroleum sector legislation. A significant element of the PIA focuses on community participation and benefit sharing within the sector.

While the Act provides that 3% of oil companies' operational costs will be spent on community development, other provisions may provoke dissatisfaction and even crises.

This factsheet highlights disputed provisions under Section 257 of the PIA.







# 1

According to Section 257 (2) of the PIA, where in any year, an act of vandalism, sabotage or other civil unrest occurs that causes damage to petroleum and designated facilities or disrupts production activities within the host communities, the community shall forfeit its entitlement to the extent of the costs of repairs of the damage that resulted from the activity within that financial year.

The PIA has shifted the burden of protecting oil facilities and installations to the hands of untrained and unarmed community members.

This supports collective punishment of an entire community, such as the loss of rightful privileges, in response to a crime committed by one or more individuals.

Protests and other constitutionally guaranteed rights of expressing discontent is now made illegal by the PIA. Communities can no longer voice their concerns through protests as this is deemed "civil unrest".

# 2

Communities have little control over decisions that directly affect their lives.

Host communities can only act as advisers, the oil companies ultimately decide who will be the trustees of the communities

Section 242 of the Petroleum Industry Act (PIA) confers authority upon the oil firm to establish the Host Community Development Trust (HCDDT), as well as to ascertain its membership and establish the criteria for selecting individuals to be included in said membership

# 3

Section 245 of the Petroleum Industry Act (PIA) states that the settlors shall provide the Board of Trustees a matrix for the distribution of the trust fund to the host communities.

Communities have no way of ascertaining the proportion of financial resources that each involved community is eligible to receive from the HCDDT

The allocation of funds to participating communities is ultimately determined by the oil corporation and the Commission

This can lead to conflict among communities over sharing of revenue.





## 4

Before the implementation of the PIA (Petroleum Industry Act), oil firms depended on the use of memorandums of understanding (MoUs) to facilitate the transfer of mutually agreed benefits to communities. With the establishment of the Host Communities Development Trust, those MoUs are likely to be abandoned.

Communities have lost their ability to negotiate benefits directly and are no longer able to independently select and prioritize their development projects.

Additionally, the funds that communities used to receive under the MoU was clear and predictable, but this isn't the case with the HCDDT. This leaves communities unsure about the financial support they can count on.

## 5

There is no means available to communities to know the previous year's operating expenses of an oil business, as well as the means to authenticate any offered data.

Section 240 mandates the settlors (oil companies) to contribute to the HCDDT the equivalent of 3% of the actual annual operating expenditure of the previous financial year in the upstream petroleum operations that impact the host community

## 6

According to Section 251 of the PIA, oil companies must conduct a needs assessment of the host communities they are leasing or obtaining a licence for, in order to determine the requirements for economic and business enhancement, basic utilities and social infrastructure, health, social and athletic amenities, and education infrastructure.

While Section 251(2) of the PIA permits oil companies to work with communities to understand their needs, there's no clear method set out for how this should happen. The PIA doesn't detail how much communities should be involved or offer ways for them to actively participate in deciding what they need for development

It is not necessary for oil firms to engage in consultation or seek the consent of the communities. Rather, their sole obligation is to secure the permission of the Commission

Oil firms are not obligated to get the consent of host communities about the contents of their development plans, nor are they required to seek permission from those communities prior to presenting these plans to the Commission