

# PETROLEUM INDUSTRY ACT, 2021

CAMPAIGN FOR ALLOCATION/CHANNELING OF  
30% OF HOST COMMUNITIES' FUNDS TO WOMEN.

NDEBUMOG

SHADOW  
BUDGET  
GROUPS

# PIA'S 30% CAMPAIGN FACTSHEET

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NDEBUMOG  
REGIONAL ACCOUNTABILITY CENTRE



Developed and produced by Niger Delta Budget Monitoring Group (NDEBUMOG) with support from Oxfam.



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**NDEBUMOG's Strategic Objectives**

To strengthen community-based structures for transparency and accountability. With targeted actions, NDEBUMOG, will mobilize and empower communities to take practical steps to eliminate corruption in public expenditure through budget tracking, sensitizations, mobilization, trainings, alongside, anti-corruption campaigns and promotion of inclusivity and participatory governance. For effectiveness and long-term sustainable basis, NDEBUMOG has established several community-based Shadow Budget Groups, among others.

**NDEBUMOG increases public awareness on relevant laws and policies of combating corruption in the private sector.** Most private sector players lack information on laws and policies that relates to fiscal governance, as well as procedures for doing business with government. In addition, private sector players have, often, been reported, as willing payers of bribes, without evaluating negative impacts of such vices on the business environment in general and theirs. **NDEBUMOG seeks improve business practices and principles for combating corruption in public-private activities.** Small, medium and large businesses in Nigeria faces, almost daily, pressure to pay bribes to do business with government. Unfortunately, they are in a weak position to resist such pressures.

**NDEBUMOG has established effective framework for monitoring of political parties financing and tracking the abuse of state administrative resources during campaigns by candidates.** Transparency by Political Parties and election financing is critical in the democratization processes, as well as, ensuring good governance. Money in politics and Political Parties financing, if not tackled, poses serious risks, such as, uneven playing field, which gives some actors undue advantage over others. Those, who donate funds could equally influence politicians, seeking for rewards through contracting tenders and favourable policies for their private interests. Using public funds to finance partisan political campaigns breeds political corruption and state capture. Such includes abuse of state (administrative) resources during campaigns by political parties and political office holders. Everyone must join this campaign for a responsible political space and non-abuse of state administrative resources for private and partisan political gains.

## **PETROLEUM INDUSTRY'S ACT HISTORICAL PERSPECTIVES.**

The beginning of Petroleum Industry legislation(2021) in Nigeria,could be traced to the Oil and Gas Reforms Committee (OGRC), which was constituted by former President Olusegun Obasanjo's administration. The OGRC's report formed parts of an initial bill, which was first introduced to Nigeria's National Assembly by former President Umar Musa Yar'Adua's administration in 2008.Following the submission of the OGRC's report, the Yar'Adua's government constituted a committee on the implementation of the OGRC's report. A sub-committee chaired by Yinka Omorogbe drafted the initial bill, though that bill was marred by controversies. Among the controversies was sponsorship of some senators to attend a seminar in Ghana by Oil Producers Traders' Section (OPTS), which raised dust. Some senators from Nigeria's National Assembly attended the Ghana's seminar.

The bill was reintroduced in 2012 by former President Goodluck Jonathan's administration. Few days to the end of that administration, the bill was passed by the House of Representatives. There was no concurrence by the Senate. During the 8th Assembly, lawmakers decided to reintroduce the bill in parts. The PIB was separated into several versions thus: Petroleum Industry Governance Bill (PIGB), the Petroleum Industry Fiscal Bill, the Host Communities Entitlement and Protection Bill and the Petroleum Industry's Administration Bill. Several lawmakers reintroduced diverse versions. However, the PIGB sponsored by Tayo Alasoadura and Pally Iriase was the version passed by both chambers and harmonized by the JointConference Committee of the National Assembly. The bill was, thereafter, transmitted to President Muhammadu Buhari. Presidential assent was declined,although the two chambers reconsidered and passed the bill again, it was not assented to by President Buhari, until that House adjourned sine die.

## **Reintroduction of the Bill in September 2020.**

Unlike in the 8th Assembly, the bill was resent to the National Assembly as Executive Bill in September 2020. This time, the bill was divided into fiscal, administration, governance, institutions, and host communities' components. Under governance, the bill seeks to establish Nigerian Upstream Regulatory Commission, expected to be responsible for regulating Nigeria's upstream sector. The regulatory commission's functions, proposed, were divided into technical and commercial. The commission was proposed to be headed by a chief executive officer (CEO), who will be nominated by the president, subject to the approval of the (Nigerian) Senate. This commission is expected to take over the functions of Department of Petroleum Resources (DPR) and the Petroleum Inspectorate. Original bill proposed a first line charge funding for the commission, but the Green Chambers deleted the provision. Furthermore, the commission will also have a special investigative unit.

## **Frontier Exploration Fund: 30 per cent of NNPC Limited profit**

The bill seeks to establish a fund for exploration of unassigned frontier basins. The bill proposed 10 per cent of rents on petroleum prospecting licenses and petroleum mining leases. However, the committee on PIB proposed 10 per cent of rents on petroleum prospecting licenses, 10 per cent rents on prospective mining leases and 30 per cent of NNPC's Limited oil and gas profits. These recommendations were adopted. Funds proposed are to be used for the exploration of some basins across the country. Some of the basins are the Benue Trough, Chad Basin and Sokoto Basin, among others.

Part IV of the bill proposed Nigerian Midstream and Downstream Regulatory Authority. Proposed entities will regulate the midstream and downstream sectors, replacing, Petroleum Products Pricing Regulatory Agency (PPPRA) and other regulators in the midstream and downstream sectors.

## **Midstream Infrastructural Development Fund**

The midstream authority was proposed to be responsible for administering a midstream infrastructural development fund. Section 33(y) of the bill proposes a fund to be funded by fines from gas flaring penalties in the downstream sector. 33(y) reads that “Any other matters, as may be determined by the authority, pursuant to this bill, includes, imposition of gas flare penalty arising from midstream operations, shall be for the credit of the midstream gas infrastructural fund and shall be utilized for midstream infrastructural investments within host communities of a designated facility.” This section was opposed by Deputy Senate President, Ovie Omo-Agege, who argued that the money is a penalty for bad behaviour and should be invested in the region and should not be invested in “midstream infrastructure.”

“We don't want it to be invested in midstream gas infrastructure. This is a penalty! Gas flaring is harming people. We want the penalty to be used for remediation, investments and development in the communities,” he said!

## **Nigerian National Petroleum Corporation and afterwards?**

The bill seeks to create an entity called the Nigerian National Petroleum Corporation Limited, a corporate entity incorporated under the Companies and Allied Matters Act. The bill proposes this to be done within six months, after the commencement of the Act. Section 53(3) provides that the ownership of all shares in the NNPC to be incorporated, shall be vested with the government through the Ministry of Finance and Petroleum, who shall hold the shares on behalf of the government. Sections 53 (7-8) provides that NNPC Limited, must be operationalized as an “efficient profit-making entity,” and shall declare dividends and pays all fees, rents, royalties, profit oil share taxes and other requirements on any lease or licenses to be operated.

All assets, interests, and liabilities of NNPC are to be transferred to NNPC Limited within 18 months of incorporation. At the end of the proposed transfer, NNPC, shall cease to exist. The government shall take over all interests, liabilities and assets not transferred to NNPC limited. Section(s) 55 and 56 provide processes of managing this

transition.

### **Employees of Nigerian National Petroleum Corporation (NNPC).**

Section 57 provides that all employees of NNPC are to be deemed employees of NNPC's Limited, as soon as, the latter is incorporated. Conditions and terms must not be less favourable than, when they were in NNPC. The CEO and board, shall be appointed by the President...

### **Host Communities**

This section was the most contentious part of the PIB. At the House of Representatives' public hearing, different factions of associations from host communities engaged in a brawl in pushing for positions, among, different groups and interest.

The Niger Delta Budget Monitoring Group (NDEBUMOG) as a critical stakeholder in the Niger Delta and within Nigeria's fiscal governance stakeholders was invited to make presentations by the Senate and House of Representatives within the years that the PIB's debates were intense in Nigeria's National Assembly. Precisely, in 2009, the House of Representatives invited NDEBUMOG to a public hearing that was conducted from 29<sup>th</sup> to 31<sup>st</sup> July 2009, via a letter dated 16<sup>th</sup> July 2009, signed by Hon. (Prince) Bassey Otu. The Senate, equally, invited NDEBUMOG via a letter dated 10<sup>th</sup> July 2013 to a public hearing that was slated for July 16<sup>th</sup> to 17<sup>th</sup> 2013. The letter was signed by Senator Emmanuel Paulker, CON. Though many may have forgotten, some elements of NDEBUMOG's memorandums as was submitted to National Assembly is recognized through facts embedded in the PIA. Copies of NDEBUMOG's memos could be accessed through links provided below: <https://www.nigerdeltabudget.org/wp-content/uploads/2021/05/PIB-Memo-to-the-National-Assembly.pdf>. <https://www.nigerdeltabudget.org/wp-content/uploads/2021/05/NDEBUMOG-PIB-MEMO-TO-THE-7TH-NATIONAL-ASSEMBLY-1.pdf>.



## **Passage by National Assembly and Assent by Mr. President.**

The Senate and House of Representatives at its plenary of Thursday, 1<sup>st</sup> July 2021, passed the Petroleum Industry Act (PIA), 2021. The legislation provides a legal, governance, regulatory and fiscal framework for the Nigerian petroleum industry and development of host communities.

Presenting the report on the bill then, Chairman of the Senate's Joint Committee on Petroleum Downstream, Petroleum Upstream and Gas, Sen. Sabo Mohammed Nakudu (APC-Jigawa) and Chairman of the Ad-hoc Committee on PIB, Hon. Mohammed Tahir Monguno (APC-Borno) informed lawmakers on both Chambers that the objectives of the bill was to promote growth in the oil and gas industry, streamlines fiscal systems, alongside, enhancing universal competitiveness. These submissions and debates, led to the passage of the bill, which comprises 5 distinct sections, thus:

### **\* Chapter 1: Governance and Institutions:**

- a. Creating efficient and effective governance institutions, with clear and separate roles within the petroleum industry.
- b. Establishment of a framework for the creation of a commercially oriented and profit-driven national petroleum company.
- c. Promoting transparency, good governance, and accountability in the administration of the petroleum resources.

### **\* Chapter 2: General Administration:**

- a. Exploration of petroleum resources for the benefits of all Nigerians.
- b. Effective and sustainable development of the petroleum industry.

- c. Liberalization of the mid-stream and downstream petroleum sectors.

✳ **Chapter 3: Host Communities Development:**

- a. Fostering sustainable peace and prosperity within host communities, provide, direct social and economic benefits to host communities.
- b. Creating a framework to support development of host communities, among others.

✳ **Chapter 4: Petroleum Industry Fiscal Framework:**

- a. A comprehensive competitive and advanced fiscal framework that places Nigeria as investment destination, balancing rewards with risk and generating revenues for the Federal Government.
- b. Easy and implementable fiscal regime, with transparency and costs effectiveness that enhances revenue growth and ensuring efficient returns on investments.

✳ **Chapter 5: Miscellaneous provisions, comprising 8 schedules, ranging from savings provisions based on available options to industry's players on voluntary conversion to, either; the new fiscal regime or maintaining status quo, until expiration of leases or licenses.**

- a. The first schedule broadly asserts Petroleum Minister's right of pre-emption.
- b. The second schedule defines the principles of negotiating across incorporated joint ventures (IJVs).
- c. The third schedule defines domestic base pricing and gas pricing framework, under free market structures of willing buyers and sellers.

- d. The fourth schedule provides formula for gas pricing and other gas-based productions, with a possibility of flexibility to pricing structures through market forces.
- e. The fifth schedule explains through clarity, capital allowances that relates to uses and disposal of oil and gas assets.
- f. The sixth schedule outlines production allowances and cost pricing ratio limits across the industry.
- g. The seventh schedule clarifies matters on the fiscal framework, which covers fees, rents, and royalties across petroleum-production- chains, alongside, related penalties for non-payment, among others.
- h. The eighth schedule explains the creation of the Ministry of Petroleum Incorporated that is mandated to legalize shareholding structure of NNPC Limited, with provisions required to create same.

In the Senate, lawmakers had dissolved into Committee of Whole to commence a closed-door session with the Minister of Petroleum (State), Chief Timipre Sylva and GMD, Nigerian National Petroleum Corporation (NNPC), Mr. Mele Kolo Kyari concerning further briefing on the bill. Upon resumption at each Chamber's plenary, the Nigerian Parliament, considered clause-by-clause provisions in the bill, and thereto, passed it for Third Reading. The House of Representatives on its part, met with the GMD of NNPC on Wednesday, 30th June 2021 over the bill.

Across Nigeria's Niger Delta and oil producing states, funding for host communities development was spiky and contentious. The PIA, when it was a draft bill in both Chambers, proposed different percentages of operating expenditures of Settlor (operators of an oil license) in funding development for host communities. However, Sani Kaita (APC, Katsina) moved for an amendment and reduction for host communities funds to be reduced to 3 per cent. The amendment and adoption were harmonized at a joint (conference) committee of the National Assembly. Following the passage of the bill by the two chambers, it was transmitted to Mr. President for assent. Mr. President signed the bill into

law on Monday, the 16<sup>th</sup> of August 2021.

## **The Petroleum Industry Act and NDEBUMOG's 30% Campaign: Problem Analysis:**

The 30% campaign focuses on the lack of oversight and accountability across Nigeria's extractive sectors, giving rise to governmental and social inequality that increasingly marginalizes women within extractive sectors and beyond. This is a fallout from operational blindness by extractive companies, that often, operates in a fragile and conflict-affected settings (FCAS), in addition to environments that are characterized by weak institutions and limited accountability. In Nigeria's context, non-transparent transactions can easily be manipulated. Opaque transactions that international players have exploited, on instances, such as, reservation of (lucrative) OMLs and RFRs that favors some IOCs and discriminates against host communities and local contents framework.

**Poverty Headcount Rate by Household Head's Education Level and Sex:**

State	Noeducation/ lessthan primaryeducation		Primaryeducation		Secondaryeducation		Post-secondary	
	Male	Female	Male	Female	Male	Female	Male	Female
<b>NIGERIA</b>	66.17	34.72	41.25	26.93	25.00	14.08	18.13	5.66
Urban	43.14	24.66	19.16	19.35	12.97	11.20	8.86	3.42
Rural	70.82	39.17	50.33	32.74	35.87	18.96	31.20	10.15

*Source: Nigeria's National Bureau of Statistics*

**Poverty Headcount Rate by Household Head's Income-Generating Activity and Sex:**

State	Agricultureonly		Nonfarm enterprisenonly		Wageworkonly		Diversified		Apprenticeship / Notworking	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
<b>NIGERIA</b>	58.76	37.75	25.45	19.45	17.53	13.99	46.90	31.54	34.24	24.13
Urban	30.11	27.96	15.22	18.12	11.87	11.38	23.92	24.99	18.60	11.00
Rural	63.20	39.02	41.68	22.48	28.72	21.14	53.25	33.79	47.14	34.81

*Source: Nigeria's National Bureau of Statistics*

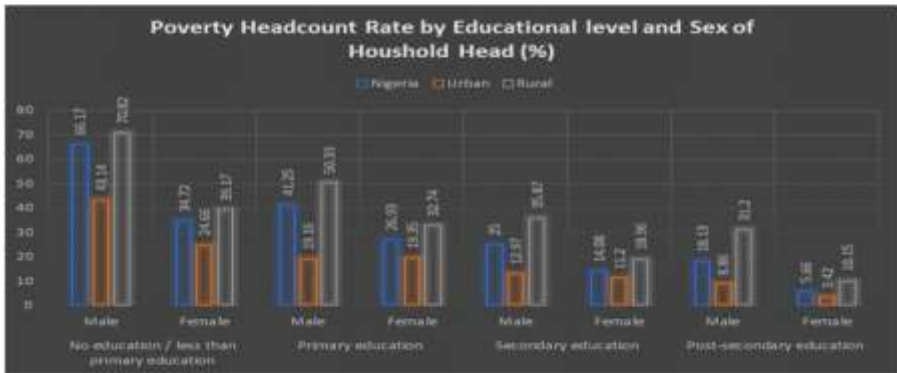
**Poverty Headcount Rate by Household Size:**

State	1person	2-4people	5-9people	10-19people	20ormore people
<b>NIGERIA</b>	2.66	17.88	40.90	67.27	77.66
Urban	1.66	5.23	19.07	44.47	71.57
Rural	3.61	27.52	53.18	73.79	79.60

*Source: Nigeria's National Bureau of Statistics*

The 30% campaign seeks to raise awareness on the risks associated with lack of transparency and weak oversights in the oil trade business, particularly, focusing on how these risks play out, when oil traders, do business with host states (like Nigeria) affected by cultural prejudices, conflicts, and fragilities. 30%campaignaims to focus on ensuring females participation in extractive- resource- governance, making sure, women participate strategically in local governing structures and extractive industry's boards, such as, community development committees, governing organs of petroleum companies, governmental boards, and communities' trust funds, where decisions on resource allocations and management are to be made in consultations with other gate keepers in the oil and gas host communities. This campaign is based on previous research by developmental organizations', such as, Oxfam, the Vitol Study, NDEBUMOG's think tank surveys, among

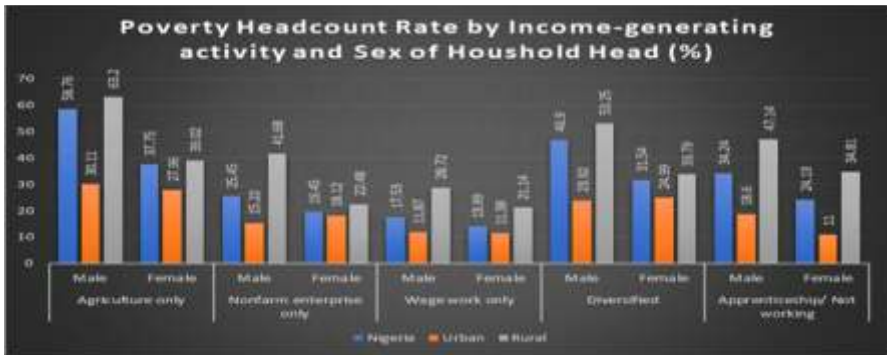
others, for ground truthing and factualization of current realities in communities to ensure all stakeholders are carried along. The campaign hopes to influence ways, which companies operates in Nigeria and other FCAS and explore gender friendly and equitable alternatives, as part of a business strategy for companies and host communities, offering evolving models, where possible, especially, in areas that promotes social equity and economic equality for women. Part of the campaign will be to identify specific contextual elements within Nigeria (e.g., weak institutions, cultural politics against women, lack of accountability, ineffective regulations and control, political practices favoring oil traders against women in host communities and traditional barriers that promotes gender discrimination and income inequality) but enables oil trading practices that are highly profitable to oil traders, but detrimental to the inhabitants of oil-rich host-communities, especially, women.



Source: NBS's 2019 Poverty and Inequality in Nigeria' report.

In this sense, 30%campaign seeks to close institutionalised opacity that has characterised operations of the complex extractive sector in Nigeria, which has (negatively) affected women for many decades. The net effect of this is to influence women inclusion in a sector that accounts for bulk of government's revenues but lopsidedly walls-away generality of Nigerians, especially, women from accessing opportunities in the sector. Reports of the Nigeria Extractive Industry Transparency Initiative (NEITI) has helped in opening this strategic sector to civic groups, the media, parliamentarians and citizens. Ongoing reforms in the sector also helps in unearthing the sturdy walls of

secrecy. Much remains to be done for accountability actors, like NDEBUMOG and others, to be able to make informed contributions on optimal and prudent management of extractive resources, especially, for inclusive social (communal) accountability, following the passage of the Petroleum Industry Act into law in 2021. Without doubt, knowledge-driven engagements and fiscal campaigns by all, especially, civil society groups, shall be a critical success factor in the quest for the reversal of resource curse plaguing Nigeria's extractive communities. We count on the support of every reader of this piece!



Source: NBS's 2019 Poverty and Inequality in Nigeria' report.

Plights of women is the motivation for this campaign, especially, on how to leverage women's economic productivity within the governance equilibrium of host communities through opportunities created by the new governance and fiscal regime in the extractive industry with the enactment of the PIA in 2021. This campaign is targeted for critical inclusion of women!

## **The PIA's 30% Campaign: Legal Facts for the Inclusion of Women.**

Here are facts, demands and advocacy necessities for the 30% Campaign within the evolution of the Petroleum Industry's Act, 2021.

1. More than 30% of monies to be received from gas flaring penalties for the purposes of environmental remediation and relief to host communities, as enshrined in the PIA, should consider, interest of women around host communities, always!
2. Operational necessities for Host Communities Development Trust should consider 30% compositional allocations for women.
3. Appointment of Board of Trustees across “the trust” should consider 30% composition for women.
4. Appointment into Host Communities Management Committees should consider 30% composition for women.
5. Capital funds for Host Communities should be equitably allocated for the benefits of men and women.
6. Matrix for distribution of Trust Funds should be technically structured to equitably benefits men and women.
7. Fund Managers to be appointed, should be persons with gender equity lenses.
8. Executive members to be appointed should be made up of 30% consideration for women.



9. Host Communities Advisory Committees should be constituted with 30% women or more.
10. Each Host Communities' needs assessment should be developed through gender neutrality.
11. Host Communities development plans should be developed through gender justice.

According to Oxfam America, gender inequality is one of the oldest and most pervasive forms of inequality. Unequal systems of power, built upon patriarchal systems creates gender discrimination that keeps women and gender non-conforming people in poverty. Around the world, the systems underpinning society, including, laws and enforcement, have been built in ways that denies women and individuals along gender identity and sexual orientation spectrums the same rights... Currently, about 153 countries have laws that promotes gender discrimination. When women are denied education, are unable to safely exercise their rights, whereas, cultures and communities enables discrimination, thereby, passing on patriarchal attitudes and beliefs that disvalues the position of women, compared to men on household, national, and global levels, all, which perpetuates inequality that (women) experience.

With concerns about the above, the Niger Delta Budget Monitoring Group, with support from Oxfam, seeks to use opportunity created by the passage of the Petroleum Industry Act, 2021, which legalizes economic opportunities for (extractive) petroleum and gas producing host communities, through a fund (S. 240 (2) "...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 annual operating expenditure of the preceding financial year in the upstream petroleum operations affecting the host communities for which the applicable development trust fund was established".

If equity for women was not casted into the PIA by the National Assembly, Nigerians, especially, host communities can remedy it through social equity and moral justice for our women with 30%

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equitable consideration for women on implementation of Chapter 3 (S.234-to -259) of the PIA, which in the long-run, is for extended benefits of men.

It is a campaign for justice!



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