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The Petroleum Industry Bill and the Nigerian Economy: A Review

Soji Oyeranmi, Ph.D.[1] and **Lawrence Dube**[2]
[1]Department of History and Diplomatic Studies,
Olabisi Onabanjo University, Ago Iwoye, Ogun State, Nigeria
[2]Citizens Trust Advocacy and Development Centre,
Port Harcourt, Rivers State, Nigeria
[1]Email: soji.oyeranmi@gmail.com
[2]Email: lawd2000@gmail.com

Abstract

With the ongoing controversies surrounding the purported removal of oil subsidy due to the deregulation of the downstream oil sector by the President Buhari's regime, there is urgent need to revisit the issues the petroleum industry bill (PIB). Although the PIB has been described as 'the most comprehensive piece of legislation in the history of the Nigerian oil and gas industry'; there are many provisions in it many interests don't really appreciate. This has led to a serious controversy over the bill. For example, foreign oil companies and even foreign nations see it as an unwelcome intrusion into their traditional monopoly over the industry and an assault on their stranglehold over production and profits. The NNPC also perceives it as an effort to force it to be more open and transparent, a virtual death sentence for an institution which thrives on lack of openness and accountability. Northern legislators on their own see it as further enriching a zone which already takes more than it is entitled to, and impoverishing their region. South-South legislators think it makes too little provision for more. Federal government thinks the legislation is poorly understood by Nigerians, and has become unduly politicised. It has become obvious that, there is a need for stakeholders to really find a middle ground at resolving the nagging controversies stalling the passage of the PIB. It is within this context that this article reviews and critically considers the Nigerian oil

industry before PIB; reflects on the history of legislation in the oil sector; highlights the basic provisions of the PIB; brings out its possible impact on the deregulation of oil sector; examines the controversies surrounding the bill and its purported benefits to the Nigerian people and the economy; and suggests some ways out of the quagmire to ensure the passage of the bill for the greater good of the Nigerian nation.

Keywords: Nigerian economy, PIB, Foreign oil companies, NNPC, Poverty.

Introduction

In spite of the abundant human capital, mega oil economy and the all persuasive reforms, Nigeria remains one of the most fragile countries in the world and known as the poverty capital of the world (Adebayo, 2018). The country just exceeded in India with the largest rate of people living in extreme poverty with about 86.9 million people who live in extreme poverty, which is about 50% of its entire population (Borgen Magazine, 2020). More tragic is the near-absolute failure of many anti poverty programmes and gross insensitivities of the successive governments about the plight of the poor Nigerians. For example, Labour Unions across the country are brazing up for a total showdown with recent astronomic hikes in the prices of petroleum products and electricity tariffs sequel to the removal of the so-called oil subsidy as concomitant effect of the deregulation of the oil sector. Adetayo et al. (2020), claim that despite the damning consequences of the COVID-19 pandemic, petrol prices have increased for three straight months in 2020: rising from N121.50–N123.50 per litre in June to N140.80-N143.80 in July, N148-N150 in August and N158-N162 in September, 2020.

With the above mentioned catastrophe in the so-called oil producing country, one cannot blame those who have concluded that rather than being a blessing to Nigerians oil has become a curse (Oyeranmi, 2020, p.10). However, while the current situation looks gloomy as ever, this paper argues that fundamental and holistic reform of the Nigerian oil sector is urgently required to rescue the economy from total collapse and lift a majority of Nigerians out of grinding poverty. The petroleum industry bill (PIB) is possibly an answer. The PIB is a piece of legislation initially intended to address endemic structural, policy and managerial issues in the Nigerian oil and gas sector. Its goals were to enhance the value of the asset for the Nigerian people by plugging loopholes in policies and management and improving transparency and efficiency of the sector. Stanley (2009) opines that the basic purpose of the PIB is to reform Nigeria's petroleum sector such that the Nigerian oil and gas industry will achieve 21st century global industry performance. It is an attempt to redress observed weaknesses and abuses by operators and stakeholders, eliminate corruption and restructure the industry to make it more responsive to social and economic needs of Nigerians and foreign investors with basic key concerns such as equity, responsibility and sustainability targets.

The PIB as originally drafted has gone through massive tampering, alterations, amendments, duplications, disputes over authenticity, delays and damaging debates. It is now singularly the most divisive legislation, pitching mostly Northern legislators who feel it represents a declaration of economic war on their region, and their colleagues from mostly the South-South who feel it represents a fairly packaged deal which is non-negotiable. Although the PIB has been described by many as 'the most comprehensive piece of legislation in the history of the Nigerian oil and gas industry'; there are many provisions in it many interests don't really appreciate. This has led to a serious controversy over the bill. For example, foreign oil companies and even foreign nations see it as an unwelcome intrusion into their traditional monopoly over the industry and an assault on their stranglehold on production and profits.

The NNPC also sees it as an effort to force it to be more open and transparent, a virtual death sentence for an institution which thrives on lack of openness and accountability. Northern legislators on their own see it as further enriching a zone which already takes more than it is entitled to, and impoverishing their region. South-South legislators think it makes too little provision for more. Government thinks the legislation is poorly understood by Nigerians, and has become unduly politicised. From the above submissions, it has become obvious that, there is a need for stakeholders to really find a middle ground at resolving the nagging controversies stalling the passage of PIB. This is why this article will attempt to critically evaluate the Nigerian oil industry before

PIB; briefly look at history of legislation in the oil sector; provide an overview of the basic provisions of the PIB; discuss the controversy surrounding the bill; and examine the purported benefits of the bill to the Nigerian people and the economy.

History of Oil Discovery in Nigeria

Developers in the pursuit of commercially available oil struck it big in 1956. Prior to the discovery of oil, Nigeria, like many other African states, strongly relied on agricultural exports to other countries to support their economy. In fact, as observed by BBC (2013) that's what many Nigerians thought the developers were looking for – palm oil. But as contained in another 2013 report, after nearly 50 years searching for oil in the state, Shell-BP discovered the oil at Oloibiri in the Niger Delta. Wishing to utilize this newfound oil opportunity, Shell-BP made sure the first oil field began production in 1958. Ever since foreign oil companies have been in charge. There are six petroleum exportation terminals in the country. Shell owns two, while Mobil, Chevron, Texaco, and Agip own one each. Shell also owns the Forcados Terminal, which is capable of storing 13 million barrels (2,100,000 m^3) of crude oil in conjunction with the nearby Bonny Terminal. Mobil operates primarily out of the Qua Iboe Terminal in Akwa Ibom State, while Chevron owns the Escravos Terminal located in Delta State and has a storage capacity of 3.6 million barrels (570,000 m^3). Agip operates the Brass Terminal in Brass, a town 113 km southwest of Port Harcourt and has a storage capacity of 3,558,000 barrels (565,700 m^3). Texaco operates the Pennington Terminal (McLennan & Williams, 2005).

Nigeria is Africa's largest oil producer and has been a member of the Organization of Petroleum Exporting Countries (OPEC) since 1971. The Nigerian economy is heavily dependent on the oil sector, which, accounts for over 95 percent of export earnings and about 40 percent of government revenues, according to the International Monetary Fund (IMF). According to the International Energy Agency (IEA), Nigeria produced about 2.53 million barrels per day, well below its oil production capacity of over 3 million barrels per day, in 2011. Nigeria is an important oil supplier to the United States of America (USA). For the last nine years, the USA has imported between 9-11 percent of its crude oil from Nigeria;

however, its import data for the first half of 2012 show that Nigerian crude is down to a 5 percent share of total USA's crude imports. According to the International Energy Agency, in 2011, approximately 33 percent of Nigeria's crude exports were sent to the United States of America, making Nigeria its fourth largest foreign oil supplier. Although total crude imports into that country are falling, imports from Nigeria have declined at a steeper rate, according to the International Energy Agency. The main reasons underlying this trend are that some gulf coast refiners have reduced Nigerian imports in favour of domestically-produced crude, and that two refineries in the USA east coast, which were significant buyers of Nigerian crude, were idled in late 2011.

As a result, Nigerian crude as a share of total USA's imports has fallen to 5 percent in the first half of 2012, down from 10 and 11 percent in the first half of 2011 and 2010, respectively. According to the CIA World Factbook (2013), Nigeria's main export partners are the United States of America, India, Brazil, Spain, France and the Netherlands. Shell has been working in Nigeria since 1936, and currently dominates gas production in the country, as the Niger Delta, which contains most of Nigeria's gas resources, also houses most of Shell's hydrocarbon assets. Nigeria has a total of 159 oil fields and 1481 wells in operation according to the Ministry of Petroleum Resources. The most productive region of the nation is the coastal Niger Delta Basin in the Niger Delta or "South-south" region which encompasses 78 of the 159 oil fields. Most of Nigeria's oil fields are small and scattered, and as of 1990, these small unproductive fields accounted for 62.1% of all Nigerian production. As of 2000, oil and gas exports accounted for more than 98% of export earnings and about 83% of federal government revenue, as well as generating more than 14% of its GDP. It also provides 95% of foreign exchange earnings, and about 65% of government budgetary revenues (Oyeranmi & Omotoso, 2015).

Nigeria is also blessed with gas. Natural gas reserves are well over 187 trillion ft^3 (2,800 km^3), the gas reserves are three times as substantial as the crude oil reserves. The biggest natural gas initiative is the Nigerian Liquefied Natural Gas Company, which is operated jointly by several companies and the state. It began exploration and production in 1999. Chevron is also attempting to create the Escravos Gas Utilization project which will be capable of producing 160 million standard ft^3 of gas per day. Beyond all the aforementioned positive impact, oil and gas industry has had many negative effects; which are often irreversible for host communities .This ugly trend was vividly captured by the Greenpeace International (2011) in one of its reports that:

> We witnessed the slow poisoning of the waters of this country and the destruction of vegetation and agricultural land by oil spills which occur during petroleum operations. But since the inception of the oil industry in Nigeria, several decades ago, there has been no concerned and effective effort on the part of the government, let alone the oil operators, to control environmental problems associated with the industry.

Some of the problems will be highlighted here. Baird (2010) informs that oil spills and water contamination are a common occurrence; it has been estimated that between 9 million to 13 million barrels have been spilled since oil drilling started in 1958. Natural gas flaring is also posing a great danger to the people. A 2012 report also has that, Nigeria flares more natural gas associated with oil extraction than any other country, with estimates suggesting that of the 3.5 billion cubic feet (99,000,000 m^3) of associated gas (AG) produced annually, 2.5 billion cubic feet (71,000,000 m^3), or about 70% is wasted via flaring. Statistical data associated with gas flaring is notoriously unreliable, but AG wasted during flaring is estimated to cost Nigeria US $2.5 billion on a yearly basis. There is equally crisis of human rights violation and massive corruption. One of the greatest threats facing the people of the Niger Delta has actually been their own government. The Nigerian government has total control over property rights and they have the authority to seize any property for use by the oil companies. Most of the dollars that comes out of the ground in the delta goes to the government of Nigeria.

As a result of the enormous amounts of sweet light crude that comes out of the delta every day Nigeria has the second largest GDP in Sub-Saharan Africa (Carter 2007). Despite the wealth flowing into the nation from oil revenues many of Nigeria's socio-economic factors are worse now than they were 30 years ago (Junger, 2007). According to the World Bank, most of Nigeria's oil wealth gets siphoned off by 1% of the population. Corruption in the government is rampant, in fact since 1960 it is estimated that

400 to 582 billion dollars has been stolen by corrupt government officials (AI, 2006; Chatam House, 2019). The corruption is found at the highest levels as well. For example, a former inspector general of the national police was accused of stealing 52 million dollars. He was sentenced to six years in prison for a lesser charge (Akinkuotu, 2020). Multinational oil corporations are the most culpable of fostering this negative impact on their host communities. According to human rights and environmental activist, Oronto Douglas, "the multinational companies are assassins in foreign lands"(Oyeranmi, 2011, pp.46-57). Their mission is to maximize profit, suck and rape their host natural resources with little or no regard for the environment. Aside the relative economic prosperity that goes along with transnational trade, the cost benefit- in terms of the heavy environmental degradation, coupled with dwindling of natural resources (especially on the part of developing countries like Nigeria) is alarming.

The most enduring impact of the environmental degradation is the twin evils of grave poverty and chronic underdevelopment. The people of the delta states live in extreme poverty even in the face of great material wealth found in the waters by their homes. According to Amnesty International (2006) 70% of the six million people in the Niger River Delta live off of less than 1$ US per day. Nigerians have on many occasions engaged in protests against oil-related corruption and environmental concerns, but are frequently met with harsh suppression by government forces. One example of this occurred in February 2005. There was a protest at Chevrons Escravos oil terminal in which soldiers opened fire on the protestors. One man was killed and 30 others were injured. The soldiers claim that the protestors were armed, a claim the protestors deny. Another, more extreme example happened in 1994. The Nigerian military moved into a region called Ogoniland in force. They razed 30 villages, arrested hundreds of protestors, and killed an estimated 2,000 people. One of the protestors they arrested was Ken Saro Wiwa, a Nigerian TV producer, writer and social activist. Ken wrote and spoke out about the rampant corruption in the Nigerian government and condemned Shell and British Petroleum. In 1990, he founded the Movement for the Survival of the Ogoni People (MOSOP). He was later arrested by the Nigerian Government and imprisoned for 17 months. Then in a kangaroo trial, Ken and eight others were condemned to death and were consequently hanged in 1995(BBC, 2013).

As government officials siphon off all the money generated from oil sales the infrastructure suffers. Most of the villages do not have electricity or even running water.[21]. They do not have good access to schools or medical clinics. For many, even clean drinking water is difficult to come by. The deterioration of the infrastructure in the Niger delta states is so severe in both rural and urban areas. One example of this is the airport at Port Harcourt. Part of a fence was not properly maintained and an Air France flight recently hit a herd of cattle on the runway. The airport has to be closed for a very long time. With all the above mentioned catastrophe in the so called oil producing country, one cannot blame those who have concluded that rather than being a blessing to Nigerians oil has become a curse. In February 2013, the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture (NACCIMA) claimed that the oil sector of the country "is killing the economy". NACCIMA's Director General Dr John Isemede said the oil sector is affecting businesses in the country negatively by failing to add real value to them. He said the oil sector has caused substantial decline in agricultural exports, which began in the mid-1960s and continued to date. Interestingly, several attempts have been made by governments through promulgation of legislations to reform the oil and gas industry to eliminate corruption and increase efficient productivity. The PIB is just the latest of such attempts

A Historical Background to the Bill

According to the oil and gas sector reform implementation Committee Petroleum Industry Bill is "an Act to establish the legal and regulatory framework, institutions and regulatory authorities for the Nigerian petroleum industry, to establish guidelines for the operation of the upstream and downstream sectors, and for purposes connected with the same"(PIB Draft, 2009). The draft contains 189 pages divided into nine parts covering: Fundamental objectives (eight chapters); Institutions (ten chapters and fifty-seven sub-sections); Upstream Licensing (forty-two sub-sections); Downstream Licensing (fifty-two sub-sections) ;Indigenous oil companies and Nigerian content (two chapters and seven sub-sections) ;Health, Safety and Environment (eight sub-sections); Fiscal provisions (sixty-three sub-sections) ; and Repeals, Transitional and Savings (twelve sub-sections). According to Hogan Lovells International LLP, the petroleum industry bill (PIB) or the "Bill" is perhaps the most talked about piece of legislation in Nigeria given the far reaching reforms which it proposes to an industry which is the single most significant contributor to the national economy. The bill which was first introduced in December 2008 has undergone numerous revisions and has been the subject of intense debate. On 18 July 2012 President Goodluck Jonathan presented a new version of the PIB to the seventh session of the National Assembly for consideration and enactment. This section will briefly look at the history of the bill and provides an overview of its salient provisions.

A number of attempts have been made in the past by successive governments to initiate a comprehensive policy and legal framework (which has generated nothing less than sixteen pieces of legislation), to govern its oil and gas sector in Nigeria. Some of the key laws date as far as back as 1959: the Petroleum Profits Tax Act; 1969: the Petroleum Act; and in 1977: the Nigerian Petroleum Corporation Act. Other sundry legislation address fiscal issues, with memoranda of understanding (MoUs) selectively negotiated and signed periodically. In the absence of a robust and contemporary national legislation conforming to global best practices, it has been difficult to effectively regulate the oil and gas industry, and to optimize its potential for Nigeria's development. Arising from the above, successive civilian governments since 1999 mapped out mechanisms for the restructuring of the oil and gas sector, with the explicit goal to ensure that the sector operates to achieve its full potential and to the benefit of Nigeria.

The initial step in this regard was the setting up in 2000 of the Oil and Gas Sector Reform Implementation Committee (OGIC) under the auspices of the National Council on Privatisation (NCP). The OGIC was inaugurated on 24 April 2000 under the chairmanship of Dr. Rilwanu Lukman (then serving as the Presidential Adviser on Petroleum and Energy). The OGIC was charged with the task of making recommendations for a far reaching restructuring of Nigeria's oil and gas industry. The recommendations of OGIC included a proposal to separate the commercial institutions within the industry from the regulatory institutions. The work of the Committee resulted in the formulation of the National Oil and Gas Policy (2005), with the overriding objective of maximizing the net economic benefit to the nation from our oil and gas resources and to enhance the social and economic development of the people while meeting the nation's needs for fuel at a competitive cost, accomplishing all in an environmentally acceptable manner. In furtherance of that objective, the policy requires:

> …increased value addition to the economy through further commercial processing of the crude oil and natural gas produced. Nigeria shall consequently not be content to simply extract its natural resources for sale as raw products. Amongst others, the economic benefits shall be maximized through appropriate fiscal regimes, sustained profitability of the industries, development of additional commercial activities, and the development of improved direct linkages between the oil sector and the other sectors of the Nigerian economy, including an active local content policy. (Omano Edigheji et al., 2012)

The reform process gathered fresh momentum in 2007, with the OGIC reconstituted to leverage the policy provisions for setting out legal and institutional framework for regulating and managing the industry. The 2008 OGIC report formed the basis of the first draft of the petroleum industry bill (PIB) that was tabled as an Executive Bill before the National Assembly the same year. Since then, controversies have dogged various versions of the PIB, including the work of an inter-agency team in 2010 and another committee comprised of members of the House of Representatives in 2011. The latest version (PIB-2012) is the output of the additional work of a special task force reporting in June 2012, which was approved by the Federal Executive Council for re-presentation to the 7th session of the National Assembly in July 2012 (Omano Edigheji et al., 2012). Among the salient features of the original version of the PIB were the: i) unbundling and commercialization of the Nigerian National Petroleum Corporation (NNPC); ii) transformation of the existing joint ventures between multinational oil companies and the NNPC; iii) deregulation of the downstream sector; iv) creation of new regulatory bodies; and v) introduction of a new fiscal regime that sought to increase overall government take (Hogan Lovells Company, 2013).

An Overview of PIB

In the opinion of the NNPC, the basic purpose of the PIB is to reform the petroleum sector such that the national oil and gas industry will achieve 21st century global industry performance (PIB draft, 2009). In order to achieve this, the bill seeks to decentralise the industry and make it more efficient and result oriented. As a 'magic pill' to heal the age long ailment of the oil and gas industry in Nigeria, the PIB seeks to revise, update and consolidate existing petroleum legislations in Nigeria including legislation on the taxation of upstream petroleum operations. The general objectives of the bill are the following: creating a conducive business environment for petroleum operations; enhancing exploration and exploitation of petroleum resources for the benefit of Nigerians; optimizing domestic gas supplies particularly for power generation and industrial development; establishing a progressive fiscal framework that encourages further investment in the petroleum industry while optimizing the revenue accruing to the government; establishing commercially oriented and profit driven oil and gas entities; deregulating and liberalizing the downstream petroleum sector; creating efficient and effective regulatory agencies; promoting openness and transparency in the industry; and encouraging the development of Nigerian content.

To achieve these objectives the bill provides, among other things, for: the restructuring or reorganisation of industry institutions and the regulatory framework; a new fiscal regime for upstream oil and gas production; allocation of Domestic Gas Supply Obligations to licensees; and deregulation of the downstream sector. In order to achieve the stated objectives, the PIB made provisions for certain statutory institutional framework. As under the current regulatory regime, the Minister of Petroleum Resources (appointed by the President) is declared in the PIB to "be responsible for the co-ordination of the activities of the petroleum industry" and is empowered to "exercise general supervision over all operations and all institutions in the industry" (PIB draft, 2009). In addition, the PIB proposes the establishment of the following regulatory bodies, institutions and funds: Petrochemical Technical Bureau, to provide technical support to the Minister of Petroleum Resources on matters relating to the petroleum industry; Upstream Petroleum Inspectorate, to administer and enforce policies, laws and regulations relating to all aspects of upstream petroleum operations and to issue and administer licenses and leases in the upstream sector; Downstream Petroleum Regulatory Agency, to administer and enforce policies, laws and regulations relating to all aspects of downstream petroleum operations and to issue and administer licenses in the downstream sector; Petroleum Technology Development Fund (*already in existence*), to provide scholarships, bursaries and endowments for the training of Nigerians who will qualify as graduates, professionals, technicians and craftsmen in the fields of engineering, geology, science and management and other related fields in the petroleum industry; Petroleum Equalisation Fund (*already in existence*), to receive net surplus revenues from petroleum products marketing companies and hold such funds in trust for the reimbursement of companies who have suffered loss solely as a result of sale of petroleum products at uniform benchmark prices throughout the country (Hogan Lovells Company, 2013).

There are also: Petroleum Host Communities Fund ,to receive on a monthly basis from upstream petroleum producing companies, sums equalling 10% of their net profits and to utilise the funds for the development of the economic and social infrastructure of communities within the petroleum producing areas; National Petroleum Assets Management Corporation ,to acquire and manage investments of the Government of Nigeria in the upstream petroleum industry; Nigerian Petroleum Assets Management Company Limited (a subsidiary of the National Petroleum Assets Management Corporation to be incorporated as a company limited by shares under the Companies and Allied Matters Act), to take over certain assets and liabilities of the NNPC including: i. unincorporated joint ventures; ii. bonds, loans, financing arrangements, joint operating arrangements; iii. litigation and staff National Oil Company (to be incorporated as a public company limited by shares under the Companies and Allied Matters Act) ,to take over certain assets currently held by NNPC on behalf of the government not including interests in unincorporated joint ventures and assets held by the National Gas Company; National Gas Company Plc (to be incorporated as a public company limited by shares under the Companies and Allied Matters Act);to take over certain assets held by NNPC on behalf of the Government not including interests in unincorporated joint ventures and assets held by the National Oil Company(Hogan Lovells Company, 2013).

The PIB also takes care of domestic gas obligations by providing that the Upstream Petroleum Inspectorate shall, having regard to the needs of the domestic gas market and in accordance with the National Gas Master Plan, impose Domestic Gas Supply Obligations (DGSO) on lessees (Hogan Lovells Company, 2013). A lessee who fails to comply with its DGSO shall not be permitted to make supplies to gas export operations, and where the lessee only supplies gas to export operations, the lessee shall be directed to suspend operations. This provision, which is directed toward improving Nigeria's perennially poor power system and assisting industrialisation, will be considered by most Nigerians as laudable. In addition, deregulation of the downstream sector of the oil industry equally central to the bill. The PIB provides that the pricing of petroleum products in the downstream product sector shall be deregulated to ensure market related pricing, adequate supply and removal of economic distortions. However, although pricing is to be left to market forces, the Bill proposes to safeguard the interests of consumers by providing that the Downstream Petroleum Regulatory Agency shall oversee tariffs for transportation by pipelines, bulk storage for petroleum products and regulated open access facilities. The Downstream Petroleum Regulatory Agency will also be responsible for market monitoring and promotion of competition.

Multinational Oil Corporations versus NNPC; North versus South

As demonstrated earlier, the Petroleum Industry Bill (PIB) is a piece of legislation initially intended to address endemic structural, policy and managerial issues in the Nigerian oil and gas sector. Its goals were to enhance the value of the asset for the Nigerian people by plugging loopholes in policies and management and improving transparency and efficiency of the sector. It was an attempt to redress observed weaknesses and abuses by operators and stakeholders, eliminate corruption and restructure the industry to make it more responsive to social and economic needs of Nigerians and foreign investors with basic key concerns such as equity, responsibility and sustainability targets (news.naij.com, 2015). But if the PIB is meant to turn around fortunes of oil and gas industry for the overall benefit of the people and the Nigerian economy, why has it become so controversial? There are many provisions in it many interests dislike. Foreign oil companies and even foreign nations see it as an unwelcome intrusion into their traditional monopoly over the industry and an assault on their stranglehold over production and profits. The NNPC see it as an effort to force it to be more open and transparent, a virtual death sentence for an institution which thrives on lack of openness and accountability. Northern legislators feel it represents a declaration of economic war on their poorer region and as further enriching a zone which already takes more than it is entitled to, and impoverishing their region. South-South legislators think it makes too little provision for more and therefore non-negotiable. Government thinks the legislation is poorly understood by Nigerians, and has become unduly politicised.

Expectedly, the prospect of a new fiscal regime which almost certainly would guarantee increased government take elicited strong opposition from the International Oil Companies which argued that the bill would create a harsh environment that would materially change the economics of new and existing investments. Their initial reactions to the Bill prompted intense discussions among stakeholders in the industry and signalled the commencement of a process of multiple revisions of the Bill in an attempt to produce an acceptable draft. This revision process culminated in a proliferation of diverse and irreconcilable versions of the bill. The existence of different versions of the Bill together with preparations for the general elections in the 2nd quarter of 2011 contributed to the inability of the last session of the legislature to enact the bill into law. The resurgence of the bill can be traced to a number of factors: the gradual cessation of investments in the sector as a result of uncertainty regarding the fiscal provisions of the bill and their potential impact on the industry, the emergence of competing petroleum investment opportunities in other sub-

Saharan African countries such as Ghana, Angola, Sao-Tome and Principe, and more recently, the attempt by the Nigerian government to deregulate the downstream industry in January 2012 which led to an increase in fuel prices. In response to the increase in fuel prices, organized labour under the umbrella of the Nigerian Labour Congress and the Trade Union Congress had called out its members on a six-day nationwide strike which paralysed economic activities.

The federal government as part of efforts to contain the strike, committed to expedite the reform of the oil and gas industry by, among other things, fast-tracking the passage of the PIB. Subsequently, the federal government inaugurated a Special Task Force with responsibility to produce a harmonized version of the Bill which would be re-presented to the legislature for passage. The current Bill which has now been submitted to the legislature is believed to be largely the product of the work done by the Special Task Force and its technical committees (Hogan Lovells Company, 2013). The greatest threat to the enactment of PIB is the ongoing legislative war between the Northern and Southern federal legislators. In a special report by Charles Kumolu (2013) titled "Is the North really afraid PIB?",the writer argued that "the Petroleum Industry Bill, PIB, that was then before the National Assembly appears to have reawakened the historical North/South dichotomy over the appropriation of Nigeria's vast economic resources." This North versus South imbroglio over the PIB began since 2008 when the first version was presented to the National Assembly. While expressing the his own reasons why the North will not support in a recent public hearing on the bill in Kaduna, Alhaji Tanko Yakasia (2013) argued that with 13 percent derivation; the money allocated to the NNDC and Niger Delta Ministry as well as Amnesty on the Niger Delta militants the oil producing States are already having more than they deserve; so it will be unnecessary to add more. In his words:

> The 13 percent derivation to the oil producing states was unjustifiable as it wasn't true that the oil spill which devastated their land and water was caused by the activities of multi-national corporations' oil exploration. It was as a result of illegal oil bunkering and pipe line vandalisation. By the way, the money allocated to NDDC and Niger Delta Ministry as well as Amnesty on the Niger Delta militants

is huge as it amounts to about 30 percent of the country's income.

In relation to the above, the Northern governors had also set up a committee to advise them on the contents of the bill. The Ahmed Monsur, led committee was charged with the responsibility of studying the proposed bill and its implications for the region. It was gathered that the committee's findings, increased the fears of the north, as the committee submitted that PIB would end up allocating more money to the oil producing states. Hence it concluded that PIB could mean increasing the 13 percent derivation accruable to the Niger Delta states. The Monsur committee also reported that: on top of the 13.5 per cent statutory derivation from the Federation Account, the mandatory Federal allocation to the Ministry of Niger Delta, the Niger Delta Development Commission, NDDC, levy of three percent of oil operations and the massive amount of federal funds being spent on the Niger Delta Amnesty programme, the new PIB is adding 10 percent of the profit of all oil and gas companies to the Niger Delta states and communities(Charles Kumolu, 2013).

The North was also reported not to be comfortable that the bill did not consider gas supply to the region, just as it was uncomfortable that revenue accruing to Bayelsa, Delta, Rivers and Akwa Ibom states, is more than that of 19 states of the North. The region also criticised some sections of the bill which makes provision for the Petroleum Host Communities Fund, PHCF. Sections 116 and 117 of the bill reads: "There is established a fund known as the Petroleum Host Communities Fund. The PHC Fund shall be utilised for the development of the economic and social infrastructure of the communities within the petroleum producing area (Charles Kumolu, 2013)."Another provision of the bill, which the North is opposed to, is the establishment of a National Oil Company, the National Gas Company and the National Petroleum Assets Management Corporation. Against the background of this, not a few are in hurry to know what the fears of the north are on the matter. Interestingly, the president, Arewa Alliance for One North, AAON, Dr. Allahmagani Baushe seemed to set the tone for the PIB hot debates at the National Assembly when he stated that the PIB should address the fears of the whole nation and not the doubts of the oil producing areas alone. He lamented the usual politicisation of important national matters along tribal and ethnic lines and insisted that any bill made to govern the oil industry such as PIB must take into consideration every part of the country. According to him: the north as a region in Nigeria does not in any way want the PIB dead, but what we are saying is that some geo-political zones should not be enriched, while others are left behind. After all, the oil belongs to all Nigerians; the proponents of the current bill should also have in mind that some states in the north have discovered oil. The North should not always been seen as an enemy of the south on most issues because we are one. What the North is saying is that certain aspects of the bill should be in consonance with the mood of the whole nation and not the Niger delta region alone (Charles Kumolu, 2013).

The central stage for the so called North versus South battle over PIB is the National Assembly, where senators and members of the House of Representatives are already sharply divided on the clause providing for the allocation of 10 per cent of oil revenue to oil-producing communities in the country. Also joining the fray are leaders of the South-South, who have vowed to fight for the passage of the bill in its entirety. The clash was sparked off by the Chairman, Senate Committee on Housing, Bukar Abba-Ibrahim, who during the first plenary session on the PIB that the North would oppose the PIB because it was lopsided in favour of Niger Delta states. The All Nigeria Peoples Party senator reportedly described the PIB as "unfair and unacceptable," especially the contentious clause. Abba-Ibrahim had argued that the Niger Delta had several other sources of revenue from oil apart from derivation accruing from the Niger Delta Ministry, the Niger Delta Development Commission and the Presidential Amnesty Programme. The senator said giving an additional 10 per cent of oil revenue to the oil producing communities in addition to existing ones was inimical to the prevalence of peace in the country. He said: derivation is only one out of seven sources of revenue for the oil producing states. They have the Federal Government's take home, the NDDC with over ₦500 billion being projects only in oil producing communities.

They also have the Niger Delta Ministry with over N400 billion; Federal Government grants in the name of amnesty and oil companies doing social corporate responsibility. By adding another 10 per cent to the seven sources, I don't know how you are going to have peace where resource allocation is so skewed to one side and unfair (Soriwei et al., January 5, 2013). He received support from another Northern senator, Danladi Sankara from Jigawa State, who submitted that the PIB must be stopped because it was designed to satisfy sectional interest. Sankara, who is a Peoples Democratic Party senator, said that benefits accruable to the oil producing communities should not be to the detriment of other parts of the country. Sankara categorically declared that: there is certainly no way the PIB will pass the way it was sent. It is clearer that the way it was crafted, only one section of the country is being favoured to benefit. While no one is saying they won't benefit, such benefits cannot be to the detriment of other sections; we will not allow it. This country belongs to us all (Soriwei et al., January 5, 2013). But senators from the South, who reacted to the comments by Abba-Ibrahim and Sankara, disagreed sharply with them.

A senator from Abia North, Nkechi Nwaogu, said the provision of 10 per cent revenue for oil producing communities was not too much. The senator warned that unless the host communities were taken care of, the country could start having problems that could hamper national development. She said, "We cannot neglect the goose that lays the golden egg. I support the way the clause was captured in the bill. The figure of 10 per cent for host communities is not too much" (Soriwei et al., January 5, 2013). While presenting his own argument, Senator George Sekibo (PDP, Rivers) faulted his Northern counterparts on the issue, saying it should be viewed from the perspective of the disturbing level of environmental degradation in the oil producing communities. Sekibo insisted that Nigerians should look at the passage of the bill as a move to redress the environmental degradation suffered by the Niger Delta because of oil production. He said senators should see the bill like the HYPADEC bill that was passed to take care of the problem of degradation in the hydro electric power generation communities. According to Sekibo:

> The PIB that we have now is better than what was given to us before. As for whether the 10 per cent being proposed for oil producing communities is too much, that is not the right sense of judgment. "The right sense of judgment is how much damage has been done to the environment in the last 50 years. In the next 50 years, we may not have a habitable environment in these places. As we speak, gas

> flaring is still going on with all the evils associated with it. "For those who argue that the NDDC and the Niger Delta Ministry are already too much, I will say the NDDC was set up to assist with the infrastructural development of these areas. What has the Niger Delta Ministry done since apart from trying to do the East West Road, which is an initiative of the Federal Government. (Soriwei et al. January 5,2013)

Senator Aloysius Etok (PDP, Akwa Ibom) also urged the Northern senators to accept the PIB as a way of addressing the injustice done to the people of the oil producing communities over the years. He said that it was wrong for anybody to oppose the provision in the PIB meant to take care of the communities which had suffered over 70 years of environmental degradation associated with oil production. He called on all senators from the North to reciprocate the gesture of the southern senators who supported the HYPADEC bill to take care of communities devastated by electricity production. He submitted that "what is fair and equitable cannot be wrong. Nobody should be afraid of doing the right thing because doing the right thing can never be wrong." Some other notable South-South leaders have also expressed outrage at the growing opposition to the bill by the North. These include, Mr.Robinson Esite of the Ijaw National Congress ; Mr. Ledum Mitee, former President of the Movement for the Survival of the Ogoni People; and the leader of the defunct Niger Delta Peoples Volunteer Force, Alhaji Asari Dokubo. Dokubo was more forceful and belligerent in his approach as he warned the North on the possible outbreak of violence if the North continues to block the passage of the PIB. According to him: these people do not want peace, they do not believe in negotiation; what they want is to take what does not belong to them. We must stand to fight; the oil belongs to us; the people of the South-South, we want 100 per cent and not 10 per cent. When our political leaders don't talk, these people feel larger than life… For me, this is just a rant, they are pushing us. The solution is for us to go back to fight (Dokubo, 2013).

Esite on his own who described the comments attributed to the Northerners as unfortunate and warned that the privilege of sharing the oil resources of the Niger Delta shouldn't be abused. He argued that "The oil is not a collective property; it is the sole property of the Niger Delta and shared among Nigerians out of care for neighbours. This privilege should not be abused by whatever means and by whosoever." In the same token, Ledum Mitee condemned in a strong term the regional approach to the PIB by the National Assembly. According to him: It is unfortunate if a regional position is taken on the PIB. A senator is supposed to make laws for the good of the country and not for a region. You don't need to deal with PIB in a manner that suggests throwing the baby away with the bath water.It is not good to give an ethnic interpretation to the PIB. Most Nigerians have agreed that the PIB should be passed into law. The communities are not getting the benefit of the oil (Mitee, 2013). A Niger Delta activist and Executive Director of Project Equity and Justice, PEJ, Barrister Tony Peremombowie, lamented 'the usual gang up' of Northerners against Niger Delta but believed that the northern anti-PIB stand would fail. He however admonished the North to revamp their agricultural sector rather than fighting the Niger Delta over the 'black gold' that is a natural gift to them and that PIB should properly address all the concerns of the oil communities. He concludes by saying "PIB is a responsible document which the senators, should as a matter of urgency and equity pass into law."

On their parts the governors of states in the South-South zone have appealed to members of the National Assembly to expedite action in the passage of the petroleum industry bill. This plea was made on behalf of others by former Gov. Liyel Imoke of Cross River in Uyo at the end of the Governors' Forum with members of the National Assembly from the zone held in April, 2012. He said that the delay in the passage of the bill had impacted negatively on the South-South states. According to him: on the Petroleum Industry Bill, while we note the long delay in its passage, which has impacted negatively on the states, we commend the recent effort by the Federal Government to re-introduce the bill. We therefore call on the federal government, the Ministry of Petroleum Resources and the various committees drafting the bill, as a matter of urgency, to finalise the passage of the bill. We also urged members of the National Assembly to ensure the speedy passage of the bill as submitted, so that the nation at large can benefit from the resources (Vanguard, 2012).

Beyond the obvious regional divide, the Chairman, House Committee on Rules/Business, Mr. Albert Sam-Sokwa from Taraba State (North-Central) , supported the contentious 10 per cent provision for oil-bearing communities. Sam-Sokwa, argued that those opposing the provision did so out of sentiment. He opined that since the money (10 per cent) will come from the international oil companies investing in Nigeria and not from the government, nobody should be complaining. According to him "It is to be used to address the problems in oil communities like pipeline vandalism and oil theft. People should read the bill properly before they oppose the provision or condemn it." Another eminent Nigerian, from one of the oil producing states, Chief Mrs. Ritalori Ogbebor, cited massive corruption and mismanagement of money already accruable from the current 13 percent derivation the governors of the Niger Delta states as main reason for the present opposition of the PIB by the North. She stated that due to this allegation of massive corruption and mismanagement, elders of the Niger Delta region do not seem to have the enthusiasm to speak against the position of the north. According to her.

> The PIB is should be seen as a good thing. But when the governors have not properly used the 13 percent derivation for the good of the people, how then do you expect us to assist them on the PIB, which would mean appropriating more money to them. It is because of this kind of opposition from the north, that we have been in the vanguard of the calls for a judicious use of all the funds accruable to the region. We fought for 13 percent derivation. I personal fought for it because I know that the terrain of the Niger Delta requires much money to fix. But we have not been impressed because they governors have little or nothing to show for the thirteen percent derivation. (Vanguard, 2012)

Another lawmaker from South-South zone, Mr. Bassey Ewa, the chairman, House Committee on Gas Resources offered what seems to be a classic way out of the PIB controversy by throwing the contentious issues to the court of public opinion. This is a middle course, saying that Nigerians should be allowed to decide whether the 10 per cent was necessary or not. Ewa, who was later nominated as one of the lawmakers to conduct a public hearing on the PIB, argued that "Let the Nigerian public decide what is appropriate. This is why we are conducting a public hearing. It is not for us as a committee to say whether the provision is appropriate or not." If properly conducted and sincerely appropriated, we sincerely hope that after public hearing, PIB will be harmonised eventually for the overall interest of the economy and benefits of both oil communities and other parts of the country.

The Projected Benefits of PIB to the People and the Economy

Many keen watchers of the Nigerian oil and gas industry are so elated that, a more refined version of the Petroleum Industry Bill (PIB) has been sent to the National Assembly for deliberation and enactment in to law. In the words of Adisa Adeleye (2013), "to be fair, taking a cursory look at the bill, it looks like an elegant document – a Dictionary of the Petroleum Industry." In the same manner, the former Senate President, David Mark described PIB as the 'Bible' of the petroleum industry that meant well (Vanguard, 2013). PIB, in the opinion of its proponents, is a necessary document to explain the petroleum industry and to mark its relevance to the welfare of the people and economic development of the country. Numerous Nigerians are also optimistic that the bill would open the gate to prosperity and change the perception in many quarters that oil is not a blessing but a curse to the nation. The PIB is projected to achieve an all-inclusive legitimate structure for the Nigerian oil and natural gas industry, which will propel varied government goals and aims, related to the petroleum sector. Some of those goals are: Enhancing the state Revenue, breaking the chain of dependency on the part of Nigeria National Petroleum Corporation [NNPC], from the federal government making it generate its own revenue, deregulation of the downstream sector and increased production of natural gas as it relates to the Gas Master Plan of 2008. At the moment, NNPC remains "Nigeria's dominant hydrocarbon regulatory body". It is the national oil and gas company, which has under its auspices several responsibilities in the energy sector of the nation. One might say that NNPC is the largest bureaucratic entity in the history of the present day Nigeria.

The argument is that the PIB would craft stand-alone entities from a number of existing NNPC divisions, redistributing responsibilities for policy-making; technical matters; upstream, midstream and downstream operations; natural gas regulation; and research and development. Also, joint ventures between international oil companies and the NNPC would then be altered to form incorporated joint ventures, with the NNPC centering solely on commercial operations. The bill is supposed to include a revised taxation and royalty regime that would measurably increase the government's revenue. Accordingly, these new agencies will be created from the existing NNPC under the PIB: "National Petroleum Directorate (NPD) to take the place of the Ministry of Petroleum Resources and would primarily focus on policy formulation. It is hoped that this new entity will provide and procure complete benefit of the industry for Nigeria. National Petroleum Inspectorate (NPI) to replace the Department of Petroleum Resources (DPR) and will become the regulator on technical issues within the industry. Petroleum Products Regulatory Authority (PPRA) focusing primarily as regulator for the downstream sector. Nigeria Petroleum Assets Management Agency (NAPAMA), which will replace and monitor and regulate the finances of the upstream sector through proven and tested benchmarks. Nigerian Midstream Regulatory Agency (NIMIRA) to regulate midstream and gas operations. National Petroleum Research Centre will be the R&D institute of the entire industry and will have world class standards."

While corroborating the above impending transformation agenda of the bill, Njideka Kelley opined that the PIB is crafted to transform the NNPC from a bureaucratic organization with major overhead and no tangible profits into a national oil company with profit and capital gains as the its core objective. The intended new structure under the PIB will encompass all the existing subsidiaries, which will be governed by a board of directors under a non-executive chairman. The new name is likely to be called the National Petroleum Company of Nigeria. According to him, "the NNPC will therefore serve only as operator and no longer serve as both regulator and operator as NAPIMS and the Crude Oil Marketing Department will form the new National Petroleum Assets Management Agency (NAPAMA)." Although there may be problem in its sustainability, PIB when passed into law is expected to change the face of Nigerian economy with new policies and regulations in the oil industry. It will introduce reform, change and restructuring of a major bureaucratic organization as never seen in the history of Nigeria. The local content aspects of the reforms are supposed to improve indigenous involvement in the industry, encouraging the participation of Nigerians in both the exploration and the production side of the petroleum industry. The International Oil Companies will then have to, as part of their commitment, train Nigerians to take over specified jobs after a specified time. According to Njideka Kelley (2015): the PIB aims to bring sanity to the long felt inefficiency of the NNPC, create order in the Oil and gas sector of Nigeria's economy as well as earn traceable and tangible money from the soon to be defunct (literally speaking) organization. Many are hopeful that the PIB will achieve all of its aims and live up to the view that it proposes a better regime than the one currently in place.

The provisions for environmental health, safety and compensation for hazards of oil exploration and production in the PIB appear to be the most fundamental possible benefits for the people in the oil communities. Section 406 of the bill mandates every company engaging in upstream and downstream sectors of the petroleum industry in Nigeria, to comply with all environmental health and safety laws, regulations, guidelines or directives as may be issued by the Ministry of Environment, the Minister, or the Inspectorate, as the case may be.[62] Section 407 of the bill contains the conduct of operations in the oil and gas industry. This part compels every company engaging in any activities requiring a licence, lease or permit in the upstream and downstream petroleum industry in Nigeria shall conduct its operations in accordance with internationally accepted principles of sustainable development which includes the necessity to ensure that the constitutional rights of present and future generations to a healthy environment is protected..Section 412 sub section s 1 and 2 also stipulate specific compensation oil corporations must pay in case of their liability and the processes involved. According to this Section, the holder of a petroleum exploration licence, petroleum prospecting licence or petroleum mining lease shall, in addition to any liability for compensation to which he may be subject under any other provision of this Act, be liable to pay fair and adequate compensation for the disturbance of surface or other any other rights to any person who owns or is in lawful occupation of the licensed or leased lands, in accordance with written guidelines as shall be issued by the Inspectorate.

Conclusion

The new version of the PIB is ostensibly going through final stages of appraisals by both President Buhari's led Executive and the National Assembly towards signing it into law (Akowe, 2020). One can only hope that it will sail through this time around. As demonstrated earlier, the PIB is designed to have broad developmental impacts on Nigeria by laying the foundation for diversification of the Nigerian economy (which is a fundamental basis for industrialisation); ensure environmental sustainability and job creation; contribute to reduction of both poverty and inequality in our country. As a consequence, we offer some proposals on how the bill can be improved to ensure that it lays a foundation for sustained development. But to realise all these lofty ideals, all well meaning Nigerians must work together to ensure that the final version of the legislation that will be passed by the National Assembly ensures that all the segments of the Nigerian societies and the economy maximise the benefits from oil and gas industry.

In consonance with the analysis of the Centre for Africa's Progress and Prosperity (CAPP), it is indisputable that Nigeria is ripe for a comprehensive review of the legal and regulatory framework applicable to its oil and gas industry. However, if the PIB is to achieve its worthy objectives (which will undoubtedly benefit the Nigerian oil and gas sector) care must be taken by the legislature to ensure that the government's legitimate interest in seeking a progressive fiscal framework that optimises revenue for the Government is balanced against the equally important objective of ensuring that the Nigerian oil and gas sector remains attractive to both existing and prospective investors. Most importantly, all the sections of the PIB that have to do with interest of ordinary Nigerians (such as 10% special fund for oil communities ,Nigerian content, environmental health and safety, compensation and corporate social responsibility of the Oil Corporations) must not be sacrificed on the alter North/South dichotomy or for lack of time. Since Nigeria as a country still largely remains a work in progress, if the need be, related bills can also be sponsored to care of other communities where mining of other resources apart from oil is taking place current in form 10% special fund or even higher as the case may be. We urge both the executive arm of the Federal Government and the Federal legislature to show commitment and patriotism in harmonising the contentious issues in the PIB in order to ensure an expeditious passage of the Bill. However, they must not also sacrifice the quality of the final product on the altar of speed.

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