ADDRESSING THE IMPACT OF INTERNATIONAL LAW ON THE PETROLEUM INDUSTRY IN NIGERIA

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Abstract

The Nigerian oil and gas industry has evolved over the years with respect to the laws guiding the industry. International law has played a vital role in ensuring the industry's growth. International law has had some positive and negative impacts on the industry. It is on this premise that this work addresses the impact of international law on the oil and gas industry in Nigeria. The work noted that before the Petroleum Act of 1969 came into force, we had the Mineral Oils Ordinance of 1914, which was an International Law as a result of colonial rule. While they help to develop Nigeria and her economy through international law, the international companies that came to explore for petroleum, particularly, allegedly exploited her resources without respect for her environment and her people by degrading the environment and violating the rights of the people. These were done without compensation or proper payment of royalties and dues. However, as time went by, the United Nations Declaration of 1962 provided for permanent sovereignty over natural resources. The resolution stated that Nations should have full control over their natural wealth and dispose of this wealth for the benefit and development of their citizens. Several international laws such as United Nations Convention on Law of the Sea, and a host of others, have impacted the oil and gas industry in Nigeria greatly, and will be discussed in the course of this work. This work adopted the doctrinal method of research with reference to primary and secondary materials.

Keywords: Impact, International Law, Petroleum Industry, International Oil Company

1.0 INTRODUCTION

The oil and gas industry has emerged as the backbone of the Nigerian economy due to its significant contributions to economic development. Nigeria is among the largest oil-producing countries in the world, and the industry accounts for a substantial portion of its revenue and foreign exchange earnings. The discovery of oil in Nigeria has fostered economic growth, infrastructural development, and industrial expansion. The oil and gas sector has played a pivotal role in driving Nigeria's economic development in various ways. First, it has generated substantial government revenue through taxes, royalties, dues and other levies imposed on oil companies. This influx of revenue has allowed the government to invest in critical sectors such as education, healthcare, and infrastructure, thereby improving living standards for her teeming population. The industry has also stimulated employment opportunities, both directly and indirectly, by creating jobs in exploration, production, refining, and distribution.

All of this would not have been possible if not for the impact of international law on the oil and gas sector. International law has brought immense contribution to develop and as well as regulate the petroleum industry, thus, making Nigeria a signatory to various international bodies and conventions on pollution, resource control and respect for human rights[1]. To appreciate the developmental impact of international law, let us understand what in is.

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[1] MA Sunbola, 'An Overview of the Impacts of International Law on Petroleum Development and Regulation in Nigeria' https://www.punditadvocates.com/jun112015/An%20Overview%20Of%20The%20Impacts%20Of%20International%20Law%20On%20Petroleum%20Development%20And%20Regulation%20In%20Nigeria.pdf cited in DAO Anugbum and CN Okemdi, 'Evaluating the Impact of International Law on Cabotage and Petroleum Industry in Nigeria' (2023) 7(1) *AJIEEL* 107, 120 https://ajieel.com/index.php/a/article/view/53 accessed 27 November 2023; see also

Traditionally, international law consists of rules and principles governing the relations and dealings of nations with each other. Recently though, the scope of international law has been redefined to include relations between states and individuals, and relations between international organizations.[2]

Under Nigerian law, an international law or treaty becomes binding when it has been incorporated as forming part of the national law by an Act of the National Assembly. [3]Also, such International Law principles become enforceable in Nigeria, only to the extent that it has been incorporated by a local legislation or locally enacted. Until passed into law, such treaties or principles have no force of law and their provisions are not justiciable in Nigerian courts.[4]

2.0. CONCEPTUAL FRAMEWORKS

2.1. Oil and Gas

Oil and gas mean petroleum, natural gas and other related hydrocarbons or minerals or any of them and all other substances produced or extracted in association therewith[5]. Oil and gas are known as fossil fuels because they are formed from the decomposition and pressurization of algae, plankton and other organisms. This process forms hydrocarbons, which are compounds consisting entirely of hydrogen and carbon that are powerful combustible fuels[6].

African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 Laws of the Federation of Nigeria 2004, arts 4, 16 and 24.

[2] Cornell Law School, 'International Law' (legal Information Institute) https://www.law.cornell.edu/wex/international_law accessed 15 December 2023.

[3] Constitution of the Federal Republic of Nigeria 1999, s 12.

[4] *Ibid* ss 12 and 6(6)(c).

[5] 'Oil and Gas Definition' (Law Insider) https://www.lawinsider.com/dictionary/oil-and-gas accessed 15 October 2023.

[6]Australian Energy Producers, 'Oil and Gas: What is Petroleum?' https://energyproducers.au/industry/oil-and-gas-explained/oil-and-gas/ accessed 15 October 2023.

2.2. Oil and Gas Industry

The oil and gas industry, also known as the energy sector, relates to the process of exploration, development, and refinement of crude oil and natural gas. The oil & gas industry includes all the companies involved in the process of finding, drilling, extracting, refining, and distributing the commodity.[7]

2.3. Impact

It means to influence something or someone. An example would be impact on falling export rates have impacted (on) the country's economy quite considerably.[8] Also, such influence on someone can impact positively in instilling good behavior on a person.

2.4. International Law

International law is a set of rules and principles governing the relations and conduct of sovereign states with each other, as well as with international organizations and individuals. Issues that fall under international law include trade, human rights, diplomacy, environmental preservation, and war crimes. Different international bodies, such as the United Nations and World Trade Organization, are responsible for overseeing these issues. Generally speaking, the goal of international law is to promote peace and order between nations.[9]

[7] J Schmidt, 'What is the Oil and Gas Industry?' (Corporate Finance Institute) https://corporatefinanceinstitute.com/resources/career/oil-gas-primer/ accessed 15 December 2023.

[8] Meaning of Impact in English' (Cambridge Dictionary) https://dictionary.cambridge.org/dictionary/english/impact accessed 15 December 2023.

[9] See n 2.

3.0. INTERNATIONAL LAW IMPACT ON THE OIL AND GAS INDUSTRY IN NIGERIA

International law largely operates upon the consent of participating nations because no governing body exists to explicitly enforce international agreements. The Charter of the United Nations is the document that expounds upon international law, but the United Nations cannot enforce those laws directly in the same way that a sovereign state can enforce its laws domestically.[10]

It should be noted that international law emerges as a result of treaties and conventions which participating states agrees to be bound by. Interestingly, the provisions of article 38[11] of the International Court of Justice identifies the following as sources of international law, and they are as follows:

i. Treaties and Conventions
ii. Customary International Law
iii. General Principles of Application
iv. Judicial Decisions and Writings of most highly qualified publicists.

Nigeria has become a signatory to a host of treaties and conventions, the application of some of which has been of great benefit to her environment and the oil and gas sector. However, the crux of this work is to address the impact of international law on the oil and gas industry in Nigeria. The various laws and institutions to be discussed below will address the topic.

[10] *Ibid*
[11] International Court of Justice, art.38

3.1. The United Nations Convention on the Law of the Sea 1982 (UNCLOS)

The law of the sea convention[12] is a global treaty that contains detailed provisions for the protection and preservation of the marine and coastal environment. Part xii makes provision for the protection and preservation of the marine environment. Coastal states are required to take measures to regulate marine usage. Other member States are equally required to take necessary measures to prevent, reduce and control pollution in the marine environment.[13]

3.2. Biodiversity Convention 1999:

The growing concern by the international community about the loss of biodiversity on the planet earth prompted the adoption of the United Nation's Convention on Biological Diversity in 1992 at the Conference in Nairobi. The convention was signed in the Earth Summit and came into force in Dec. 29 1993. Art.1[14] of the convention sets out its three main objectives:

i. The fair and equitable sharing of the benefit arising out of the utilization of genetic resources
ii. The conservation of bio-diversity
iii. The sustainable use of its components

State parties who are signatories to this convention are enjoined to identify and monitor the effects of such processes and categories of activities which have or are likely to have significant adverse impacts in the conservation and sustainable use of biodiversity and monitor their effects through sampling and other techniques.[15]

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[12] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS).
[13] UNCLOS, art 194(3)(c).
[14] Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79 (Biodiversity Convention), art 1.
[15] *Ibid* art 7(c).

3.3. International Convention for the Prevention of Pollution of the Sea by Oil 1954-1969: Incorporated under the Oil in Navigable Waters Act 1968

This enactment was made by State parties to this convention, of which Nigeria is a signatory. The objective of this convention is to take action to prevent pollution of the sea by oil discharged from ships. This convention provides for a system of international policing, detection, ban and prosecution of oil pollution perpetrators. The convention also provides for the maintenance of oil spill record book for ease of reference among other provisions.[16]

This is an Act enacted to implement the terms of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954 (as amended in 1962) and to make provisions for such prevention in the navigable waters of Nigeria. Section 1 makes it an offence for any ship to discharge oil or any mixture containing not less than 100 parts of oil into a part of the sea known as the 'prohibited sea area' which are enumerated in the schedule to the Act and renders the owner or master of such an infringing ship liable for the offence.[17]

3.4. International Convention for the Prevention of Pollution from Ships, 1973 and 1978 Protocol (Ratification and Enforcement) Act, 2007

This Act came into force on April 11, 2007, and it was enacted to enable effect to be given in the Federal Republic of Nigeria to the International Convention for the Prevention of Pollution from Ships 1973 and the Protocol and for other related matters.[18]

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[16] International Convention for the Prevention of Pollution of the Sea by Oil (adopted 12 May 1954, entered into force 26 July 1958) 327 UNTS 3, art 8.
[17] Oil in Navigable Waters Act 1968, s 1.
[18] International Convention for the Prevention of Pollution from Ships (Ratification and Enforcement) Act 2007 (Act No 15 of 2007).

3.5. United Nations Framework Convention on Climate Change 1992

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted against the international backdrop of global climate change caused by the emission of greenhouse gases. The convention was completed at the Earth Summit 1992 and came into force on March 21, 1994. The objective of this Convention is "to achieve stabilization of greenhouse gas concentrations in the atmosphere at a low-cost energy level to prevent dangerous anthropogenic interference with the climate system".[19] The convention though singling out carbon dioxide also includes the panoply GHG. The ambiguity of this language provided the conference of party under Art. 4 (2) (d) (as were as negotiating committee for a new protocol) with real latitude in attempting to develop qualifiable emission limit in the future.

It should be noted that at the concluded Paris Deal on Climate Change, countries agreed to cut down on their emissions as much as possible in order to have a safe and healthy environment with clean air to sustain life. However, United States of America under the Leadership of President Trump, which is one of the countries with the highest Rate of gas flaring pulled out of the convention for unsubstantial reasons which do not hold water because over the years,[20] emissions have impacted negatively on the environment; causing changes in weather patterns, depletion of the ozone layer, effect on natural bodies as such, recurrent tsunamis hurricane mud slides and other natural disasters. The Paris Agreement on Climate Change propelled the enactment of the Nigeria climate change Act with very lofty goals.

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[19] United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107 (UNFCCC), arts 4(2)(a) and 3(b).

[20] Barnini Chakraborty, 'Paris Agreement on Climate Change: US withdraws as Trump calls it "unfair"' *Fox News* (28 November 2017) http://www.foxnews.com.

3.6. Nigeria Climate Change Act 2021

The Act provides for an ambitious framework for mainstreaming climate actions in line with national development priorities and sets a net-zero target for 2050-2070. The Act codifies national climate actions by mandating the Ministry of Environment to set, among others, a carbon budget, keeping the average increase in global temperature within 2ºC and pursuing efforts to limit the temperature increase to 1.5ºC above pre-industrial levels. It further approves the formulation of a National Climate Change Action Plan in every five-year cycle to ensure that the national emission profile is consistent with the carbon budget goals and prescribes measures for identifying actions for climate adaptation and mitigation.[21]

The Act applies to both public and private entities within Nigeria's territorial jurisdiction and directs both to implement mechanisms geared towards fostering a low-carbon-emission, environmentally sustainable, and climate-resilient society. The Act obligates any private entity with employees numbering 50 and above to put in place measures to achieve the annual carbon emission reduction targets in line with the Action Plan, and designate a climate change officer responsible for submitting annual reports to the National Climate Change Secretariats, at meeting its carbon emission reduction and climate adaptation plan.[22]

4.0. IMPACT OF INTERNATIONAL LAW ON THE OIL AND GAS INDUSTRY IN NIGERIA

The Stockholm Declaration state thus:

> *Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality*

[21] Climate Change Act 2021, s 1.
[22] *Ibid* s 24.

> *that permits a life of dignity and well-being and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, colonial discrimination and other forms of oppression and foreign domination stands condemned and must be eliminated.*[23]

Several principles of international environmental law are particularly worth noting in this context: One established principle is that States are required to take adequate steps to control and regulate sources of serious global environmental pollution and transboundary harm within their territory or subject to their jurisdiction. This principle was first enunciated in the Trail Smelter Arbitration case of 1941 between the United States of America v Canada.[24] The court decided that Canada was responsible for damage from copper smelter fumes that transgressed the border into the United States of America.

This principle was later affirmed during the United Nations Conference on the Human Environment in 1972 where States declared as their responsibility to respect the environment of other States. In principle 21, States have a responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits.[25] This principle is also called the "no harm rule" or Precautionary Principle.

However, for there to be peace and stability in the relationship between States as it concerns exploitation, exploring and drilling of

[23] Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) (16 June 1972) UN Doc A/CONF.48/14/Rev.1, Principle 1.
[24] *Trail Smelter Arbitration (United States v Canada)* (1941) 3 RIAA 1905; United Nations, 'Trail Smelter Case' https://legal.un.org accessed 9 October 2023.
[25] Stockholm Declaration (n 25) Principle 21.

petroleum; various concepts on international law has evolved to guarantee the sovereignty of states and peaceful co-existence. The concepts have become the basis for the various legislations and regulations in the Oil and Gas Industry in Nigeria.

Nigeria has been further identified by the international community as series of human rights violations and environmental degradation plagued her during the military era.[26] The numerous significant contributions enjoyed by the oil and gas industry today would not have been possible if not for international law.

The developments brought about by international law could be seen in following areas:

i. The right of a state to exercise exclusive permanent sovereignty over its natural resources.
ii. The extension of the offshore areas over which a state could exercise both political and economic sovereignty over its natural resources
iii. Membership of OPEC;
iv. Establishment of The Nigeria National Petroleum Corporation and
iv. The enactment of the Nigeria Content Development Act 2010.

4.1 The Petroleum Act 1960

Shortly after the discovery of oil in commercial quantities in Olobiri in Bayelsa State, the government's interest in the industry was limited to collection of royalties, lease rents and taxes, this led to a host of countries agitating for greater control over their natural resources in reaction to the control of their economies by the old colonial masters.

[26] M.A. Sunbola An Overview of the Impacts of International Law on Petroleum Development and Regulation in Nigeria <https://www.punditadvocates.com/jun112015/An%20Overview%20Of%20The%20Impacts%20Of%20International%20Law%20On%20Petroleum%20Development%20And%20Regulation%20In%20Nigeria.pdf> accessed 28 November, 2023

Resolution 1803 (XVII) of 1962 provides that States and international organizations shall strictly and conscientiously respect the sovereignty of peoples and nations over their natural wealth and resources in accordance with the charter of the United Nations and principles contained in the resolution. These principles also concern the exploration, development and disposition of natural resources, nationalization and expropriation, foreign investment, the sharing of profits and other related issues[27]. It is also the right of the people to freely use exploit their natural resource as this is inherent in their sovereignty.[28] In the spirit, the 1969 Petroleum Act was enacted which vested the entire ownership and control of all petroleum in, under or upon all land in Nigeria and its territorial waters in the Nigerian Government[29]

The enactment of the United Nations resolution on Permanent Sovereignty over Natural Resources.[30] ln 1962, the General Assembly disbanded the Old Economic Order and reinstated the sovereign rights of host countries of investor transnational corporations to their natural resources. This landmark resolution was adopted, reiterated and reaffirmed in some other.

resolutions. In resolution 88 (XIII) of 19 October 1972, the Trade and Development Board of the UN Conference on Trade and Development (UNCTAD) reaffirmed the sovereign right of all countries freely to dispose of their natural resources for the benefit of their national development.

[27] UNGA Res 1803 (XVII) (14 December 1962) 'Permanent Sovereignty over Natural Resources'; United Nations, 'Permanent Sovereignty over Natural Resources' https://legal.un.org accessed 19 December 2023.
[28] *Ibid.*
[29] Petroleum Act 1969, s 1; Petroleum Industry Act 2021, s 1.
[30] UNGA Res 1803 (XVII) (n 29).

4.2. Coverage of Nigerian Law in Offshore Matters:

The first major attempt to formulate a comprehensive legal framework for the oil and gas sector in Nigeria was in 1969 which was the promulgation of the petroleum decree now (Act) by the then military government.[31] Section 1(2) of the Act could also be traced to the Geneva international convention. The section reads thus:

a. it applies to all land (including land covered by water) which is in Nigeria; or

b. is under the territorial waters of Nigeria; or

c. forms part of the continental shelf areas; or

d. forms part of the exclusive economic zone of Nigeria

This provision covers onshore and offshore areas that are under the Nigerian law. Under Section 1(2)(b), the Geneva International Convention on Territorial Sea and Contiguous Zone[32] was followed. The Convention provides for a 3mile coastal water belt measured from the low water mark or from selected baselines drawn at a distance from the coast. The convention provided for a 12mile contiguous zone to the territorial sea over which the coastal state may not exercise sovereign rights but can nevertheless exercise control of its territorial sea rights and compliance with its municipal regulations from within that zone. Nigeria has adopted the twelve nautical miles by virtue of the Territorial Waters Act[33] as referred to by the act. By adoption of the convention, in the words of Etikerentse, "...a coastal state's local

[31] Formerly Petroleum Act Cap P10 Laws of the Federation of Nigeria 2004, now repealed by the Petroleum Industry Act 2021.

[32] Geneva Convention on the Territorial Sea and the Contiguous Zone (adopted 29 April 1958, entered into force 10 September 1964) 516 UNTS 205.

[33] Territorial Waters Act Cap 428 Laws of Nigeria 1990, as amended by ss 2(a) and (b) of the Territorial Waters (Amendment) Act 1998 (No 1), now Cap T5 Laws of the Federation of Nigeria 2004.

legislation is recognized by international law, to extend to its territorial sea with the same degree of enforcement..."[34]

More so, section 1(2)(c) includes the continental shelf areas[35] which by the Geneva Convention on the Continental shelf 1958 recognizes the sovereign rights of a coastal state to exercise control over such an area for the purpose of exploring it and exploiting its natural resources. This was domesticated in Section 1 of the act and also by the Offshore Oil Revenues Act of 1971 No 9. This impliedly means that licenses and leases granted under the Act covers continental shelf areas under which the Minister of Petroleum through the Department of Petroleum Resources has the authority to make regulations.[36] While section 1(2)(d) is a product of the amendment made in 1998.

4.2.1. Exclusive Economic Zone Act

An Exclusive economic Zone (EEZ) is a sea zone prescribed by the United Nations Convention on the Law of the Sea over which state has special rights over the exploration and use of marine resources, including energy production from water and wind.[37] It stretches from the baseline out to 200 nautical miles from its coast. In informal usage or language, the term may include the Continental shelf. The difference between the territorial sea and exclusive economic zone is that the first confers full sovereignty over waters, whereas the second is merely a "Sovereign Right" which refers to the coastal state's right below the surface of the sea. The surface waters as can be seen in the map, are international waters.[38]

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[34] G Etikerentse, *Nigerian Petroleum Law* (Dredew 2004) 15; see also Regulation 24 of the Petroleum (Drilling and Production) Regulations.

[35] This describes the portion of the seabed or ocean floor which lies before the sea of a littoral country generally up to a depth of 200 meters and which forms a geographical and geological prolongation of the continental landmass.

[36] Petroleum (Drilling and Production) Regulations, Reg 62(1).

[37] UNCLOS (n 14) Part V (Exclusive Economic Zone); see also art 56.

[38] *Ibid*.

In accordance with provisions of this international Law, Nigeria enacted its Exclusive Economic Zone Act on 2nd of October 1978 to preserve its rights under the United Nations convention on the Law of the sea. The Exclusive Economic Zone[39] is a concept that resulted from the United Nations Convention on the law of the Sea and Nigeria began to legislate on the matter in line with the convention in 1978 with the Exclusive economic zone Act.[40] However this concept did not apply to exploration resources until the Petroleum (Amendment) Act 1998 No 2. The combined effect of section 1 as a whole encapsulates Nigeria's rights over these zones as part of the Nigerian state for the purposes of the Act.

Furthermore, it should be noted that **Petroleum Industry Act 2021** is the current law overseeing the affairs of all activities in the oil and gas industry in Nigeria with the Commission guiding the upstream activities and the Authority overseeing those of the mid-stream and downstream. Section 1 of the act vests ownership of petroleum in every part of Nigeria in the Federal Government of Nigeria. By virtue of this provision, and this new act, the duties of the Petroleum Drilling and Production Regulation now vest in the Commission and Authority as the Petroleum Industry Act 2021 repealed certain legislations and one of which is the (PDPR).

4.2.2. Territorial Waters Act:

Territorial waters as defined by the 1982 United Nation Convention on the Law of the sea is a belt of coastal waters extending at most 09 nautical miles (16.7km, 10.4mi) from the baseline (usually the mean

[39]An area of the sea extending up to 200 nautical miles (approximately 370.65 kilometers) in respect of which a coastal state may exercise sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources whether renewable or non-renewable of the seabed, the subsoil and the superjacent waters within such areas.

[40] Exclusive Economic Zone Act Cap E11 Laws of the Federation of Nigeria 2004.

low water mark) of a coastal state. The territorial sea is regarded as the sovereign territory of the state, although foreign ships both military and adjustment of these boundaries is called in International Law "Maritime Delimitation".[41]

4.3. The African Charter on Human and Peoples' Rights:

This law was ratified, enacted into law and incorporated into the Nigerian legal system by the African Charter on Human and People's Rights (Ratification and Enforcement) Act CAP A10 LFN, 2004[42] which sets out as a Schedule thereto, the full text of the African Charter on Human and Peoples' Rights. The provisions of this law are particularly relevant in appraising the case of the oil producing areas of the Niger Delta of Nigeria. **Article 21**[43] states specifically with reference to natural resources that:

i. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.
ii. In case of spoliation the disposed people shall have the right to the lawful recovery of its property as well as to an adequate compensation…"

The Petroleum Industry Act 2021 by virtue of section 3 provides for grant of licenses and leases by the Minister of Petroleum through the Commission and Authority.[44] The Petroleum Act by virtue of Sec 2 (1) and (2) also provided for the grant of oil exploration licenses, oil prospecting licenses and the oil mining leases to companies incorporated in Nigeria. This act has been replaced by the Petroleum

[41] See n 13.
[42] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12(1).
[43] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A10 Laws of the Federation of Nigeria 2004.
[44] Petroleum Industry Act 2021 (PIA 2021).

Industry Act 2021 except for some saving provisions as a result of grant of some existing licenses and leases under the Petroleum Act 1969. While the Petroleum Act of 1969 replaced the Mineral Oils Act and required that within ten years, any holder of an Oil Mining Lease should ensure that the number of citizens of Nigeria employed by him in connection with the lease in managerial, professional and supervisory grades shall reach at least 75% of the total number of persons employed by him in those grades. The lessee was to provide a report of compliance in June and December every year. However, there are no records showing regulatory actions against any of the international oil companies (IOCs). The Act also introduced major changes especially in such matters as duration, rent and royalties, employment terms, training and transfer of technology. These changes in the legislation were necessary because by 1969, there were as many as 14 Multinational Oil Companies (MNOCs) from six different countries

These provisions are re-emphasized in the legislation examined below:

4.3.1. Nigerian Oil and Gas Industry Content Development Act 2010

The **"**Local Content Act**"** which governs Nigerian content matters in the Nigerian oil and gas industry (the "Industry"). The aim of the Act provides that Nigerian content must be mandatorily considered as a key element of project development in the industry. Efforts have been made to give effect to the local content policy, which includes the establishment of various research, development, training, education and support funds; provisions in the Petroleum Act on mandatory employment and training of Nigerians by petroleum operators. Essentially, Nigerian content should permeate all phases and aspects of project execution in the industry. This includes technology transfer and training.[45]

There is also the mandatory **Corporate Social Responsibility** (CSR) which every operator must carry out as long as they explore and engage in petroleum activities here in Nigeria. Section 312 of the PIA provided for transfer of such projects for continuance in order to avoid abandonment.

4.4. Organization of Petroleum Exporting Countries (OPEC):

Nigeria joined international legal entities such as: the Organization of Petroleum Exporting Countries (OPEC) in 1971, and in 1977 established the Nigerian National Petroleum Company (NNPC), now Nigeria National Petroleum Company Limited a petroleum company owned and run by the state in both the upstream, mid-stream and downstream sectors of the oil and gas industry. However, crude oil produced from the Niger Delta region sustains the economy of Nigeria but leaves the region heavily polluted.

4.4.1. OPEC's role in Coordinating Oil Production and Prices:

The Organization of the Petroleum Exporting Countries (OPEC) plays a significant role in coordinating oil production and prices. It is a group of 13 oil-producing countries[46] that collectively controls a large portion of the world's oil reserves. OPEC's primary objective is to ensure stability in global oil markets by regulating oil production levels and maintaining price stability[47] in order to secure an efficient, economic and regular supply of petroleum to consumers, a steady

[45] Nigerian Oil and Gas Industry Content Development Act 2010 (Local Content Act 2010).
[46] OPEC, 'Member Countries' https://www.opec.org/opec_web/en/about_us/25.htm accessed 27 November 2023.
[47] Organization of the Petroleum Exporting Countries (OPEC) Statute 2021, art 2.

income to producers and a fair return on capital for those investing in the petroleum industry.

4.5. IMF's Role in Providing Economic Stability and Policy Advice:

The IMF is a global organization that works to achieve sustainable growth and prosperity for all of its 190 member countries. It does so by supporting economic policies that promote financial stability and monetary cooperation, which are essential to increase productivity, job creation, and economic well-being. The IMF is governed by and accountable to its member countries.[48]

The International Monetary Fund (IMF) plays a crucial role in providing economic stability and policy advice to its member countries, including those involved in the oil and gas sector. It offers financial assistance, technical expertise, and policy recommendations to promote sustainable economic development. The International Monetary Fund (IMF) provides several benefits to member countries in the oil and gas sector beyond financial assistance. These benefits include:

1. Policy Advice: The IMF offers policy advice[49] to member countries on various economic issues, including those related to the oil and gas sector. This advice helps countries in effectively managing their oil and gas resources, promoting sustainable development, and ensuring macroeconomic stability.
2. Capacity Building: The IMF provides technical assistance and capacity building programs to member countries. This includes training officials and policymakers on best practices in managing oil

[48] International Monetary Fund, 'About the IMF' https://www.imf.org/en/About accessed 19 November 2023.

[49] International Monetary Fund, 'Fiscal Policy: Overview' https://www.imf.org/en/Topics/Fiscal-policies accessed 19 December 2023.

and gas revenues, implementing transparent governance mechanisms, and improving the overall efficiency of the sector.

3. Economic Surveillance: The IMF conducts regular economic surveillance of member countries, including monitoring the oil and gas sector. This helps identify potential vulnerabilities, assess risks, and provide recommendations for improving economic policies and practices in the sector.[50]
4. Exchange Rate Stability: The IMF plays a crucial role in promoting exchange rate stability[51], which is important for oil and gas exporters. Stable exchange rates help ensure predictability in export revenues and provide a conducive environment for investment in the sector.
5. Debt Sustainability: The IMF assists member countries in managing their debt levels[52], including those related to the oil and gas sector. It provides guidance on debt sustainability, debt restructuring, and debt management strategies to prevent excessive debt burdens that can hinder economic development.

4.6. World Trade Organization (WTO):

The WTO is the largest forum for trade and investment negotiations.[53]Originally conceived as the third arm in the *Bretton Woods conference* after the International Monetary Fund and International Bank of Reconstruction and Development, it was initially thought to have been named as the 'International Trade

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[50] International Monetary Fund, 'Economic Surveillance' https://www.imf.org/external/pubs/ft/ar/2023/what-wedo/economicsurveillance/ accessed 19 December 2023.

[51] David Burton and Martin G Gilman, 'Exchange Rate Policy and the IMF' (IMF eLibrary) https://www.elibrary.imf.org/downloadpdf/journals/022/0028/003/article-A006-en.pdf accessed 19 December 2023.

[52] International Monetary Fund, 'Debt Sustainability Analysis' (29 July 2017) https://www.imf.org/external/pubs/ft/dsa/ accessed 25 November 2023.

[53] M Forere, 'Revisiting African States Participation in the WTO Dispute Settlement through Intra-Africa RTA Dispute Settlement' (2013) 6(1) *Law and Development Review* 155, 158.

Organization'.[54] The World Trade Organization (WTO) regulates international trade and sets rules governing trade-related issues. While it does not have a direct focus on the oil and gas sector, the WTO's influence extends to trade regulations that affect oil and gas trade. Additionally, the organization provides a platform for resolving trade disputes related to this industry through its dispute settlement mechanism.

The WTO aims to provide a level playing field to all countries irrespective of their economic status[55], and to prohibit discriminatory pricing or tariffs that might be imposed by a country unilaterally and arbitrarily.[56] The dispute settlement mechanism is a crucial part of WTO trade law. When an international trade dispute occurs, the World Trade Organization encourages consultation between the affected parties to resolve the dispute. When no resolution is forthcoming, the World Trade Organization convenes an ad hoc dispute settlement panel to examine each of the parties and any involved third parties. The panel prepares a report, the recommendations of which must be implemented by the unsuccessful party.
Since Energy services encompass services supplied in relation to upstream activities (such as exploration and extraction, as well as related construction services), transportation and transmission of energy, as well as downstream activities, including those relating to

[54] G U Kwagyang and others, 'Bretton Woods Institutions: Their Evolution and Impacts on the Field of International Economic Law' (2015) 35 *Journal of Law, Policy and Globalization* 49, 50.
[55] WTO, 'Understanding the WTO: What is the World Trade Organization?' https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm accessed 30 November 2023.
[56] General Agreement on Tariffs and Trade 1994, art III, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 UNTS 187.

the commercialization and supply of energy to the final consumer,[57] the WTO can arguably be pegged a vital international organization in the oil and gas industry.

5.0 CONCLUSION AND RECOMMENDATIONS

5.1. Conclusion

The work stated the negative impact which could be traced to the early historical development of the Colonial Government, through shell BP, which was filled with monopoly and lack of human right protection as it protected the interests of Shell BP to the exclusion of all other IOCs until much later. This was engineered through the Mineral oil Ordinance 1914, which created a special concession area in a discriminatory manner for its protected companies. Monopoly and poor human rights records are common themes that run through the industry till date. This work however concludes by acknowledging the impact international law has had so far in the oil and gas industry in Nigeria. Through international law, Nigeria now exercises control over its natural resources by virtue of the 1803 resolution of the UNGA 1962. The country's area of exploration of petroleum had extended to the EEZ and the CS to a certain level in its waters. Thanks to the Territorial Waters Act in conjunction with UNCLOS and the GENEVA CONVENTION. The work makes reference to the PIA 2021 as the law currently overseeing the activities of the industry. Though the law came into effect since 2021, there is confidence that it will work in synergy with international law to strengthen and further grow the industry.

[57] WTO, 'Energy Services' https://www.wto.org/english/tratop_e/serv_e/energy_e/energy_e.htm accessed 30 November 2023.

5.2. Recommendations

1. Nigeria should strengthen its laws to make international oil companies operating here more responsible and obedient to her laws. This also include the new Petroleum Industry Act 2021.
2. The institutions and bodies saddled with enforcement and compliance should take their job seriously and carry them out effectively.
3. The issues of CSR and the application of the LCA should be enforced against IOCs or Operators that fails to carry them out, else licenses and leases be withdrawn.
4. Nigeria should domesticate and enact most of these Conventions and Treaties she is signatory to by the National Assembly to give them effect, especially in the area of environmental pollution and degradation as these contribute to the violation of human rights. (Ogoni case).
5. Nigeria should work at exploring its natural wealth for the good, benefit and development of her citizens by creating employments, a sane environment and value for money to avoid many leaving the country for a better life. (Currently causing Brain Drain).
6. The Polluter Pays Principle which is one of the principles of environmental law and other principles be very much enforced in the oil and gas industry without fear or favor.