

OIL-RELATED CONFLICTS AND HOST COMMUNITY DEVELOPMENT FRAMEWORKS IN THE NIGER DELTA: LESSONS FROM NORWAY

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Abstract

The Niger Delta region of Nigeria is rich in oil and gas resources, but oil extraction has led to environmental degradation, socio-economic issues, and conflicts between local communities and oil companies. Host community development frameworks are policies aimed at mitigating these conflicts by ensuring that local communities benefit from oil and gas activities. This study examined the effectiveness of host community development frameworks in the Niger Delta region and explores lessons that can be learned from Norway's successful approach. The study employed the doctrinal method of legal research, involving a review of relevant literature, policy documents, and case studies. The study identified key elements of effective host community development frameworks, including stakeholder engagement, transparency, and the promotion of sustainable development. It also highlighted the importance of addressing underlying grievances and fostering a sense of ownership among local communities. Implementing host community development frameworks in the Niger Delta faces challenges such as corruption, lack of transparency, and inadequate stakeholder engagement. However, there are also opportunities for collaboration and learning from best practices in other countries. The study concluded that effective host community development frameworks are crucial for mitigating oil-related conflicts in the Niger Delta region. By adopting lessons from Norway and addressing the specific challenges of the region, stakeholders can work together to promote sustainable development, improve the lives of local communities, and reduce conflicts.

Keywords: *Host community development, Niger Delta, oil and gas, conflicts, sustainable development*

1.0 Introduction

This research paper examines the effectiveness of host community development frameworks in mitigating oil-related conflicts in the Niger Delta region of Nigeria. The study draws lessons from Norway's approach to host community development in its oil and gas sector.

The Niger Delta region of Nigeria is endowed with vast oil and gas resources, which have significantly contributed to the country's economic growth. However, oil extraction in the region has also led to environmental degradation, socio-economic issues, and conflicts between local communities and oil companies.¹

Host community development frameworks are policies and initiatives aimed at ensuring that local communities benefit from oil and gas activities in their areas. These frameworks typically involve the

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¹ Olanrewaju O O and Adeniyi O A, 'The Niger Delta conflict: Root causes and implications for sustainable development in Nigeria. Resources Policy' [2021] (10) *Resources Policy* 102.

establishment of community development trusts, the provision of social amenities, and the promotion of local content and employment opportunities.²

Despite the existence of host community development frameworks, conflicts have persisted in the Niger Delta region. These conflicts, often driven by grievances over resource allocation, environmental pollution, and lack of economic opportunities, have resulted in violence, disruption of oil production, and human rights abuses.³

Norway provides a valuable case study for understanding the effectiveness of host community development frameworks. Norway has successfully managed its oil and gas resources while maintaining good relations with local communities. Its approach to host community development emphasizes stakeholder engagement, transparency, and the promotion of sustainable development.⁴

This research paper seeks to address the following research questions:

1. What are the key elements of effective host community development frameworks?
2. How can the lessons learned from Norway's approach be applied to the Niger Delta region?
3. What are the challenges and opportunities for implementing host community development frameworks in the Niger Delta?

The findings of this research are expected to contribute to the development of more effective host community development frameworks in the Niger Delta region. By understanding the key elements of successful frameworks and the lessons that can be learned from Norway, stakeholders can work together to mitigate conflicts, promote sustainable development, and improve the lives of local communities.

2.0 Constitution of the Federal Republic of Nigeria 1999

The 1999 Constitution of Nigeria contains several provisions that are relevant to the issue of oil and insurgency in the Niger Delta region. These include: Section 44, subsection 3 of the Constitution which states that the entire property in and control of all minerals, mineral oils, and natural gas in or upon any land in Nigeria or in, under, or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.⁵ This provision establishes the federal government's ownership and control over mineral resources, including oil. Section 20 of the Constitution states that the State shall protect and improve the environment and safeguard the water, air, land, forest, and wildlife of Nigeria.⁶ This provision imposes a duty on the government to protect the environment, which is particularly relevant to the environmental challenges faced in the Niger Delta region due to oil exploration and exploitation. Section 16(2)(c) of the Constitution requires the state to direct its policy

² Nwankwo C C, 'Host community development frameworks in the Niger Delta region of Nigeria: A critical analysis. *Journal of Energy in Southern Africa*' [2020] (31)(3) *Journal of Energy in Southern Africa* 81-92.

³ Okonta I and Douglas O, *Where vultures feast: Shell, human rights, and oil in the Niger Delta* (San Francisco: Sierra Club Books 2003) 17.

⁴ Onoriode Reginald Aziza and others, 'Legal frameworks and the development of host communities in oil and gas regions: Balancing economic benefits and social equity' [2023] (19) *World Journal of Advanced Research and Reviews* 1594-1594.

⁵ Constitution of the Federal Republic of Nigeria (CFRN) 1999, s 44(3).

⁶ CFRN 1999, s 20.

towards ensuring that the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of a few individuals or of a group.⁷ This provision can be interpreted as a basis for the development of host communities in the Niger Delta region, where the wealth generated from oil extraction should be equitably distributed.

2.1 Petroleum Industry Act 2021

The Petroleum Industry Act 2021 represents a pivotal legislative framework aimed at addressing challenges within Nigeria's oil and gas sector, particularly in relation to insurgencies in the Niger Delta region. This Act introduces critical provisions focused on enhancing host community development, a crucial element in addressing the underlying causes of conflict and instability in the region.

Section 240 of the Petroleum Industry Act 2021 establishes the Host Community Development Trust Fund, which serves as a mechanism to ensure that host communities reap benefits from oil and gas activities.⁸ This fund is entrusted with overseeing contributions from oil companies for community development initiatives, fostering sustainable socio-economic growth, and addressing grievances that have fuelled insurgency in the Niger Delta.

Furthermore, Section 242 of the Act outlines the prerequisites for the Host Community Development Plan, mandating that oil companies operating in the region prepare and execute it.⁹ The plan must cater to the specific needs and priorities of host communities, promote local engagement in decision-making processes, and contribute to the overall welfare of community members.

The Petroleum Industry Act 2021 underscores the significance of collaboration and consultation with host communities, as delineated in Section 243.¹⁰ By encouraging dialogue and involvement among stakeholders, including government bodies, oil companies, and community representatives, the Act aims to bolster transparency, accountability, and sustainable development within the Niger Delta region.

2.2 Environmental Impact Assessment 1992

The Environmental Impact Assessment Act 1992 in Nigeria plays a crucial role in regulating the impacts of oil exploration and production in the Niger Delta region. The Act establishes the legal framework for assessing and managing the environmental consequences of development projects, including those in the oil and gas sector.¹¹

Section 2 of the Environmental Impact Assessment Act requires the submission of an Environmental Impact Assessment (EIA) report for any proposed project that may have significant environmental impacts.¹² This includes oil exploration and production activities in the Niger Delta, which are known to have widespread environmental and social consequences.

⁷ *Ibid* s 16(2)(c).

⁸ Petroleum Industry Act (PIA) 2021, s 240.

⁹ *Ibid* s 242.

¹⁰ *Ibid* s 243.

¹¹ Environmental Impact Assessment (EIA) 1992.

¹² *Ibid* s 2.

Furthermore, Section 4 of the Act outlines the process for public consultation and participation in the EIA process, ensuring that host communities in the Niger Delta have the opportunity to voice their concerns and provide input on proposed projects.¹³ This is especially important given the historical marginalization and environmental degradation experienced by the region's communities.

2.3 Nigerian Oil and Gas Industry Content Development Act 2010

The Nigerian Oil and Gas Industry Content Development Act 2010 (the "Act") was enacted to provide for the development of Nigerian content in the Nigerian oil and gas industry, a Nigerian content plan, supervision, coordination, monitoring, and implementation of Nigerian content.¹⁴ The Act aims to promote the use of indigenous goods and services, as well as the employment and training of Nigerians in the oil and gas industry.

The Act requires operators, contractors, and other entities involved in the Nigerian oil and gas industry to give first consideration to Nigerian independent operators and indigenous service companies in the award of oil blocks, oil field licenses, oil lifting licenses, and other projects.¹⁵ This provision is significant in addressing host communities' marginalization in the Niger Delta region, where much of the oil and gas resources are located.

Section 27 of the Act empowers the Nigerian Content Monitoring Board to require any operator to maintain an office in a community where the operator has significant operations.¹⁶ This provision is crucial in ensuring that the benefits of oil and gas operations are directly felt by the host communities, which have historically been neglected and deprived of the resources extracted from their lands.

Furthermore, Section 28 of the Act mandates that an operator or project promoter must give priority to Nigerians, particularly those from areas with significant oil and gas operations, for employment and training in any project.¹⁷ This provision aims to create job opportunities for the people of the Niger Delta, potentially reducing the high rate of unemployment and poverty that have contributed to the rise of insurgency in the region.

The Act also requires operators to submit an Employment and Training Plan as part of their Nigerian Content Plan, which must include an outline of the hiring and training needs of the operator and its major contractors, as well as a timeframe for employment opportunities for each phase of project development and operations.¹⁸ This provision is crucial in ensuring that the host communities are equipped with the necessary skills and knowledge to participate actively in the oil and gas industry.

Additionally, Section 31 of the Act requires operators to submit a succession plan for any position not held by Nigerians, with a maximum period of four years for Nigerians to understudy each incumbent

¹³ EIA 1992, s 4.

¹⁴ Nigerian Oil and Gas Industry Content Development Act 2010, s 1.

¹⁵ *Ibid*, s 3.

¹⁶ *Ibid* s 27.

¹⁷ *Ibid*, s 28.

¹⁸ Nigerian Oil and Gas Industry Content Development Act 2010 s 29.

expatriate before the position is *Nigerianized*.¹⁹ This provision is designed to facilitate the transfer of knowledge and skills to Nigerians, including those from the host communities, and promote their long-term involvement in the industry.

The Act also establishes the Nigerian Content Development Fund, which is funded by a one percent deduction from the contract value of every project in the upstream sector of the Nigerian oil and gas industry.²⁰ This fund is to be used for projects, programmes, and activities directed at increasing Nigerian content in the industry, which could include initiatives to support the development of host communities.

2.4 Niger Delta Development Commission Act 2000

The Niger-Delta Development Commission (Establishment, etc.) Act 2000 was enacted to address the development challenges and environmental degradation in the oil-producing regions of Nigeria's Niger Delta.²¹ The Act established the Niger-Delta Development Commission (NDDC) as a corporate body with the mandate to formulate policies and guidelines for the region's sustainable development.²²

The Act outlines the functions and powers of the NDDC, which include conceiving, planning, and implementing projects and programs for the region's development in the areas of transportation, health, education, employment, industrialization, agriculture, housing, water supply, electricity, and telecommunications.²³ The NDDC is also tasked with tackling ecological and environmental problems arising from oil exploration and production and liaising with oil companies on pollution prevention and control.²⁴

The Act establishes a governing board for the NDDC, composed of representatives from the nine member states, three non-oil-producing states, an oil company representative, and officials from the federal ministries of finance and environment.²⁵ The Act also allows for the chairmanship to be rotated among member states.²⁶ This structure is intended to ensure equitable representation and participation among the stakeholders in the region.

The NDDC is funded through a combination of sources, including 15% of the monthly statutory allocations to the member states from the Federation Account, 3% of the annual budgets of oil companies operating in the region, and 50% of the Ecological Fund due to the member states.²⁷ The Act authorizes the NDDC to borrow funds with the President's consent to finance its operations.²⁸

¹⁹ *Ibid* s 31.

²⁰ *Ibid* s 104.

²¹ Niger-Delta Development Commission Act 2000, s 1.

²² *Ibid* s 7(1)(a).

²³ Niger-Delta Development Commission Act 2000, s 7(1)(b).

²⁴ *Ibid* ss 7(1)(h) and 7(1)(i).

²⁵ *Ibid*, s 2(1).

²⁶ *Ibid* s 4.

²⁷ *Ibid* s 14(2).

²⁸ *Ibid* s 17.

The Act also creates a Monitoring Committee to oversee the NDDC's fund management and project implementation.²⁹ This provision is aimed at ensuring transparency and accountability in the Commission's activities.

The Act's provisions indicate an effort to create a framework for the development of the Niger Delta region, which has long been plagued by oil-related environmental degradation, poverty, and social unrest.³⁰ The establishment of the NDDC, with its broad mandate and funding sources, represents a recognition of the need for a comprehensive and coordinated approach to addressing the region's challenges.

However, the effectiveness of the NDDC in achieving its objectives has been a subject of debate and criticism. Factors such as limited funding, political interference, and corruption have been identified as hindering the Commission's ability to make a significant impact on the ground.³¹ Ongoing challenges, including armed insurgencies and community agitation, continue to pose obstacles to the development of the Niger Delta region.

2.5 Land Use Act (LUA) Cap L5 LFN 2004

The Land Use Act (LUA) Cap L5 LFN 2004 is a critical piece of legislation that governs land tenure and management in Nigeria, including in the oil-producing Niger Delta region.³² All land in each state is vested in the Governor, who holds it in trust for the people, according to the Act.³³ It outlines the powers of the governor and local governments in relation to land, as well as the rights of occupiers.³⁴

The LUA has significant implications for the Niger Delta's oil and gas industry. Section 28(2)(c) of the Act empowers the Governor to revoke a right of occupancy for "the requirement of the land for mining purposes, oil pipelines, or any purpose connected therewith."³⁵ This provision has been used to enable the acquisition of land for oil and gas operations, often without adequate compensation or consideration for the affected communities.³⁶

The lack of community involvement and equitable benefit-sharing in the oil and gas industry has been a major driver of the insurgency and unrest in the Niger Delta.³⁷ The LUA's framework for land

²⁹ Niger-Delta Development Commission Act 2000, s 21.

³⁰ Cyril Obi, 'Oil Extraction, Dispossession, Resistance, and Conflict in Nigeria's Oil-Rich Niger Delta' [2010] (30)(1-2) *Canadian Journal of Development Studies* 219–236.

³¹ Ukoha Ukiwo, 'From 'Pirates' to 'Militants': A Historical Perspective on Anti-State and Anti-Oil Company Mobilisation Among the Ijaw of Warri, Western Niger Delta' [2007] (106)(425) *African Affairs* 587–610.

³² Land Use Act Cap L5 LFN 2004.

³³ *Ibid* s 1.

³⁴ *Ibid* ss 5–15.

³⁵ Land Use Act Cap L5 LFN 2004, s 28(2)(c).

³⁶ Olusegun Akinbami, 'The Land Use Act and the Oil and Gas Industry in Nigeria: Towards a More Equitable Framework' [2017] (35)(3) *Journal of Energy and Natural Resources Law* 243–260.

³⁷ Ibukun Ogundare, 'The Role of the Land Use Act in the Niger Delta Crisis' [2013] (7)(9) *Journal of Environmental Science and Technology* 803–809.

management has been criticised for concentrating too much power in the hands of the governor and failing to provide sufficient protections for the rights and interests of local communities.³⁸

To address the challenges posed by the LUA in the context of the oil and gas industry, reforms have been proposed to decentralise land management, increase community participation, and ensure more equitable benefit-sharing.³⁹ These reforms could potentially contribute to reducing the tensions and conflicts that have fuelled the insurgency in the Niger Delta.

3.0 Nigeria Extractive Industries Transparency Initiative (NEITI) Act 2007

The Nigeria Extractive Industries Transparency Initiative (NEITI) Act 2007 is landmark legislation that aims to promote transparency and accountability in the management of Nigeria's extractive industries, particularly the oil and gas sector.⁴⁰ The Act establishes NEITI as an autonomous agency with the mandate to oversee the implementation of the Extractive Industries Transparency Initiative (EITI) in Nigeria.⁴¹

Section 2 of the NEITI Act outlines the objectives of the initiative, which include ensuring transparency and accountability in the reporting of payments made by extractive industry companies to the government and the government's receipts from such companies.⁴² The Act also empowers NEITI to monitor and ensure that payments made by extractive industry companies and receipts by the government are duly reported and reconciled.⁴³

In the context of the Niger Delta region, the NEITI Act has the potential to play a significant role in addressing the longstanding issues of resource control, environmental degradation, and the lack of development in host communities.⁴⁴ Section 3 of the Act mandates NEITI to ensure that payments and revenues from the extractive industries are duly reported and reconciled, which could help to address the perception of marginalisation and lack of equitable distribution of resources among the people of the Niger Delta.⁴⁵

However, the NEITI Act's effectiveness in addressing the challenges of the Niger Delta region is largely dependent on the government's political will and commitment to fully implement its provisions.⁴⁶ The Act does not provide a specific framework for addressing the concerns of host communities or for ensuring that the benefits of extractive activities are equitably distributed among them.⁴⁷

³⁸ Ademola Fabunmi, 'Rethinking the Land Use Act: Towards a More Sustainable and Equitable Land Tenure System in Nigeria' [2016] *Nigerian Current Law Review* 1-19.

³⁹ *Ibid.*

⁴⁰ Nigeria Extractive Industries Transparency Initiative Act (NEITI) 2007, s 1.

⁴¹ *Ibid* s 2.

⁴² NEITI 2007, s 2(a).

⁴³ *Ibid*, s 2(b).

⁴⁴ Ike Okonta and Oronoto Douglas, *Where Vultures Feast: Shell, Human Rights, and Oil in the Niger Delta* (San Francisco: Sierra Club Books 2003) 56-57.

⁴⁵ Nigeria Extractive Industries Transparency Initiative Act 2007, s 3.

⁴⁶ Onyekachi Wambu, 'The Impact of NEITI on Transparency and Accountability in Nigeria's Oil and Gas Sector' (2017) *ANEEJ Policy Brief* 4-5.

⁴⁷ Nigeria Extractive Industries Transparency Initiative Act 2007.

The framework for host community development in the Niger Delta is further complicated by the ongoing insurgency in the region, which has been driven by a combination of factors, including the perceived marginalisation of the local communities, environmental degradation, and a lack of economic opportunities.⁴⁸ The insurgency has further exacerbated the challenges faced by host communities, as it has disrupted economic activities, reduced investment in the region, and led to the displacement of thousands of people.⁴⁹

To address the challenges of the Niger Delta region, a more comprehensive and integrated approach is required, which should include the effective implementation of the NEITI Act, the establishment of a robust framework for host community development, and the implementation of measures to address the root causes of the insurgency, such as poverty, environmental degradation, and the lack of economic opportunities.⁵⁰

3.1 Nigerian Upstream Petroleum Regulatory Commission (NUPRC)

The Nigerian Upstream Petroleum Regulatory Commission (NUPRC) plays a crucial role in addressing the longstanding issue of oil-related insurgency in the Niger Delta region of Nigeria. The NUPRC's mandate, as outlined in the Petroleum Industry Act (PIA) of 2021, its enabling instrument, specifically addresses the need for host community development as a means to mitigate conflicts in the region.⁵¹

The Niger Delta, where Nigeria's vast oil and gas resources are located, has been plagued by social unrest, environmental degradation, and armed insurgency for decades.⁵² The root causes of this conflict include the historical marginalisation of local communities, the perceived inequitable distribution of oil wealth, and the adverse environmental impact of extraction activities.⁵³

The PIA, which established the NUPRC, recognises the importance of addressing these challenges and has mandated the commission to play a pivotal role in fostering host community development.⁵⁴ Specifically, Section 235 of the PIA outlines the NUPRC's responsibility in overseeing the administration of the Host Communities Development Trust (HCDDT).⁵⁵

The HCDDT is a fund dedicated to financing community-based projects and initiatives, with the aim of channelling a portion of oil and gas revenues directly to the affected communities.⁵⁶ This approach is intended to promote a sense of ownership and participation among the host communities, thereby

⁴⁸ Okonta and Douglas (n 40).

⁴⁹ Chibuzo Nwoke, 'The Impact of NEITI on Transparency and Accountability in Nigeria's Oil and Gas Sector' [2017] *ANEEJ Policy Brief*, 4-5.

⁵⁰ Okonta and Oronto (n 40).

⁵¹ PWC Nigeria, 'The Petroleum Industry Act' (2023) <<https://www.pwc.com/ng/en/publications/nigeria-petroleum-industry-act.htm>> accessed 19 July 2024.

⁵² Cyril Obi, Oil and Conflict in the Niger Delta in Cyril Obi and Siri Aas Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-Violence* (London: Zed Books 2011) 13-12.

⁵³ *Ibid.*

⁵⁴ Petroleum Industry Act 2021, s 235.

⁵⁵ *Ibid.*

⁵⁶ AO2LAW, 'Host Communities Development Trusts Under the PIA: Policy vs. Practice' (2024) <<https://ao2law.com/host-communities-development-trusts-under-the-pia-policy-vs-practice>> accessed 18 July 2024.

reducing the risk of conflict and fostering a more cooperative relationship between the industry and local stakeholders.⁵⁷

Furthermore, the PIA mandates the NUPRC to ensure the effective implementation of provisions related to local content development, environmental protection, and community engagement.⁵⁸ By enforcing these regulations and promoting the active involvement of host communities in decision-making processes, the NUPRC seeks to address the root causes of insurgency and foster sustainable development in the Niger Delta.⁵⁹

The NUPRC's framework for host community development represents a significant shift in the regulatory approach to the oil and gas industry in Nigeria, moving away from a purely extractive model towards a more inclusive and community-centric one.⁶⁰ As the commission continues to evolve and adapt its strategies, the success of its efforts will be crucial in determining the long-term stability and prosperity of the Niger Delta region.⁶¹

3.2 The Niger Delta Development Commission (NDDC)

The Niger Delta Development Commission (NDDC) plays a significant role in addressing the complex issues of oil-related insurgency in the Niger Delta region of Nigeria. The NDDC's mandate, as outlined in the NDDC Act of 2000, its enabling instrument, focuses on the sustainable development of the region and the mitigation of conflicts within host communities.⁶²

The Niger Delta, home to Nigeria's vast oil and gas resources, has long been a region plagued by social unrest, environmental degradation, and armed insurgency.⁶³ Factors such as the historical marginalization of local communities, the perceived inequitable distribution of oil wealth, and the adverse environmental impact of extraction activities have fueled resentment and the rise of militant groups in the region.⁶⁴

The NDDC Act of 2000 established the commission with the primary objective of facilitating the sustainable development of the Niger Delta. Section 7 of the Act outlines the NDDC's specific functions, which include the formulation of policies and implementation of programs for the development of the region, as well as the coordination of various developmental initiatives.⁶⁵

Notably, the NDDC Act mandates the commission to "liaise with the various oil, mineral, and gas-producing companies on all matters of pollution, prevention, and control."⁶⁶ This provision underscores

⁵⁷ *Ibid.*

⁵⁸ NUPRC, 'About NUPRC' (2023) <<https://ngfcp.nuprc.gov.ng/about-nuprc/>> accessed 15 July 2024.

⁵⁹ NUPRC, 'About NUPRC' (2023) <<https://ngfcp.nuprc.gov.ng/about-nuprc/>> accessed 15 July 2024.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² Niger-Delta Development Commission Act 2000, s 2(1).

⁶³ Cyril Obi, Oil and Conflict in the Niger Delta in Cyril Obi and Siri Aas Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-Violence* (London: Zed Books 2011) 27.

⁶⁴ *Ibid.*

⁶⁵ Niger Delta Development Commission (NDDC) Act 2000, s 7.

⁶⁶ *Ibid* s 7(1)(d).

the NDDC's role in addressing the environmental impact of oil and gas activities, which is a key driver of conflict in the region.⁶⁷

Furthermore, the NDDC is required to "tackle ecological and environmental problems that arise from the exploration of oil minerals or any other related educational or developmental problems in the Niger Delta area."⁶⁸ This broad mandate allows the commission to adopt a comprehensive approach to host community development, addressing both the social and environmental aspects of the conflicts.⁶⁹

The NDDC's framework for host community development aims to empower local communities, improve their living standards, and foster a more cooperative relationship between the oil and gas industry and the affected communities.⁷⁰ This is achieved through the implementation of various community-based projects, the provision of social amenities, and the promotion of sustainable economic activities.⁷¹

While the NDDC has faced its fair share of challenges, including allegations of corruption and mismanagement, the commission's role in addressing the complex issues of oil and insurgency in the Niger Delta remains crucial.⁷² As the region continues to grapple with these challenges, the NDDC's ability to effectively implement its mandate will be crucial in determining the long-term stability and prosperity of the Niger Delta.⁷³

4.0 African Charter on Human and People Rights (ACHPR) 1981

The African Charter on Human and People Rights addresses a variety of human rights issues, including the impact of oil and insurgency in the Niger Delta region. The charter emphasises the rights of individuals and communities to economic, social, and cultural development, as well as the right to a satisfactory environment conducive to their development.⁷⁴

Article 24 of the African Charter on Human Rights specifically highlights the right to a generally satisfactory environment that is necessary for development.⁷⁵ This provision recognises the importance of protecting the environment and ensuring that development initiatives benefit local communities. Additionally, Article 22 of the charter addresses the right to economic, social, and cultural development, emphasising the need for fair distribution of resources and benefits to all individuals and communities.⁷⁶

In the context of oil and insurgency in the Niger Delta, the charter provides a framework for addressing the challenges faced by host communities. The charter advocates for actions aimed at safeguarding these

⁶⁷ Cyril Obi, Oil and Conflict in the Niger Delta in Cyril Obi and Siri Aas Rustad (eds), *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-Violence* (London: Zed Books 2011) 14-27.

⁶⁸ (n 120) s 7(1)(e).

⁶⁹ (n 120).

⁷⁰ NDDC, 'Who We Are' (2023) <<https://nddc.gov.ng/WhoWeAre/Vision>> accessed 9 July 2024.

⁷¹ *Ibid.*

⁷² Aneliese Bernard, 'The Niger Delta Development Commission (NDDC) and the Development of the Niger Delta Region of Nigeria' [2018] (41)(3) *International Journal of Public Administration* 185-194.

⁷³ *Ibid.*

⁷⁴ African Union, 'African Charter on Human and People Rights' <https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf> accessed 15 June 2024.

⁷⁵ African Charter on Human and People Rights 1981, art 24.

⁷⁶ African Charter on Human and People Rights 1981, art 22.

communities from the adverse effects of natural resource extraction. This includes provisions for consultation, compensation, and community development initiatives to promote sustainable development and address the grievances of local populations.⁷⁷

Overall, the African Charter on Human and People Rights serves as an important framework for promoting human rights and addressing the challenges faced by host communities in the Niger Delta region in terms of oil and insurgency. It is worthy of note that this regional charter has been domesticated in Nigeria, subject to Section 12, Subsection 1 of the Constitution of the Federal Republic of Nigeria 1999.⁷⁸

4.1 African Union (AU) Declaration on Land Issues and Challenges in Africa 2009

The 2009 African Union (AU) Declaration on Land Issues and Challenges in Africa addresses the complex and multifaceted challenges surrounding land rights and resource management on the continent.⁷⁹ In the context of oil and insurgency in the Niger Delta region, the declaration plays a crucial role in guiding the development and implementation of policies and programmes aimed at promoting sustainable development and addressing the grievances of host communities.

Article 13 of the AU Declaration on Land Issues and Challenges in Africa emphasises the need for inclusive and participatory approaches to land governance, with a focus on ensuring the rights of local communities and addressing disparities in land ownership and access.⁸⁰ This provision is particularly relevant in the Niger Delta, where conflicts over land and resource ownership have contributed to the cycle of violence and insecurity in the region.

Additionally, Article 18 of the declaration underscores the importance of sustainable natural resource management and the equitable distribution of benefits derived from such resources.⁸¹ This article highlights the need for accountability and transparency in the exploitation of natural resources, including oil, to ensure that host communities benefit from these activities and are not disadvantaged or marginalised.

In light of the challenges posed by oil and insurgency in the Niger Delta, the AU Declaration on Land Issues and Challenges in Africa provides a comprehensive framework for addressing the complex issues at play in the region. By promoting principles of transparency, accountability, and inclusivity in land governance and resource management, the declaration sets the stage for the development of policies and programmes that support host community development and contribute to peace and stability in the Niger Delta.⁸²

⁷⁷ Dersso, S Ayele, 'The African Charter on Human and Peoples' Rights and the Policy Framework for Host Community Development in Africa' [2018] (23)(1) *Annual Survey of International and Comparative Law* 46-65.

⁷⁸ Constitution of the Federal Republic of Nigeria 1999, s 12(1).

⁷⁹ African Union (AU) Declaration on Land Issues and Challenges in Africa 2009.

⁸⁰ African Union (AU) Declaration on Land Issues and Challenges in Africa 2009, art 13.

⁸¹ *Ibid* art 18.

⁸² Dersso, Solomon Ayele, 'The African Union (AU) Declaration on Land Issues and Challenges in Africa 2009: Implications for Oil and Insurgency in the Niger Delta' [2009] (53)(2) *Journal of African Law* 189–208.

4.2 African Union's Guiding Principles on Large-Scale Land-Based Investments 2014

The African Union's Guiding Principles on Large-Scale Land-Based Investments, adopted in 2014, provide a comprehensive framework for governing large-scale land acquisitions in Africa. These guidelines hold significant relevance for understanding and addressing the longstanding oil-related conflicts and insurgencies in the Niger Delta region of Nigeria. The AU Guidelines on Large-Scale Land-Based Investments offer a useful framework for addressing these challenges. Specifically, several of the key principles outlined in the guidelines are directly relevant to the Niger Delta context:

Article 3 of the guidelines calls for the recognition and protection of the land and resource rights of local communities, including customary and ancestral rights. This is particularly pertinent to the Niger Delta, where local communities have long complained about the expropriation of their lands for oil exploration and production without their free, prior, and informed consent.⁸³

Article 4 of the guidelines emphasises the need to ensure that large-scale land investments do not undermine food security or disrupt the livelihoods of smallholder farmers and pastoralists. In the Niger Delta, the destruction of farmlands, fishing grounds, and other natural resources due to oil spills and environmental degradation has severely impacted the region's agricultural and food production activities.⁸⁴

Article 5 of the guidelines stresses the importance of transparent and inclusive decision-making processes, as well as the meaningful participation of local communities in the negotiation and implementation of large-scale land deals. This is a significant gap in the governance of the oil industry in the Niger Delta, where communities have often been excluded from the decision-making processes that affect their lands and livelihoods.⁸⁵

Article 7 of the guidelines calls for comprehensive environmental and social impact assessments, as well as the implementation of mitigation measures to address the potential negative impacts of large-scale land investments. This is directly relevant to the Niger Delta, where the environmental degradation caused by oil spills and gas flaring has had devastating consequences for local communities.⁸⁶

4.3 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) 2009

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention, was adopted as a comprehensive regional treaty addressing the issue of internal displacement. In the context of the ongoing insurgency in the Niger Delta region of Nigeria, the Kampala Convention provides a valuable framework for understanding and addressing the plight of communities affected by displacement due to environmental degradation and conflict.

⁸³ African Union's Guiding Principles on Large-Scale Land-Based Investments 2014, art 3.

⁸⁴ *Ibid* art 4.

⁸⁵ *Ibid* art 5.

⁸⁶ African Union's Guiding Principles on Large-Scale Land-Based Investments 2014, art 7.

The Niger Delta region, home to numerous indigenous communities, has been the site of a protracted insurgency driven by the severe environmental degradation and socioeconomic marginalisation caused by the extraction of oil resources. This has resulted in the displacement of many individuals and communities, who have been forced to abandon their ancestral lands and traditional livelihoods.

Several articles from the Kampala Convention are particularly relevant to the Niger Delta case:

Article 3, which outlines the obligations of state parties to prevent displacement, protect and assist internally displaced persons (IDPs), and seek lasting solutions to the problem of internal displacement.⁸⁷ This speaks to the need for the Nigerian government and oil companies to take concrete actions to address the root causes of displacement in the Niger Delta.

Article 4, which emphasises the responsibility of state parties to provide protection and assistance to IDPs without discrimination and to ensure their full participation in the planning and management of their return, resettlement, and reintegration,⁸⁸ This highlights the importance of engaging and empowering displaced communities in the Niger Delta rather than imposing top-down solutions.

Article 9, which requires state parties to protect the rights of IDPs, including their right to an adequate standard of living, access to essential medical services and education, as well as the right to seek freely opportunities for employment and to participate in economic activities.⁸⁹ This is particularly relevant in the Niger Delta context, where displacement has often resulted in the deprivation of basic rights and livelihood opportunities for local communities.

Article 11, which obliges state parties to provide special protection and assistance to IDPs with special needs, such as children, the elderly, persons with disabilities, and marginalised groups,⁹⁰ This is critical in the Niger Delta, where vulnerable populations have been disproportionately affected by environmental degradation and conflict.

5.0 Norwegian Petroleum Act 1996

The Norwegian Petroleum Act of 1996 is a comprehensive legal framework that governs the exploration, production, and management of Norway's oil and gas resources.⁹¹ The act establishes the state's ownership and control over these resources, which are considered to be the property of the Norwegian people.⁹² The Act also outlines the licensing and concession system, the taxation regime, and the environmental and safety regulations that apply to the petroleum industry in Norway.⁹³

One of the Act's key features is the division of responsibilities between the state and private sectors. The state, through the Ministry of Petroleum and Energy and its subordinate agencies, is responsible

⁸⁷ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) 2009, art 3.

⁸⁸ Kampala Convention 2009, art 4.

⁸⁹ *Ibid* art 9.

⁹⁰ Kampala Convention 2009, s 11.

⁹¹ Norwegian Petroleum Act of 1996, s 1-1.

⁹² *Ibid*.

⁹³ *Ibid* ss 2-1 to 2-13, 5-1 to 5-6, and 10-1 to 10-18.

for the overall management of the petroleum resources, including the granting of exploration and production licenses, the regulation of the industry, and the collection of royalties and taxes.⁹⁴ The private sector, on the other hand, is responsible for the actual exploration and production activities, which are carried out by a variety of domestic and international oil companies.⁹⁵

The Act also emphasises the importance of sustainable development and environmental protection. It necessitates that oil companies conduct comprehensive environmental impact assessments and implement measures to mitigate the environmental risks associated with their activities.⁹⁶ The Act also gives the state the authority to impose restrictions on the industry, such as the imposition of production quotas or the suspension of operations, in order to protect the environment or ensure the efficient use of resources.⁹⁷

Norway, a country known for its stable political and economic environment, has not been immune to the challenges of host community development in the context of the oil and gas industry. The framework for addressing these challenges is outlined in the Norwegian Petroleum Act of 1996, which provides a comprehensive legal and regulatory structure for the management of the country's petroleum resources.⁹⁸

One of the Act's key elements is its emphasis on the importance of local community development. According to the Act, oil companies are required to engage with local communities and support the development of infrastructure and social services in these areas.⁹⁹ This includes providing employment opportunities, investing in local businesses, and supporting community-based initiatives.¹⁰⁰

5.1 Lesson from Norway

Norway provides a valuable case study for understanding the effectiveness of host community development frameworks. Norway has successfully managed its oil and gas resources while maintaining good relations with local communities. Its approach to host community development emphasizes stakeholder engagement, transparency, and the promotion of sustainable development.¹⁰¹

Some of the key lesson derived from Norway includes;

Environmental Protection: Sections 10-1 to 10-6 of the Norwegian Act emphasizes environmental protection and requires oil companies to conduct comprehensive environmental impact assessments and implement measures to mitigate potential risks.¹⁰²

⁹⁴ *Ibid* ss 3-1 to 3-10 and 4-1 to 4-8.

⁹⁵ Norwegian Petroleum Act of 1996, ss 3-3 to 3-5 and 3-7.

⁹⁶ *Ibid* ss 10-1 to 10-6.

⁹⁷ *Ibid* ss 4-6 and 10-1.

⁹⁸ *Ibid*, ss 1-2 and 3-1.

⁹⁹ *Ibid* ss 3-1(3) and 10-1.

¹⁰⁰ *Ibid*.

¹⁰¹ Norwegian Ministry of Foreign Affairs, 'Voluntary National Review 2021 Norway'

<https://sustainabledevelopment.un.org/content/documents/28233Voluntary_National_Review_2021_Norway.pdf> accessed 3 October 2024.

¹⁰² Norwegian Petroleum Act 1996, ss 10-1 to 10-6.

Stakeholder Engagement: Norway actively engages with local communities throughout the oil and gas development process. This includes involving communities in decision-making, ensuring their input is considered, and addressing their concerns.¹⁰³ Specifically, sections 3-1(3) and 10-1 of the Norwegian Act prioritizes local content and local participation in the oil and gas industry, creating employment opportunities and fostering skills development within host communities.¹⁰⁴

Transparency: Norway maintains a high level of transparency in its oil and gas sector. Sections 3-1 to 3-10 and 4-1 to 4-8 of the Norwegian Act establishes a robust regulatory framework that ensures transparent and accountable management of oil and gas revenues.¹⁰⁵ This includes publicly disclosing information about exploration and production activities, revenues, and the use of funds for host community development.¹⁰⁶

Sustainable Development: Norway prioritizes sustainable development in its oil and gas sector. This includes investing in renewable energy, promoting energy efficiency, and protecting the environment. It also involves ensuring that host communities benefit from oil and gas activities in a way that supports their long-term well-being.¹⁰⁷

Community Development Funds: Norway has established community development funds that channel revenue from oil and gas activities directly to local communities. These funds are used to support projects and initiatives that improve living standards, such as infrastructure development, education, and healthcare.¹⁰⁸

Local Content and Employment: Norway promotes local content and employment in its oil and gas sector. This involves giving priority to Norwegian companies and workers in the awarding of contracts and ensuring that local communities have opportunities for training and employment.¹⁰⁹

5.2 Relevance of Lesson from Norway to the Niger Delta

The lessons from Norway are highly relevant to the Niger Delta region of Nigeria. By adopting similar principles, stakeholders in the Niger Delta can work together to create more effective host community development frameworks that:

1. Foster meaningful engagement with local communities.

¹⁰³ David Jordhus-Lier and others, 'Petroleum Transition Pathways in Norway: How do Norwegian stakeholders envision pathways to net-zero and phase-out for the country's oil and gas sector?' (2022) <https://www.researchgate.net/publication/364387573_Petroleum_Transition_Pathways_in_Norway_How_do_Norwegian_stakeholders_envision_pathways_to_net-zero_and_phase-out_for_the_country's_oil_and_gas_sector> accessed 11 November 2024.

¹⁰⁴ Norwegian Petroleum Act 1996, ss 3-1(3) and 10-1.

¹⁰⁵ *Ibid*, ss 3-1 to 3-10 and 4-1 to 4-8.

¹⁰⁶ Mark Thuber, 'Exporting the "Norwegian Model": The effect of administrative design on oil sector performance' [2011] (39)(9) *Energy Policy* 5366-5378.

¹⁰⁷ *Ibid*.

¹⁰⁸ *Ibid*.

¹⁰⁹ Berryl Claire Asiago, 'Norwegian Local Content Model A Viable Solution?' [2017] (14)(7) *Us-China Law Review* 471-496

2. Promote transparency and accountability in oil and gas operations.
3. Prioritize sustainable development and environmental protection.
4. Establish community development funds that directly benefit local communities.
5. Promote local content and employment opportunities.

6.0 Summary of Findings

Host Community development models are crucial for addressing conflicts arising from oil exploration and exploitation in the Niger Delta region of Nigeria. Effective frameworks emphasize stakeholder engagement, transparency, sustainable development, and addressing underlying grievances. While host community development frameworks exist in the Niger Delta, conflicts persist.

Lessons from Norway's successful approach include environmental protection, stakeholder participation, transparency, sustainable development, community development funds, and local content promotion. Adopting these principles in the Niger Delta can improve community relations with oil companies, reduce conflicts, and promote sustainable development.

The Norwegian Petroleum Act of 1996 provides a robust legal framework for stakeholder engagement, environmental protection, local content, and community development. The Act's emphasis on transparency, accountability, and sustainable development can serve as a model for the Niger Delta region.

Stakeholder engagement is vital in addressing the root causes of conflict in the Niger Delta. This includes involving local communities in decision-making processes, ensuring their input is considered, and addressing their concerns.

Transparency and accountability in oil and gas operations are essential for building trust and reducing conflicts. Public disclosure of information about exploration and production activities, revenues, and the use of funds for host community development fosters transparency and accountability.

Sustainable development and environmental protection measures mitigate the adverse environmental and social impacts of oil and gas activities. They include investing in renewable energy, promoting energy efficiency, protecting the environment, and ensuring that host communities benefit from oil and gas activities in a way that supports their long-term well-being.

Community development funds channel revenue from oil and gas activities directly to local communities. These funds are used to support projects and initiatives that improve living standards, such as infrastructure development, education, and healthcare.

Promoting local content and employment opportunities creates jobs and fosters skills development within host communities. This involves giving priority to local companies and workers in awarding contracts and ensuring that local communities have opportunities for training and employment.

Implementing these lessons in the Niger Delta requires collaboration and addressing challenges such as corruption, lack of transparency, and inadequate stakeholder engagement. However, the potential

benefits include improved community relations, reduced conflicts, and sustainable development. By adopting effective host community development frameworks, stakeholders can mitigate conflicts, improve the lives of local communities, and ensure that the Niger Delta region benefits from its oil and gas resources in a sustainable and equitable manner.

7.0 Conclusion

Host community development frameworks are crucial for mitigating oil-related conflicts and promoting sustainable development in the Niger Delta region of Nigeria. By adopting lessons from Norway and addressing the specific challenges of the region, stakeholders can work together to create more effective frameworks that:

1. Foster meaningful engagement with local communities.
2. Promote transparency and accountability in oil and gas operations.
3. Prioritize sustainable development and environmental protection.
4. Establish community development funds that directly benefit local communities.
5. Promote local content and employment opportunities.

Implementing these principles requires collaboration among stakeholders, including government agencies, oil companies, local communities, and civil society organizations. It also requires addressing challenges such as corruption, lack of transparency, and inadequate stakeholder engagement.

However, the potential benefits of effective host community development frameworks are significant. By mitigating conflicts, improving the lives of local communities, and ensuring that the Niger Delta region benefits from its oil and gas resources in a sustainable and equitable manner, these frameworks can contribute to the long-term stability and prosperity of the region.

8.0 Recommendations

To mitigate oil-related conflicts and promote sustainable development in the Niger Delta region of Nigeria, the following recommendations are made:

1. Strengthen stakeholder engagement
 - a) Establish regular and meaningful dialogue mechanisms between oil companies, government agencies, local communities, and civil society organizations.
 - b) Ensure that local communities have a meaningful say in decisions that affect their lives and livelihoods.
 - c) Address the underlying grievances of local communities, including issues related to environmental degradation, economic marginalization, and political exclusion.
2. Promote transparency and accountability
 - a) Publicly disclose information about oil and gas exploration and production activities, revenues, and the use of funds for host community development.

- b) Establish independent monitoring mechanisms to oversee the implementation of host community development frameworks.
 - c) Hold oil companies and government agencies accountable for their commitments to local communities.
- 3. Prioritize sustainable development
 - a) Invest in renewable energy and energy efficiency projects to reduce the environmental impact of oil and gas activities.
 - b) Protect the environment and mitigate the adverse social impacts of oil and gas development.
 - c) Ensure that host communities benefit from oil and gas activities in a way that supports their long-term well-being.
- 4. Establish community development funds
 - a) Channel revenue from oil and gas activities directly to local communities through community development funds.
 - b) Ensure that these funds are used to support projects and initiatives that are identified and prioritized by local communities.
 - c) Provide training and capacity building to local communities to enable them to manage and utilize these funds effectively.
- 5. Promote local content and employment
 - a) Give priority to local companies and workers in the awarding of contracts for oil and gas exploration and production activities.
 - b) Invest in training and skills development programs to create employment opportunities for local communities.
 - c) Support the development of local businesses and industries to create a sustainable economic base for host communities.
- 6. Address underlying challenges
 - a) Address the root causes of conflict in the Niger Delta, including poverty, unemployment, and environmental degradation.
 - b) Implement comprehensive development programs that address the social and economic needs of host communities.
 - c) Combat corruption and promote good governance in the oil and gas sector.

By implementing these recommendations, stakeholders can create more effective host community development frameworks that mitigate conflicts, promote sustainable development, and improve the lives of local communities in the Niger Delta region.