A Critical Review of Sustainable Environmental Impact Assessment Processes in Energy Projects in Nigeria*

Abstract:
This paper critically reviews the practice of sustainable environmental impact assessment (EIA) in energy projects in Nigeria. Environmental Impact Assessment (EIA) is a process that evaluates the potential environmental consequences of a proposed project or policy before decisionsare made, aiming to identify and mitigate potential negative impacts. The energy sector in Nigeria is vital for economic growth, but it also poses significant environmental challenges. Environmental Impact Assessment (EIA) is crucial for ensuring energy project are developed in a way to minimize their negative impact on the environment and promotes sustainable development. The Environmental Impact Assessment (EIA) Act, 1992 in Nigeria, is a cornerstone of environmental protection, requiring prior consideration of environmental effects for public and private projects, and allowing the Federal Environmental Protection Agency (FEPA) to facilitate environmental assessments. Environmental impact assessment is part of a major requirement for decision making in a developmental projects and a systematic process to identify, evaluate, and predict environmental effects of proposed action and projects. The process is applied prior to major decisions and commitments being made. EIA serves as a foundational tool for assessing potential environmental consequences for oil and gas projects, aiming to mitigate the adverse effect on ecosystem and human health.

1. Introduction

The natural environment is an emporium of resources, both renewable and non renewable. There is need to use the environmental resources in a sustainable approach among which is conducting environmental impact assessment in every environmental projects before and after the project. Environmental impact assessment (EIA) is therefore a formal process by which a proposed activity with potentially significant environmental, social, and economic cost is studied with a view in evaluating its impact, examining alternative approach, and developing measures to prevent or mitigate the negative impacts. Environmental impact assessments have emerged as a result of the environmental challenges of energy, mining, and economic development. [1] The environmental impact assessment (EIA) has evolved and become a part of major project requirements in in numerous countries. However, it's contribution to sustainable development and reduction of poverty levels of people affected by the projects gave not been assessed in developing countries including Nigeria. Many countries have had long history of environmental protection through indigenous local institutions, norms, taboos, and cultural values. However it is worth noting that environmental management is not achieved only through environmental laws, but also through the application of various formal and informal administrative mechanisms. In January 1970, the US national environmental policy Act (NEPA) introduced the first formal requirement and procedure for EIA. Since then governments in more than 100 countries have developed provisions for the implementation of EIA. [2] Nigeria entered the league of EIA nations in 1992 following the enactment of the environmental impact assessment Act. Although the Act requires completion of EIA's before a variety of projects can proceed, there is a general perception that EIA's are seldom carried

*__Altine Ofokansi__ LLB (Hons.) BL, LLM Researcher, Faculty of Law Chukwuemeka Odumegwu Ojukwu University, Igbariam, Anambra State
*__Professor Chi. Johnny Okongwu__, HoD, International Law and Jurisprudence, Chukwuemeka Odumegwu Ojukwu University, Igbariam, Anambra State, email: lawleviokongwu@gmail.com. phone: 08034850007
[1] International association for impact assessment
[2] Law environment and development journal Allan Ingelson and Chilenye Nwapi

out in Nigeria. Oil and gas law encompasses the regulatory framework that governs the exploration and extraction, production and distribution of oil and gas resources. These laws establish the guidelines and requirements for conducting EIA'S stipulating the necessary procedures and standards that must be met to minimize environmental harm. Effective oil and gas legislature also seek to balance industry operations with sustainable development principles ensuring that the exploitation of natural resources does not come at the expense of environmental degradation. The purpose of this paper is to critically review the sustainable environmental impact assessment Processes in energy projects in Nigeria [3]

Environmental Impacts from Oil and Gas Exploration and Production in Nigeria

Nigeria became independent in 1960, occupies an area of 923,768 km2 with varied climate and season and currently with over 200 million people. Prior to oil agriculture was the economic mainstay. Nigeria enjoys abundant natural resources. It is the twelfth largest producer of crude oil and the largest producer of crude oil in Africa. Nigeria has in the past four decades been dependent on crude oil revenue. In 1971, the Nigerian National oil corporation (NNOC) (which was later changed to the Nigerian National Petroleum Corporation (NNPC) was created. The federal government through the NNOC became a joint venture partner with foreign oil companies. However, with the enactment of land use Act in 1978, which vested the ownership of all lands in the state, and permitted the compulsory acquisition of land by the State in the overriding public interest, consolidated the relationship between the federal government and the oil companies. Oil and gas projects have a lot of negative impacts on land, air, water quality from greenhouse gas emissions, oil spills, and affluent discharges. During exploration, seismic lines can disturb significant amount of vegetation. During production, there can be a considerable amount of dredging and filling of the waterways, leading to acidification of water bodies, erosion, and spills. Five decades after oil was discovered in Niger Delta, Nigeria, an independent team of experts from Nigeria, the UK, and the United States concluded that the Niger Delta is one of the world's most severely Petroleum impacted ecosystem. The 2006 Niger Delta Human Development Report indicates that between 1976 and 2001, there was a total of 6817 oil spills in the Niger Delta region of the Nigeria, resulting in loss of about three million barrels of oil. The report noted that oil and gas extraction has had a severe toll on communities in the Niger Delta. In its environmental report on Ogoni land in 2011, the United nations Environmental Programme stated that pollution of soil by hydrocarbons can occur in several ways, from natural seepage of hydrocarbons in area where Petroleum is found in shallow reservoirs, to accidental spillage of crude oil on the ground and that no matter the source of the contamination, the hydrocarbons alter the soil's physical and chemical properties. In a comprehensive assessment of the effects of gas flaring in Nigeria in1996, Oluwole et al state that the level of concentration of volatile oxides of carbon, nitrogen, sulphur oxide and total particulates exceeded levels allowed by the Nigerian Federal Environmental Protection Agency (FEPA). In a similar assessment Omoyan et al note that acidification rain water (caused by gas flaring) does not only corrode roofing sheets, monument, and other economic structures, it can also damage vegetation and contaminate ponds and lakes which are the source of livelihood to overlying indigenous rural communities in the Delta. Other studies have shown a positive correlations between affluent from the oil refineries in the Niger Delta region. Onwumere and Oladimeji have documented the accumulation of heavy metals from refinery affluent from the NNPC Refinery in Kaduna northern Nigeria. Emoyan confirmed the existence of high level of heavy metal contamination in River Ijana - an effluent receiving stream that flows by the NNPC refinery in Warri Delta

[3] Ibid pg 3

State. It is important to also state that environmental impacts from oil and gas development in Nigeria also have cross-border features.[4] Pipeline constructed from south-south to Lagos in south west to Ghana can affect communities where oil exploration and production does not occur which raises a lot of environmental concerns for the communities along the pipe routes.

2. Legal Regime on Environmental Protection in Nigeria

Before the promulgation of the environmental impact assessment Decree, the environmental impact of developmental projects were disjointed and close to non-existence. It set up a legislative framework for environmental impact assessment in Nigeria. The environmental impact assessment Act made provisions for evaluation of potential negative or positive impacts of a proposed project on the environment. The Act deals with the of the effect of the effects on the environment of both public and private projects. The Act give the right of participation in the decision making process for the development and the concern on oil and gas projects which may likely cause significant impact on the environment before being executed. The aim is to regulate massive environmental degradation caused by oil and gas operations by oil firms and to stop persistent agitation of the oil producing communities in Nigeria. Section 2(1) (2)(3) and (4) of the Act makes it a priority for consideration of the public, private sector and environmental impacts before the execution of oil and gas projects at an early stage. 3 Section 2(4) provides for an application in writing to the agency before embarking on projects for their environmental assessment to determine their approval. Section 13 states instances where an Environmental Impact Assessment is required. Section 13 of the Environmental Impact [5] Assessment (EIA) Act outlines the circumstances where an EIA is required, emphasizing that such assessments are mandatory for projects listed in the schedule or referred to mediation/review panels, ensuring no government entity can proceed without Agency approval or conditions. Section 13(1) provides that penalties stipulated in the Act may be invoked for failure to adhere to the conditions of approval. (2) The criteria for disapproval shall include non-compliance with the stipulations of the Act, these Regulations, other regulations made pursuant to the Act and the environmental un-sustainability of the project.[6] Section 60 specifically addresses the legal consequences of failing to comply with the Act's requirements. This means that any person, authority, corporate body, or unincorporated body that violates any of the Act's provisions will be held liable under the law. Section 62 provides for the offences and penalties. The (Repealed) Associated GAS Re-Injection Act regulates the flaring of associated gas produced from the field and to reject all gas produced with comprehensive plans for execution of gas re-injection plans. The Act deals with gas flaring in Nigeria. Sec. 3(1) prohibits the flaring of AG "without the permission in writing of the Minister." Sec. 3(2) authorizes the Minister to issue a flaring certification "utilization or re-injection of the produced gas is not appropriate or feasible in a particular field or fields". [7]Section 3(1) watered-down the provision prohibiting perennial gas flaring with the requirements that gas can be flared with the written permission of the Minister of Petroleum Resources. Section 1 of the (repealed) Associated Gas Re-injection Act of 1979 required companies producing oil and gas in Nigeria to submit plans for utilizing or re-injecting associated gas to the Minister of Petroleum Resources, rather than flaring it. The

[4] On legal responsibility for cross-border environmental injury, see Chike B. Okosa, 'Cameroon's Liability for Downstream Damage by Waters from its Lagdo Dam', (2023) 14 (1) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* [160-171]

[5] Environmental Impact Assessment Act

[6] Nigerian Petroleum, Energy and Gas Resources Law Olusola Joshua Olujobi, Ph.D

[7]The (Repealed) Associated Gas Re-Injection Act

Associated Gas Re-injection Act, enacted in 1979, aimed to address the issue of gas flaring, which is the burning of natural gas produced along with oil, and instead promote the utilization or re-injection of this gas. Section 1 of the Act mandated that every company producing oil and gas in Nigeria submit to the Minister of Petroleum Resources a plan to either utilize all associated gas or to re-inject all associated gas not utilized in an industrial project. The act was later repealed by the Petroleum Industry Act, 2021, but the principles of minimizing gas flaring and promoting gas utilization/re-injection remain relevant. The Gas Flaring, Venting and Methane Emissions (Prevention of Waste and Pollution) Regulations, 2023 (the Emissions Regulations) replaced the 2018 regulations and aim to reduce the environmental and social impact caused by the flaring of methane/natural gas in Nigeria. The Federal Government takes natural gas produced with crude oil free of cost at the flare and without payment of royalty, as per the regulations. The Associated Gas Re-injection Act also stipulated penalties for flaring gas without the Minister's permission, including forfeiture of concessions and withholding of entitlements. The provision of the Petroleum Industry Act 2021 if stringently enforced it will halt gas flaring activities in Nigeria's oil and gas industry.

3. The Oil Pipeline Act

The Oil Pipeline Act was enacted in 1956 for combating oil pollution and other impacts of oil operations. The Act makes provision for licenses to be granted for the establishment and maintenance of pipeline incidentals, supplementary to oilfields, oil mining and purposes that are ancillary to such pipelines. The Act regulates the issuance of permit to survey and for oil pipelines licenses as a means of regulating environmental degradation. Section 11 of the Act requires the owner of the pipelines to pay compensation to anyone who suffers injury, damages, or loss as a result of leakage or damage of pipeline. Section 11(5)(c) of the Nigerian Oil Pipelines Act addresses compensation for damage caused by pipeline breakage or leakage, excluding damages due to the person's own fault or malicious acts of a third party, and covers any such damage not otherwise made good. The Act fails to take into consideration innocent citizens in the community who may not be involved in the sabotage and yet suffers loss due to act of sabotage. [8]

4. The Petroleum Industry Act 2021

Section 102 of the Petroleum Industry Act (PIA) 2021 mandates licensees and lessees involved in upstream and midstream petroleum activities to submit Environmental Management Plans (EMPs) for projects requiring environmental impact assessments (EIAs) to the Upstream Commission or Authority. The commission or Authority is to approve the environmental management plan where it complied with the relevant environmental Act and provided the applicant has the capacity to rehabilitate and manage the negative impacts of its operations and activities in the environment.[9] The commission or Authority is to consider the environmental management plan in conformity with the policy thrust of the government on environmental protection operations and management practices. Utilization of chemicals for upstream Petroleum operations without the commission permit and approval is prohibited. Section 101(2)(a)(2)(3)(a)(b)(4)(5)(6) of the Petroleum Industry Act 2021 pertains to the establishment and management of the Host Communities Development Trust (HCDT), including its purpose, composition, funding, and operational guidelines. The HCDT aims to enhance peaceful and harmonious co-existence between licensees or lessees and their host communities within the petroleum-producing areas and to aid the prosperity of these

[8] Oil Pipeline Act
[9] Petroleum Industry Act 2021

communities. The HCDT is funded through contributions from the petroleum industry operators, with a percentage of their profits allocated to the trust. Section 103(1) of the Petroleum Industry Act (PIA) 2021 obligates licensees and lessees to contribute to an environmental remediation fund for negative environmental impacts, while Section 103(2) addresses the establishment of the fund by the Commission or Authority. Licensees and lessees are required to contribute financially to an environmental remediation fund. This fund is established by the Commission or Authority for the rehabilitation and management of negative environmental impacts arising from the utilization of their licenses or leases. An independent assessor may be appointed by the commission if it is dissatisfied with the licensee or licensee's assessment to conduct the valuation and financial contributions. Where a licensee or lessee fails to rehabilitate or manage the negative impact of their activities on the environment, the commission or Authority after written notice to the license holder, may apply the fund to rehabilitate or manage such negative environmental impact. Section 104 of the Petroleum Industry Act 2021, specifically subsections (1), (2), (3), and (4), outlines the prohibition of gas flaring and venting, except under specific circumstances, and the penalties for non-compliance, including fines that are not tax-deductible. The fees received as gas flaring penalties shall be utilized for environmental remediation and relief of the host communities of the settlers on which the fines are imposed.[10] The National Environmental Protection (pollution Abatement to Industries and Facilities Producing Waste) Regulations (1991). The National Environmental Protection (Pollution Abatement in Industries and Facilities Producing Wastes) Regulations (1991) in Nigeria, made under the Federal Environmental Protection Agency Act, controls industrial discharges, requiring analysis and reporting of waste, and mandates environmental audits and assessments for industries and projects. The 1991 Federal Solid and Hazardous Waste Management Regulations in Nigeria, specifically the National Environmental Protection (Management of Solid and Hazardous Wastes) Regulations, aim to manage and control solid and hazardous waste, identifying dangerous wastes, and ensuring proper record-keeping, sampling, labeling, and disposal. Industries and facilities are required to adopt in-plant waste reduction and pollution prevention strategies.[11] Each State of the Federation shall designate industrial layouts separate from residential areas and provide buffer zones between them. Section 108 stipulates penalties for contravening any regulation.

5. International Legal Regime on Environmental Protection

Pursuant to section 12(1) of 1999 constitution, Nigeria signed and ratified several international treaties and agreements on environmental Protection. These include:

The Basel Convention, adopted in 1989 and entering into force in 1992, controls the international trade in hazardous wastes and certain other wastes, aiming to protect human health and the environment by minimizing their generation and ensuring environmentally sound management. The Treaty was adopted after the koko incident of dumping 8000 barrels of toxic waste from Italy by an Italian firm at koko village in 1988. The convention was modified during the third conference of parties in 1995. The decision identified asthenia Basel Ban Amendment " prohibits the exportation of hazardous wastes from industrialized nations who are members of the Organization of Economic Cooperation and Development (OECD) to non- members of OECD nation. [12]

[10] African Journals Online https://www.ajol.Info
[11] Federal Solid and Hazardous Waste Management Regulation (1991)
[12] 1999 Constitution of the Federal Republic of Nigeria

The International Code of Conduct on the Distribution and Use of Pesticides: The Code of Conduct, originally adopted in 1985 by the Food and Agriculture Organization of the United Nations (FAO) Conference and revised in 2002, promotes sound pesticide management practices that minimize potential risks to human health and the environment. The adoption of the Rottingdam Convention 1998 made provisions for prior informed consent in the code significant. Noncompliance with the Convention's provisions heightened illegal distribution and use of pesticides in Nigeria. [13]

The Protocol on Liability and Compensation for Damage Resulting from Transboundary Movement of Hazardous Wastes and Disposal: The objective of the Protocol is to provide for a comprehensive regime for liability as well as adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes, including incidents occurring because of illegal traffic in those wastes. The protocol was adopted in 1999 during the fifth conference that was held in Basel, Switzerland in conformity with Article 12.

The United Nations Framework Convention on Climate Change (UNFCCC) : The United Nations Framework Convention on Climate Change (UNFCCC) is an international treaty adopted in 1992 to prevent dangerous human interference with the climate system, serving as the foundation for international climate negotiations, including the Kyoto Protocol and the Paris Agreement. The UNFCCC aims to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. The convention was adopted at the Earth Summit in Rio de Janeiro in 1992 and entered into force on March 21, 1994.[14] The UNFCCC has near-universal membership, with 198 countries that have ratified the Convention, known as Parties to the Convention.

Kyoto Protocol 1997: Kyoto Protocol, adopted in 1997, is an international treaty that commits industrialized countries and economies in transition to reduce greenhouse gas emissions, with the aim of addressing climate change. It entered into force in 2005 and was later superseded by the Paris Agreement. The protocol aimed to reduce emissions of six greenhouse gases (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulphur hexafluoride. It was adopted in Kyoto, Japan, on December 11, 1997, at the Third Conference of the Parties (COP).

6. EIA Process for Oil and Gas Projects in Nigeria

It was in response to oil and gas development that the idea of EIAs evolved in Nigeria. The federal government concluded that the oil and gas industry was the only industry that called for close environmental scrutiny. . Although oil exploration activities in Nigeria began in 1908, and production started in the 1950s, it was not until the early 1990s that environmental planning considerations through EIAs became part of the decision making process in the development of Nigeria's oil and gas resources. It is noteworthy and curious that the same operators in the Nigerian oil and gas industry who operated during the first four decades after the discovery of oil in Nigeria without carrying out EIAs, were the same operators who were carrying out EIAs in their country to avoid or mitigate the adverse environmental impacts of their operations. While the absence of regulatory requirements in Nigeria might be cited as the reason for the operators failure to carry out EIAs in Nigeria, the fact that EIA's had become standard practice in their home countries should have created a moral obligation on the operators to carry out EIAs notwithstanding the absence of mandatory legal requirements.

[13] Nigerian Petroleum, Energy and Gas Resources Law Olusola Joshua Olujobi, Ph.D
[14] UNFCCC https://unfccc.int

The earliest attempt to require EIAs in Nigeria appears to have arisen in the 198q1-1986 five year development plan released by the federal government. A provision in the plan states that feasibility and viability studies for all projects both private and public should be accompanied by environmental impact assessment. But this provision was not followed by legislative formalisation. In 1990 FEPA published its national policy on the environment. The same year, the national Council on the environment declared the EIA was a necessary requirement for an effective implementation of the national plan on the environment released by FEPA. The council directed that EIA be made mandatory for all development projects beginning from March 1991. In 1991 the DPR issued its environmental guidelines and standards for the Petroleum Industry in Nigeria, which provided for the first time details of EIA process for Nigerian government. In 1992, two separate pieces of EIA legislation were promulgated. The first related to urban and regional planning: the town planning Act; while the second one EIA Act. applied to some projects in the oil and gas industry. With regards to the evolution of EIA process in Nigeria and its application to the oil and gas industry, in 2002, Afghanistan, Irechukwu, and Zagi report that before 1991, less than ten environmental studies reports which included two pre-project and five post-impact environmental studies, relating to oil spills and blowouts, were carried out in Nigeria. Between 1991 and 2001, over 2000 studies had been carried out. Ogunba described the evolution of EIA in Nigeria as one from reactive control measures to a proactive EIA system.[15]

7. Analysis

Oil and gas development has a variety of environmental impacts. As noted, the effects can range from the most immediate effects on the biophysical environment (such as land degradation and water pollution) to the more remote effects on the human environment (such as the displacement of local inhabitants of the area where the projects take place). Ostensibly, the Nigerian ETA process considers a broad range of environmental effects. For instance, the principal instrument for integrating biodiversity conservation into sectoral programmes in Nigeria is the EIA Act. However, the Nigerian EIA process contains a number of major deficiencies with regard to the environmental effects considered. Oil development has had a significant impact on the biodiversity of the Niger delta. With regard to biodiversity, the EIA process does not possess a 'standard methodology for incorporating wildlife issues'. This in part can be attributed to the lack of reliable information about the status of wildlife in the Niger Delta. Another major deficiency is the failure of the EIA regime to consider ethno diversity. Globally, there have been conflicts between oil and gas and mining corporations and indigenous peoples who occupy the lands where oil and gas development takes place. Nigeria is no exception to this and in fact is a quintessential example of a country with huge ethno diversity, the Niger Delta region being the most diverse part of the country, ethnically. The inhabitants of the region are intensely spiritual and have over the years developed an intimate affinity with their lands. Their beliefs include the designation of certain forests as 'sacred forests' and 'evil forests', sacred forests being those associated with benevolent gods while evil forests being those associated with 'evil spirits'. These forests are not to be accessed without some prior sacrifice to the gods and mistaken entry into the forests calls for acts of cleansing. Certain species of animals are also regarded as sacred and therefore not to be killed. Although these beliefs are being compromised due location of large oil and gas projects in the ancestral lands of these people contributes to this disruption, especially if it causes displacement of the populations. Notwithstanding the danger of this displacement, the

[15] Ibid pg 6

Nigerian EIA process pays little "attention to or respect for the ethno diversity of the Niger Delta region. [16]

For an EIA to be effectively carried out, there must exist reliable baseline data against which the impact of the project can be weighed. Most scholars identify the absence of baseline data as a significant hindrance to the conduct of effective EIAs in developing countries. Wood, for instance, has argued that the absence of relevant baseline data (and 'the different significance attached to impacts in different countries') is one of the strongest grounds for ensuring that local experts take part in the conduct of EIA and that local communities participate in the EIA process. Lack of baseline data is perhaps the greatest challenge to the Nigerian EIA process. Even the DPR acknowledges that lack of reliable baseline data is a significant obstacle to an effective EIA process in Nigeria. According to Zagi, (Head, Technical Services Unit of the DPR), the DPR has 'pockets of environmental baseline data as against having one acceptable baseline data', and that data are in need of revalidation. This results in duplication and wasted effort, time and money to collect data each time an EIA is required. In a study of the Niger Delta University Campus Project on Wildlife in the Nun River Forest Reserve, Hamadina et al note that the magnitude of loss of biodiversity in the area is difficult to quantify due to scarcity of necessary data. The lack of baseline information has sometimes 'even led to the fabrication of data'.

The importance of public participation in EIAs is well established. The sustainability of development interventions is today generally believed to be achievable through the proper participation of stakeholders in the management of the resources. Donor agencies and international financial institutions today require public participation in their development projects and in particular in the EIA process of those projects. Public participation in EIAs is also recognized in a number of international treaties, including, most notably, the 1991-Convention on Environmental Impact Assessment in a Transbonndary Context. Sheathe underscored the importance of public participation in EIA processes. They will be the people who know their own local environment and will be able to identify key areas of concern. Those concerns and fears may, in some cases, prove to be ill-founded, but if they are not identified at the earliest opportunity, they may arise at a later stage when they are more likely to lead to conflict. By involving the public as early as possible issues may be identified which 'experts' might not have considered important Local people can enhance the value of EIAs not only by identifying the kind of impacts the project would have on them and their environment, but also by helping to provide baseline information that is necessary for an effective EIA. The sharing of information is vital to an effective EIA.

Umeh and Uchegbu have argued that the Nigerian EIA Act has the potential to promote sustainable development in Nigeria[17]. In a study of community participation in environmental decision-making in the Niger Delta of Nigeria, Adomokai and Sheate conclude that public participation has improved since the EIA Act and has brought many positive changes for all stakeholders, especially for the affected communities. This is thanks to the increasingly more visible negative effects of development activities on the environment, which affect die livelihood of local communities, the rate of community unrest in the oil-bearing region, "and an increase in public consciousness about environmental matters. The scholars note, however, that although there is an increase in public participation and concern for the environment, there is still a tendency for some communities to demand compensation

[16] Federal Government of Nigeria, Nigeria First National Biodiversity Report 23rd July, 2001, pg 23, available at https://www.cbd.int/doc/world/ng/ng-nr-01-en.pdf

[17] Umeh, Uchegbo, Principles and procedures of Environmental Impacts Assessment(1997)

instead of trying to resolve the potential environmental problem. And this is because communities are still in need of the basic necessities of life, the environment being of secondary importance. When people cannot feed, clothe, provide good accommodation for their families or good education for their children, how can you come and tell them to be properly concerned for the environment? When you resolve developmental issues and the basic needs of the people then we can begin to talk about the environment properly. Orubu et al have concluded that aside from occasional recruitment of a few local workers as data collectors by environmental consultants, residents of the oil region in Nigeria are seldom aware that EIAs are to be, or are being, carried out in their communities. It is significant that under the EIA Act, public involvement in the EIA process is required to begin only at the decision-making stage by the review panel, after the initial draft of the EIA report has been submitted to the Ministry of Environment. Section 22(3) of the Act states that: before taking a course of action in relation to a project pursuant to subsection (1) of this section, the [Federal Ministry of Environment] shall give the public an opportunity to examine and comment on the screening report and any record that has been filed in the public registry established in respect of the project ... and shall take into consideration any comments that arc filed. Such public comments are also to be received when considering the mandatory study report. There is no legal requirement for the project, proponent to engage the affected public in its own assessment before submitting its reports to the Federal Ministry of Environment. At the scoping stage, however, the Ministry may arrange a public hearing, but this depends on the degree of public interest in the project and therefore is not a legal obligation but is highly discretionary. The terms of reference drawn up by the Ministry and the project proponent following the completion of the scoping may include a public hearing, but this, again, is not a legal obligation but a mere discretion as it. depends on the degree of public interest in the project. And although section 17(l)(c) of the Act states that '[every screening ... shall include a consideration of ... comments received from the public ...', those comments will be considered only if they are received, and whether or not comments will be received will depend on whether they will be invited, which in turn will depend on the degree of public interest in the project. The determination of the degree of public interest sufficient to warrant a public hearing is at the discretion of the Minister. It is therefore only at the decision-making stage that the views of the affected public must be invited as a matter of legal obligation. To a large extent, this is retroactive public participation. The public are invited to comment on a draft that was prepared without their input, and perhaps even knowledge, as there are no prescribed formal notice requirements. Given the importance of oil and gas and mining projects to the national economy, it is unlikely that all public concerns can be adequately addressed at this stage, for the intent of the government is usually to have the proposed projects developed as quickly as possible in order to raise revenue for the government. But EIAs for oil and gas and mining projects are not activities that can be completed properly without a significant amount of time. A thorough and careful assessment of the short and long term environmental risks and how to prevent or mitigate them requires ample time and an adequate consideration of the views of those to be affected. Even though the companies may, of their own volition, involve the affected public during the preparation of the EIA report, this is at their option. Although the companies may feel compelled to consult the affected communities in the conduct of the EIA in order to avert conflict, the optional nature of such consultation remains and will most certainly affect the level of the company's commitment to involve die affected community and this undermines the value of an exercise as critically important as an EIA in oil and gas and mining development. Lack of adequate involvement of the public in EIA processes in developing countries such as Nigeria has been blamed on use of international environmental

consultants who due to budgetary and time constraints may compromise the 'exploratory nature of EIA. The lack of meaningful public participation consultation requirements in the Nigeria EIA system seriously undermines the effectiveness of the EIA process in Nigeria.).

8. Conclusion/ Recommendations

In concluding our discussion on Environmental Impact Assessments (EIAs) in Nigeria, it is evident that the responsibility for promoting sustainable development extends beyond policymakers to encompass all members of society. Effective EIAs are crucial for assessing potential environmental impacts and steering projects toward sustainability. As stakeholders - whether community members, businesses, or government officials - we possess the ability to positively influence these assessments. As part of our recommendation, we must advocate for strict adherence to EIA protocols. This entails demanding transparency throughout the process, ensuring that every stakeholder's voice is heard, and insisting on comprehensive evaluations that integrate local ecological knowledge. A collaborative approach will enhance decision-making and ultimately protect our environment for future generations. Additionally, we must champion capacity-building initiatives that equip professionals with the latest tools and methodologies for conducting EIAs. By investing in training and education, we foster a ripple effect that enhances the quality and effectiveness of assessments throughout Nigeria. Lastly, we should not overlook the power of grassroots movements. By raising awareness about the significance of EIAs, we can inspire communities to actively engage in the process, holding project developers accountable for their environmental commitments. There is also the need for the regulatory agencies to be equipped with the necessary resources including manpower and technological skills to carry out E'TAs and monitor the implementation of the EIA reports. Otherwise, economic progress in the country will continue to be limited to benefit a much smaller number of people and there will be a lack of sustainable development notwithstanding significant oil development.