



**PURSUING OPPORTUNITIES TO
TRANSFER BENEFITS OF RESOURCE
EXTRACTION TO LOCAL COMMUNITIES**

PRECEPT POLICY BRIEF

The Nigeria Natural Resource Charter (NNRC) commissioned this Policy Brief in its efforts to synthesize key recommendations necessary for policy action using its 2017 Benchmarking Exercise Report (BER). The NNRC periodically assesses petroleum sector governance in Nigeria against the Natural Resource Charter (NRC); a set of principles intended for use by governments, societies and the international community to determine how best to manage natural resource wealth for the benefit of current and future generations of citizens. Although this Policy Brief focuses solely on petroleum resource governance, it should be noted that this Policy Brief is adaptable for management of all other natural resources within Nigeria.

ACKNOWLEDGEMENT

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ABOUT THE BENCHMARKING EXERCISE REPORT

The Nigeria Natural Resource Charter implements the Natural Resource Charter in Nigeria. The Natural Resource Charter does not prescribe specific approaches to enhancing resource management but instead identifies 12 broad 'precepts', which cover the main decisions required to transform assets under the ground into development above ground.

ABOUT THE NIGERIA NATURAL RESOURCE CHARTER

The NNRC's Benchmarking Exercise Report assesses Nigeria's performance against 12 pre-requisites; 'precepts' determined as necessary to effectively manage Nigeria's petroleum resource wealth. A traffic light system is used to measure performance against the precepts; red to indicate 'poor', amber 'intermediate' and green; 'good'. The 2017 BER is the third in the series of benchmarking exercise reports produced by the NNRC; carried out to provide an assessment of governance of Nigeria's petroleum wealth. The first two exercises were conducted and published in 2012 and 2014 respectively. Updated BER's identify crucial changes that have taken place in petroleum resource governance since the last benchmarking exercise was conducted.

Specifically, this Precept Policy Brief covers Precept 5, under which Nigeria scored 'red'. It proposes principles the Nigerian government must imbibe to pursue opportunities to transfer benefits of resource extraction to local communities:

Project 5: Managing Local Impacts:

The government should pursue opportunities for local benefits and account for, mitigate, and offset the environmental and social costs of resource extraction projects.



INTRODUCTION

If managed properly, natural resource exploration could be beneficial to communities where extractive activities take place, either directly through transfer of resource revenues and corporate interventions or through the promotion of local content. However, communities also bear the disproportionate costs of resource extraction from environmental hazard and other socio-economic effects. Effective resource management, therefore, involves maximizing benefits from resources while minimizing the costs imposed on the host communities. Nigeria currently performs below average in managing local impacts of resource extraction. Particularly, the Nigeria Natural Resource Charter (NNRC) conducted a robust assessment of the performance of Nigeria's oil and gas sector against the 12 precepts of the Natural Resource Charter, detailing the relevant findings in their Benchmarking Exercise Report (BER) 2017.

PRECEPT 5:

Pursuing Opportunities to Transfer Benefits of Resource Extraction to Local Communities



Major issues relating to managing local impacts of extractive activities were captured in **precept 5 which directs that a 'government must pursue opportunities for local benefits and account for, mitigate, an offset the environmental and social costs of resource extraction projects'** if benefits from extractive activities are to be impactful to Nigerians. This brief provides actionable policy recommendations that can enhance the management of local impacts of resource extraction, especially in response to the challenges identified in the BER 2017.

Building an Environment of Trust and Collaboration to Support the Effective Management of Local Impacts

Trust among host communities is critical for averting conflicts and maintaining good working relationships between all stakeholders. The BER 2017 noted that poorly defined social contracts between the host communities, government and industry players has led to an absence of trust. The lack of policies that enable meaningful participation of host communities in decision making as well as untenable public expectations due to the absence of an effective communication strategy were identified as the factors limiting trust among host communities.

Recommendation

- Make provisions within the laws guiding industry practice that guarantee meaningful participation of host communities throughout the decision-making process.
- Develop a clear and effective communication strategy that creates viable expectations about the impacts of extractive activities to avoid untenable public expectations, where communities have a high expectation of benefits and a limited awareness of adverse effects prior to resource extraction.
- Train community groups on oil and gas sector issues to enable them understand the sector better, therefore positioning them to make meaningful contributions in decision-making and sector enterprise.
- State actors should adopt the principles proposed in the NRC Framework to minimize the environmental, social and economic costs of extraction.
- Encourage greater role for political parties to articulate well thought-out, clear, informed and comprehensive policy positions that cover relevant issues across the oil sector value chain. Political parties in resource-rich countries are particularly important players in resource governance, therefore they need to take responsibility in managing public expectations and delivering on promises.

Inculcating Robust Strategic Impact Assessments to Inform Decision Making about Extractive Activities in New Areas

The BER 2017 highlighted major deficiencies in the laws guiding the conduct of environmental and social impact assessments in Nigeria. Specifically, the Environmental Impact Assessment (EIA) Act 1992 has provisions that prescribe the use of environment impact assessment (EIAs) to inform decision making at all stages of the resource project, but with some level of weakness, especially in enforcing compliance. The Department for Petroleum Resources, which has the statutory regulatory responsibility, often lacks the financial and technical capacity to monitor and enforce compliance to extant laws. All these are challenges pertaining to instituting and enforcing best standards in managing environmental and social impacts. Yet, the Natural Resource Charter recommends that countries should undertake a more robust strategic impact assessments (SIAs) in addition to EIAs to make sure that the costs and benefits of new projects are systematically evaluated and judged to be aligned with government's development objectives and institutional readiness to manage resource extraction. There are no provisions within current laws that demand SIAs to be conducted either by the government or project proponents.

Recommendation

- Build the technical and financial capacity of relevant government bodies responsible for enforcing compliance to impact assessment provisions.
- Make regulatory provisions for relevant government bodies (DPR) to conduct SIAs before opening up a site for resource exploration, while building internal capacity to do so.
- Inculcate the mandatory practice of conducting SIAs before opening up new areas for resource exploration and extraction in law.

Improving the Approach to Mitigating the Environmental and Social Costs of Resource Extraction

The NRC framework recommends that government's mitigation measures should be developed using the mitigation hierarchy. Findings in the NNRC BER 2017 suggest that the government's approach is usually to seek ways of minimizing impacts and providing compensation where necessary. Yet, compensations offered to affected communities are often neither timely nor commensurate to the severity of impact, where they are at all provided. Furthermore, enforcement of present regulations aimed at mitigating the environmental and social impacts of resource extraction are not effectively enforced in practice; partly due to capacity constraints of government agencies responsible for enforcing compliance. For instance, the National Oil Spill Detection and Response Agency (NOSDRA), which is responsible for detecting and responding to environmental costs of extraction, is constrained in carrying out its responsibilities due to capacity and regulatory impediments that force it to rely on the oil companies it regulates for resources and mete out sanctions that are insufficient to dis-incentivize unwanted behavior. Moreover, extant provisions remain deficient as no specific institutions put in place by the government to manage health and social impacts of resource projects.

Recommendation

- Use the NRC-recommended mitigation hierarchy to inform decision making on cost mitigation, upholding prevention over compensation or resettlement.
- Use regulations permitted under already existing laws to pursue quick policy wins without resorting to the legislature for the formulation of new cost mitigation laws. For instance, include provision and strengthen enforcement in the National Oil Spill Contingency Plan for oil companies to document plans for major accidents and disasters. This by-passes the need to promote a new EIA law that incorporates this and other provisions.
- Strengthen the technical and financial capacity of NOSDRA to enable it to effectively detect and respond to environmental costs, while updating regulatory provisions that will allow for sanctions that are sufficient to dis-incentivize environmentally harmful behaviour.

- Promote better coordination among various agencies responsible for enforcing cost mitigation provision, including the Ministry of Environment, DPR, National Environmental Standards and Regulations Enforcement Agency (NESREA) and NOSDRA. Also, build the capacity of an existing agency to be able to conduct and evaluate a broad range of issues around mitigation of environmental, social and health costs of resource extraction.
- Act on the commitment to implement the UNEP Report by providing the necessary finance and other support to enable the Hydrocarbon Remediation Project (HYPREP) clean up Ogoni.

Facilitating the Emergence of Local Benefits from Resource Extraction through enhanced Local Content

The BER 2017 observed that substantive regulations, such as the Environmental Impact Assessment (EIA) Act 1992 and derivation principle, take states and host communities as a homogenous unit with well aligned interests. Specifically, the EIA Act only provides for the state and local governments to be notified when a project is likely to have significant environmental effects, with no provision to ensure that local communities are consulted or their free prior and informed consent sought in the EIA process. This shows a failure to provide for meaningful involvement of affected communities in decision making on environmental and other policy issues. Also, mechanisms for translating the benefits of resource extraction have been relatively ineffective in equitably distributing benefits to local communities. The assumption that the interests of organs of government and local community members are aligned has reduced benefits to the host communities, while amplifying environmental and economic cost.

The mechanisms currently in place to translate benefits of extractive activities to affected communities have yielded limited impacts and can benefit from greater efficiency in operations. Specifically, government institutions including Ministry of Niger Delta Affairs (MNDA) and Niger Delta Development Commission (NDDC) should employ modalities to position themselves to better translate resource benefits to local communities. These institutions need to enhance their efficiency and become more responsive to local needs. This can be achieved through greater engagement of community members in the decision-making process regarding the interventions that they receive periodically. This will better align needs and intervention and enhance the effectiveness of resources in delivering local benefits without necessarily increasing budgetary allocation. A renewed focus on host communities as independent units capable of having interests that differ from high level objectives and priorities set by their or federal agencies tasked with translating benefits of resource extraction to them.

Many oil-rich countries try to improve the local economy by leveraging on linkages with extractive activities, beyond the revenues that these generate. Specifically, the value brought to the local economy from an extractive project is referred to as local content. This entails oil companies employing local labour and procuring local goods and services from host communities. Nigeria introduced the Nigerian Oil and Gas Industry Content Development (NOGICD) Act 2010 to promote local content in the oil and gas industry. Nonetheless, producing

strong local content results can be very difficult due to the technical requirements of the industry. Likewise, the BER 2017 suggests that most Nigerian companies lack the technical and financial capacity to optimize the benefit of the NOGICD by accessing lucrative opportunities within the industry (5.42, p. 107).

Recommendation

- institutions with the statutory responsibility of enhancing local benefits of resource extraction among host communities in Nigeria, particularly the MNDA and NDDC, should design interventions to improve the capacity of local companies and individuals to enable them to optimize the provisions in the NOGICD Act and avoid exporting the benefit abroad.
- the scholarships issued to individuals to build human capital of host community members should be enhanced, while partnering with local companies to improve their capacities to carry out technically and financially demanding contracts and procurements in the oil and gas industry.
- these institutions should facilitate the integration of scholarship beneficiaries into local companies for mutual benefit.
- NCDMB and Bank of Industry (BOI) should consolidate effort on the \$200 million Nigerian Content Intervention (NCI) Fund creation by encouraging access by local companies and working towards raising available funds to \$1 billion –to enable it fund big ticket items.



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