

EXECUTIVE DISCRETION AND REGULATORY AUTONOMY UNDER NIGERIA'S PETROLEUM INDUSTRY ACT 2021 WITH LESSONS FROM THE UNITED KINGDOM, UNITED STATES, AND GHANA

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Abstract

The Petroleum Industry Act (PIA) 2021 was enacted to address long-standing governance issues in Nigeria's petroleum sector, including regulatory fragmentation, institutional inefficiency, weak accountability structures, and ongoing uncertainty in the administration of upstream petroleum resources. Despite the significance of these reforms, questions persist about how well the Act balances executive control and regulatory autonomy. This paper examines the relationship between executive discretion and regulatory autonomy under the PIA 2021, focusing on the governance framework of Nigeria's upstream petroleum sector. It addresses the ongoing debate over the concentration of ministerial powers and its implications for effective petroleum governance. The study adopts a doctrinal and comparative legal methodology, analysing the relevant provisions of the PIA, associated regulatory instruments, and selected scholarly literature, and is complemented by a comparative examination of petroleum governance frameworks in the United Kingdom, the United States, and Ghana. The study finds that although the PIA introduced significant institutional reforms through the establishment of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), ministerial authority over policy supervision, licensing administration, and institutional oversight continues to overlap with regulatory functions, thereby limiting the regulator's operational independence. The paper also indicates that the Act's governance system reflects a qualified, rather than complete, regulatory autonomy. Comparative analysis shows that, despite their institutional differences, the United Kingdom, the United States, and Ghana have clearer distinctions between policymaking and regulation, stronger accountability mechanisms, and greater protection for regulators from executive interference. The article concludes that the efficacy of the PIA depends not only on legislative change but also on the degree of institutional autonomy granted to regulatory agencies. It advises lowering ministerial involvement in regulatory administration, increasing NUPRC independence, improving licensing transparency, and clarifying institutional boundaries within Nigeria's petroleum governance system.

Keywords: Petroleum Industry Act 2021; Regulatory Autonomy; Executive Discretion; Petroleum Governance; Upstream Petroleum Regulation; Nigeria.

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1. Introduction

Governance is a fundamental determinant of how petroleum resources are managed, how revenues are administered, and how competing interests within the extractive sector are balanced.¹ As an important part of the economy, the petroleum sector has long been linked to governance problems, including regulatory fragmentation, institutional inefficiency, accountability issues, and recurrent disputes over resource management in Nigeria, which have led to continued calls for broad-based institutional and legal reform.²

The enactment of the Petroleum Industry Act (PIA) 2021 represented a significant attempt to address these longstanding concerns.³ The Act consolidated petroleum legislation, restructured regulatory institutions, and introduced reforms to improve transparency, accountability, and administrative efficiency.⁴ A notable innovation was the establishment of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) as the principal regulator of upstream petroleum operations.⁵ A central objective of contemporary petroleum governance is regulatory autonomy.⁶ In this respect, the role of institutions in the petroleum sector is crucial, as they must carry out statutory functions independently of government and within the framework of existing law, thereby ensuring the oil industry is regulated accordingly.⁷

The Act has left extensive powers in the hands of the Minister of Petroleum Resources.⁸ A question needs to be raised about the level of autonomy granted to the petroleum regulators under the new governance framework.⁹ Several provisions of the Act retain the Minister's influence over licensing, appointments, policymaking, and regulatory oversight.¹⁰ This paper argues that while the PIA has instituted important institutional changes, the continuation of wide-ranging ministerial powers has

¹ Anthony Enisan Akinlo, 'How Important is Oil in Nigeria's Economic Growth?' *Journal of Sustainable Development* [2012] 5(4) 165.

² Goodness Chinyere Obi-Johnson and others, 'Transparency and Governance Challenges in Nigeria's Petroleum Supply Chain' *International Journal of Research and Innovation in Social Science* [2026] 10(3) 7736.

³ Federal Republic of Nigeria, Petroleum Industry Act (PIA) 2021.

⁴ *ibid*, ss 4–7. See Samuel Chisa Dike and others, 'Appraising the Layers of Governance under the Petroleum Industry Act 2021' *African Journal of International Energy and Environmental Law* [2023] 6(1) 163.

⁵ *ibid*, ss 4–31; Ovieme Izu-Emmanuel, 'The Roles of the Nigerian Upstream Petroleum Regulatory Commission in the Petroleum Industry under the Petroleum Industry Act 2021' *Achievers University Law Journal* [2023] 3(1) 109.

⁶ *ibid*, ss 4–31; Adewole Adedeji and Laura Ani, 'From State Monopoly to Corporate Autonomy: Ownership Restructuring and the Strategic Realignment of the Nigerian National Petroleum Company under Nigeria's Petroleum Industry Act (PIA) 2021' *Indian Journal of Law and Legal Research* [2025] 7(4) 3483; Yinka Omorogbe, *Oil and Gas Law in Nigeria* (Malthouse Press 2001).

⁷ Sustainable Stories Africa, 'Nigeria's Oil Governance Crossroads: Why Giving the Referee a Whistle and a Jersey Risks Decades of Hard-Won Reform' (23 April 2026) <<https://sustainablestories.africa/stories/op-eds/nigerias-oil-governance-crossroads-why-giving-the-referee-a-whistle-and-a-jersey-risks-decades-of-hard-won-reform>> accessed 21 June 2026.

⁸ PIA 2021, ss 3–7.

⁹ Momodu Kassim-Momodu, 'Exercise of Ministerial Powers under Nigeria's Petroleum Industry Act' *Journal of Energy & Natural Resources Law* [2023] 41(1) 105.

¹⁰ PIA 2021, ss 8–12, 52–62.

limited the autonomy of regulators and undermined accountability in the Nigerian upstream petroleum sector; and that, with lessons learnt from the United Kingdom, the United States and Ghana, it is possible to enhance the autonomy of regulators and improve accountability in Nigeria's upstream petroleum sector.

2. Conceptual Foundations of Executive Discretion and Regulatory Autonomy

Effective petroleum governance requires a delicate balance between executive oversight, regulatory autonomy, and institutional accountability. Izu-Emmanuel and Thomas argue that the Petroleum Industry Act 2021 introduced new regulators, including the National Upstream Petroleum Regulators Commission (NUPRC) and the National Midstream Petroleum Regulators Commission (NMDPRA), with statutory powers and duties intended to ensure their independence, but in practice, they are hampered by ministerial powers.¹¹ Governments have a legitimate role in informing policy and controlling strategic areas of the economy, but regulatory bodies must be sufficiently independent to ensure the necessary, appropriate, objective, and efficient performance of their statutory duties. The difficulty is not that there is executive discretion, but that it is used within the bounds of law and doesn't undermine the independence of specialised regulators. This is especially relevant in the petroleum sector, where regulatory decisions may be tied to significant economic interests, public funds, and national development goals.

The importance of accountability and environmental justice is also a theme that has been pointed out by Ugochukwu, who noted that history has shown that the dysfunction of governmental bodies has led to a lack of accountability and environmental justice¹² while Peekate and Duson made it clear that good governance practices, including the separation of powers and transparency, are critical to prevent regulatory capture.¹³ In the ongoing trend of judicial review in energy law, the *Eurafric Energy Ltd v Ministry of Petroleum Resources* case¹⁴ is a recent example of how the interpretation of ministerial discretion is subject to the bounds of the law, highlighting the need for institutional independence within Nigeria's petroleum governance framework.

Executive discretion is the authority granted to public officials to decide matters within the law without specific instructions on how to do so. In this way, Obi-Obiorah is clear: discretion is necessary in the

¹¹ Ovieme Izu-Emmanuel and Nworgu Chioma Thomas, 'An Appraisal of the Legal Roles of the Principal Regulatory Institutions in the Petroleum Industry of Nigeria under the Petroleum Industry Act 2021' *Achievers University Law Journal* [2023] 3(1) 109.

¹² Obu Samson Ugochukwu, 'Energy Governance, Resource Control and Environmental Justice in Nigeria: Navigating the Complexities of Petroleum Federalism' *Journal of Law and Intellectual Property Rights* [2026] 3(1) 50.

¹³ Kingsley Lemeah Peekate and Nuleera Ambrose Duson, 'Oil and Gas Governance in the Nigerian Petroleum Industry: Imbibing the Good Governance Concept' *Journal of Law, Governance and Policy* [2025] 10(3) 150.

¹⁴ *Eurafric Energy Ltd v Ministry of Petroleum Resources & Ors* (FHC/L/CS/628/2021, judgment delivered 4 March 2026).

governance of modern states, but it must be forestalled by the rule of law and not be arbitrary.¹⁵ From the perspective of petroleum governance, discretionary powers often include licensing approvals, policy implementation, institutional oversight, and resource management, as described in Aladeitan, Chime, and Ater's research on the acquisition of oil rights under the PIA 2021.¹⁶ Administrative flexibility and policy responsiveness are common reasons for authorising such powers. But with unchecked discretion, it can create uncertainty, reduce transparency, and subject regulatory processes to political manipulation. Iledare notes that compliance with statutory requirements under the PIA may be selective and could compromise regulators' independence,¹⁷ while Peekate and Duson argue that good governance principles, such as separation of roles and transparency, are crucial to reducing the risk of capture.¹⁸ Gboyega and others' critiques of the political economy are echoed in the growing efforts by modern governance frameworks to establish mechanisms of transparency, predictability, and accountability in the exercise of executive discretion.¹⁹

Regulatory autonomy represents the institutional counterpart to executive discretion. While Adedeji and Ani point out that the goal of the PIA was to make petroleum governance an autonomous process free from political influence, that autonomy is far from secure.²⁰ In the extractive industry, the agencies must handle licensing, fiscal administration, and compliance with environmental laws independently.²¹ Reports by HEDA highlight persistent enforcement gaps,²² while Kaitah and Akinkugbe show how fiscal directives and executive orders can potentially disrupt long-term policy stability.²³ But

¹⁵ Hilda Uche Obi-Obiorah, 'Rule of Law and Administrative Discretion in Nigeria: A Jurisprudential and Comparative Appraisal' *International Journal of Business & Law Research* [2025] 13(3) 285; Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution* (10th edn, Macmillan 1959).

¹⁶ Olanrewaju Adebawale Aladeitan and others, 'A Legal Analysis of the Challenges and Prospects of Acquisition of Oil Rights in Nigeria under the Petroleum Industry Act 2021' *Global Journal of Politics and Law Research* [2025] 13(2) 65; PIA 2021, ss 71–95 (licensing and lease provisions); See *Eurafric Energy Ltd v Ministry of Petroleum Resources & Ors* (FHC/L/CS/628/2021, judgment delivered 4 March 2026).

¹⁷ Omowumi O Iledare, 'PIA and the Peril of Executive Discretion' *Energy Focus Report* (8 October 2025) <<https://www.energyfocusreport.com/pia-and-the-peril-of-executive-discretion/>> accessed 21 June 2026.

¹⁸ Peekate and Duson (n 18) 150.

¹⁹ Alex Gboyega and others, *Political Economy of the Petroleum Sector in Nigeria* (World Bank Policy Research Working Paper No. 5779, 2011) <<https://openknowledge.worldbank.org/server/api/core/bitstreams/e954d086-a2c6-5d61-bf34-b7273cb0ca8b/content>> accessed 21 June 2026.

²⁰ Adewole Adedeji and Laura Ani, 'From State Monopoly to Corporate Autonomy: Ownership Restructuring and the Strategic Realignment of the Nigerian National Petroleum Company under Nigeria's Petroleum Industry Act (PIA) 2021' *Indian Journal of Law and Legal Research* [2025] 7(4) 3483; Nnowi Precious Chioma, 'Oil and Gas Governance in Nigeria with an Appraisal of the Extractive Industry Transparency Initiative Act 2007' *JILCLI Journal Rivers State University* [2025] 20(1) 1.

²¹ Izu-Emmanuel and Thomas (n 11) 109.

²² Human and Environmental Development Agenda (HEDA) & Environmental Law Research Institute, *Nigeria's Petroleum–Environmental Governance: Law, Policy, and Reform Roadmap* (HEDA Resource Centre Report, 2025) <<https://hedang.org/wp-content/uploads/2025/12/Nigerias-Petroleum-Environmental-Governance.pdf>> accessed 21 June 2026.

²³ Aslam Kaitah, *Petroleum Regulatory Governance: An Analysis of Nigeria's Petroleum Fiscal Regime and Its Strategic Objectives* (PhD Thesis, University of East London 2021) <<https://uel-repository.worktribe.com/output/481783/petroleum-regulatory-governance-an-analysis-of-nigerias-petroleum-fiscal-regime-and-its-strategic-objectives>> accessed 21 June 2026; Anaje

regulatory autonomy does not mean unaccountability. As Afful-Koomson and Asubonteng argue, collaborative governance in Africa's extractive industries requires balancing independence with stakeholder oversight.²⁴ Similarly, Addison and Roe stress the importance of non-political and accountable regulation in resource-rich countries to enable sustainable development.²⁵ In Nigeria, Obi and others emphasise the importance of putting accountability into the EITI framework,²⁶ while Desai and Jarvis stress reporting obligations.²⁷ Judicial enforcement, as seen in *Shell v Minister of Petroleum Resources*,²⁸ confirms that autonomy must coexist with enforceable accountability.

In the extractive sector, where governance failures can have wide-ranging impacts on the economy, the environment and society, these considerations are especially significant.²⁹ What then is the central question that needs to be asked in Nigeria? Is the level of executive control that can be preserved under the Petroleum Industry Act 2021 conducive to sustaining the autonomy of the regulatory agencies in the petroleum sector? The question is the foundation of the analysis that will be discussed.

3. Executive Discretion under the Petroleum Industry Act 2021

The Petroleum Industry Act (PIA) 2021 transferred several regulatory roles to the downstream segment, but maintained a high degree of centralisation of roles in the Minister of Petroleum Resources in the upstream segment.³⁰ As a result, the governance structure established by the Act is a dynamic balance between executive oversight and regulation. The one area of PIA where the executive's discretion is clearest is in the appointment and supervision of regulatory bodies. The independence of regulatory action is not just a matter of the powers granted by statute to a regulatory institution, but

Olumide Oke Akinkugbe, 'Executive Order on Oil & Gas Revenues (2026): Constitutional Limits and Implications for the Nigerian Petroleum Industry' *AO2LAW Blog* (23 April 2026) <<https://ao2law.com/executive-order-on-oil-gas-revenues-2026-constitutional-limits-and-implications-for-the-nigerian-petroleum-industry/>> accessed 21 June 2026.

²⁴ Timothy Afful-Koomson and Kwabena Owusu Asubonteng (eds), *Collaborative Governance in Extractive Industries in Africa* (United Nations University Institute for Natural Resources 2015) <https://www.researchgate.net/publication/354552490_Collaborative_Governance_in_Extractive_Industries_in_Africa> accessed 21 June 2026.

²⁵ Tony Addison and Alan Roe (eds), *Extractive Industries: The Management of Resources as a Driver of Sustainable Development* (Oxford University Press 2018).

²⁶ Uche Val Obi and others, 'Enhancing Transparency and Accountability in the Extractive Industries: A Review of the EITI Standards 2023' *Alliance Law Firm Working Paper* [2023] <<https://alliancelawfirm.ng/wp-content/uploads/2024/02/Enhancing-Transparency-And-Accountability-In-The-Extractive-Industries.pdf>> accessed 21 June 2026.

²⁷ Deval Desai and Michael Jarvis, 'Governance and Accountability in Extractive Industries: Theory and Practice at the World Bank' *Journal of Energy & Natural Resources Law* [2011] 29(2) 179.

²⁸ *Shell Petroleum Development Company of Nigeria Ltd v Minister of Petroleum Resources & Ors* (NICN/LA/178/2022, judgment delivered 28 July 2022).

²⁹ Omoijuanfo Ihase and others, 'Mineral Extraction and Governance in the Nigerian Mining Industry: An Examination of Regulatory Conflicts Amongst Nigeria's Three Tiers of Government' *Journal of Sustainable Development Law and Policy* [2024] 15(1).

³⁰ Petroleum Industry Act (PIA) 2021, ss 3–12, 71–95.

also of the extent of institutional security for those put in charge of its actions.³¹ In circumstances where the appointment and tenure arrangements are closely linked to executive tastes and concerns, perceptions of regulatory neutrality may be diminished, especially in a sector with significant commercial and political stakes.³²

The role of the Minister as a policy-maker under the Act also strengthens the executive influence. The provisions in Section 3 define the Minister as the person responsible for developing, overseeing, and implementing government policy in the petroleum sector, and in Section 4, the Minister is given general supervisory powers over petroleum operations.³³ The ambiguity between policymaking and regulation can arise in practice; however, the ministerial authority is most evident in determining the actions of what are otherwise specialist regulators.³⁴

The licensing regime established under sections 71–104 of the PIA provides another illustration of continuing executive influence.³⁵ The granting, renewal, and administration of petroleum licences and leases are highly politicised and involve a significant degree of executive authority, raising concerns about transparency, predictability, and regulatory objectivity, which are key to effective petroleum governance.³⁶ The effectiveness of petroleum governance is not only related to the establishment of regulatory institutions; it is also dependent on the institutions' ability to exercise their statutory functions independently and without undue external interference, as Dike notes.³⁷

The PIA, therefore, seems to be a hybrid form of governance in which specialised regulators perform important administrative and technical tasks, but strategic authority remains largely in the hands of the executive. The Act clearly promotes a process of institutional reform, but it also leaves much of the upstream petroleum governance in Nigeria to the minister's discretion. The Act clearly facilitates an

³¹ Omowumi O Iledare, 'PIA and the Peril of Executive Discretion' *Energy Focus Report* (8 October 2025) <<https://www.energyfocusreport.com/pia-and-the-peril-of-executive-discretion/>> accessed 21 June 2026.

³² Izu-Emmanuel and Thomas (n 11) 109; See *Shell Petroleum Development Company of Nigeria Ltd v Minister of Petroleum Resources & Ors* (NICN/LA/178/2022, judgment delivered 28 July 2022).

³³ PIA 2021, ss 3–4. See Benjamin David Shekarau, *A Critical Analysis of the Regulatory Regimes of the Petroleum Industry in Nigeria* (LLM Dissertation, Ahmadu Bello University Zaria, 2016) <<https://www.semanticscholar.org/paper/a-critical-analysis-of-the-regulatory-regimes-of-in-shekarau/ade1d4b63989e074c8283720e8ba3ea5cb8decd0>> accessed 22 June 2026.

³⁴ Oluwatumininu Odunuga, 'The Petroleum Industry Act (PIA): One Year On – Impact, Challenges, and the Road Ahead' *IRE Journals* [2022] 6(8) 373.

³⁵ PIA 2021, ss 71–104.

³⁶ Ifeoma Esom and Ifunanya Onwusaoigwe, 'Transparency in the Nigerian Oil & Gas Industry: Legal Reforms, Disputes, and Impact of the Petroleum Industry Act 2021' *African Journal of Energy Policy* [2026] <<https://esomlawpartners.com/articles/Nigeria-oil-sector.html>> accessed 23 June 2026.

³⁷ Samuel Chisa Dike, 'Appraising the Layers of Governance under the Petroleum Industry Act 2021' *African Journal of International Energy & Environmental Law* [2023] 6(1) 163; Samuel Chisa Dike and Sandra Ehinor Osinachi-Nwandum, 'Regulatory Framework Governing Gas Operations and Utilisation in the Nigerian Petroleum Industry' *AJIEEL* [2023] 7(1) 29.

institutional reform process, but it also leaves much of the upstream petroleum governance in Nigeria to the minister's discretion.

4. Regulatory Autonomy and Accountability under the Petroleum Industry Act 2021

One of the key goals of the Petroleum Industry Act (PIA) 2021 was to improve petroleum governance by creating specialised institutions to overhaul the industry's operations and ensure more efficient, transparent management.³⁸ The establishment of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) in the Act as the principal upstream petroleum regulatory body was intended to improve the governance structure of the upstream petroleum sector by addressing fragmentation, duplication of regulatory functions, and regulatory inefficiencies in the pre-PIA era.³⁹ Thus, the Act created the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) as the principal regulatory body in the upstream petroleum sector, primarily to improve the governance structure of the upstream petroleum sector in the pre-PIA era, addressing fragmentation, duplication of regulatory functions, and regulatory inefficiencies.⁴⁰

But the degree of regulatory autonomy of the NUPRC is a subject of much debate. The broad regulatory powers conferred by sections 4–7 on the Commission are paralleled by the broad ministerial powers over petroleum policy formulation and sector supervision conferred by sections 3 and 4, suggesting a compromise between executive control and institutional autonomy.⁴¹ However, the harmonisation of broad discretionary powers and significant regulatory duties raises questions about the level of autonomy regulators can exercise in performing their statutory duties, as well as about institutional design and creation.⁴² Beyond institutional design and creation, questions of regulatory autonomy must also be addressed when regulators exercise their powers free from political influence and administrative interference.⁴³

The PIA also aims to foster accountability through a variety of governance mechanisms integral to its institutional framework.⁴⁴ Effective governance is therefore important to maintain a balance in which

³⁸ PIA 2021, ss 4–7.

³⁹ Ama Etuwewe, *Petroleum Industry Act (PIA) 2021: Impact, Challenges and Opportunities for Lawyers* (NBA Annual General Conference Paper, 26 August 2025) <https://blog.nigerianbar.org.ng/wp-content/uploads/2025/08/PIA_Article_with_Front_and_Back_Cover.pdf> accessed 23 June 2026.

⁴⁰ Nigerian Upstream Petroleum Regulatory Commission (NUPRC), 'Our Mandate: Key Mandates/Functions of the Commission' (NUPRC, updated 2026) <<https://www.nuprc.gov.ng/about/mandate>> accessed 23 June 2026.

⁴¹ PIA 2021, ss 3, 4–7.

⁴² Iledare (n 31).

⁴³ *Eurafric Energy Ltd v Ministry of Petroleum Resources & Ors* (FHC/L/CS/628/2021, judgment delivered 4 March 2026); *Shell Petroleum Development Company of Nigeria Ltd v Minister of Petroleum Resources & Ors* (NICN/LA/411/2020, judgment delivered 28 July 2022).

⁴⁴ PIA 2021, ss 216–228.

regulators have operational independence but are also held to account by law and institutions, in an appropriate manner, which can otherwise lead to regulatory arbitrariness if independence and accountability are insufficient.⁴⁵ Transparency is also an equally important aspect of regulatory accountability. The PIA proposes reforms that will enhance the transparency of licensing administration, regulatory reporting, and aspects of petroleum revenue governance, with the aim of fostering investor confidence, public oversight, and the legitimacy of regulatory decisions.⁴⁶ But transparency requirements are only as effective as the institutions that carry them out. Transparency issues in the Nigerian petroleum sector may not be due to the absence of petroleum sector laws and regulations, but rather to weaknesses in institutional capacity, regulatory frameworks, and petroleum sector information disclosure practices, as demonstrated by the findings of NEITI audits and governance assessments.⁴⁷

This means that the interaction between the Minister and the NUPRC will remain important in evaluating the effectiveness of the PIA governance framework. The Commission has extensive regulatory powers, but in several key areas, the ministerial supervisory powers remain largely parallel with the regulatory decision-making powers.⁴⁸ This overlapping authority can cause confusion about who is accountable and responsible for important decisions and can also stifle the Commission's ability to be a truly independent regulator. The PIA thus sets the stage for a qualified model of regulatory autonomy. While the Act improves the institutional capacities, accountability, and professionalism of the regulator, the ongoing lack of separation between regulatory administration and executive supervision indicates that regulatory independence remains linked to broader patterns of executive control. Thus, the PIA is a major step up from past governance structures, but doesn't fully achieve the goal of regulatory autonomy in Nigeria's petroleum industry.

5. Comparative Lessons from the United Kingdom, the United States, and Ghana

5.1 United Kingdom

The United Kingdom provides a valuable comparative window on how government and regulatory autonomy work together in the governance of petroleum. Under the Petroleum Industry Act (PIA)

⁴⁵ Momodu Kassim-Momodu, 'Exercise of Ministerial Powers under Nigeria's Petroleum Industry Act' *Journal of Energy & Natural Resources Law* [2023] 41(1) 105.

⁴⁶ Nigeria Extractive Industries Transparency Initiative (NEITI), *Oil and Gas Industry Audit Report 2022* (NEITI Abuja, September 2024) <https://eti.org/sites/default/files/2024-09/Final_Report_NEITI_OGA_2022_Final_26_Sept_2024.pdf> accessed 23 June 2026; Obas Esiedesa, 'NEITI's Petroleum Industry Audit to Review Licensing, Contract Awards Processes' *Vanguard News* (25 April 2024) <<https://www.vanguardngr.com/2024/04/neitis-petroleum-industry-audit-to-review-licensing-contract-awards-processes-orji/>> accessed 23 June 2026.

⁴⁷ *ibid*, NEITI Audit Report 2022.

⁴⁸ Nigerian Upstream Petroleum Regulatory Commission (NUPRC), 'Our Mandate: Key Mandates/Functions of the Commission' (NUPRC, updated 2026) <<https://www.nuprc.gov.ng/about/mandate>> accessed 23 June 2026.

2021, the Nigerian government will retain important ministerial authority over the administration of the petroleum sector, as outlined in sections 3 and 4.⁴⁹ But the United Kingdom establishes a greater separation between policy-making and implementation of regulation, with the latter mostly delegated to a specialised body, the North Sea Transition Authority (NSTA), which has substantial technical and administrative authority, as detailed in the latter article.⁵⁰

It matters less that the government is excluded from petroleum governance than that it is separated from day-to-day regulatory management. It allows the government to remain responsible for overall energy policy goals while regulatory decisions are made through established institutional processes rather than directly by ministers, thereby fostering predictability, limiting political opportunities to influence technical decisions, and increasing trust in the regulatory system.⁵¹ A key takeaway for Nigeria is that good petroleum governance is not just about establishing specialised regulatory institutions. The United Kingdom experience shows that the effectiveness of the regulatory system increases when ministerial oversight of policy formulation is maintained, and operational regulation is delegated to an institution with statutory authority to execute its responsibilities with a high degree of autonomy.

5.2 United States

In the United States, another method of governance is in place, and it is equally applicable to the Nigerian context. The American system is also distinguished by the distribution of regulatory power among several institutions within a system of checks and balances, which limits the accumulation of regulatory power and promotes accountability in government operations.⁵² The American system is also notable for the dispersal of regulatory power among multiple institutions, under a system of checks and balances that prevents the concentration of power in a single executive position and promotes accountability in government operations.⁵³

⁴⁹ Petroleum Industry Act (PIA) 2021, ss 3–4.

⁵⁰ North Sea Transition Authority (NSTA), *NSTA Overview 2026* (Official Website, updated 2026) <<https://www.nstaauthority.co.uk/about-us/nsta-overview/>> accessed 23 June 2026; GOV.UK, *North Sea Transition Authority (Oil and Gas Authority) Review 2025 (Accessible Webpage)* (Corporate Report, 28 April 2026) <<https://www.gov.uk/government/publications/north-sea-transition-authority-oil-and-gas-authority-review-2025/north-sea-transition-authority-oil-and-gas-authority-review-2025-accessible-webpage>> accessed 23 June 2026.

⁵¹ Keith Myers and Glada Lahn, *Good Governance of the National Petroleum Sector Interim Report* (edited by Valerie Marcel, John Mitchell and Willy Olsen, Chatham House, 2006) <https://www.chathamhouse.org/sites/default/files/public/Research/Energy,%20Environment%20and%20Development/gginterim_report.pdf> accessed 23 June 2026.

⁵² U.S. Constitution, Articles I–III (1787); Legal Guide Team, ‘Checks and Balances and Separation of Powers in the United States’ *The Legal Guide* (10 June 2026) <<https://thelegalguide.org/checks-balances-separation-powers-united-states/>> accessed 23 June 2026.

⁵³ *Marbury v Madison* 5 U.S. (1 Cranch) 137 (1803); Eleanor Stratton, ‘Checks and Balances in the Constitution’ *U.S. Constitution Online* (2026) <<https://usconstitution.net/checks-and-balances-in-the-constitution/>> accessed 23 June 2026.

What makes the American model so valuable is that it places greater importance on institutional control than on executive control.⁵⁴ As a result of having very clear statutory duties, regulatory agencies are held to account by legislative scrutiny, administrative review, and judicial oversight, which makes them less prone to arbitrary decision-making and enhances institutional legitimacy.⁵⁵ It is a reminder of a significant governance issue within the PIA. The problem with the Act, rather, is that while it creates specialised regulatory institutions, the ministers' powers lie largely with the executive, and accountability mechanisms are comparatively weak.⁵⁶ The United States, therefore, is a good example of the governance advantages of distributing decision-making authority and enhancing institutional checks that help ensure transparency, accountability, and meaningful review of regulatory decisions.

5.3 Ghana

Ghana offers Nigeria the most obvious governance model among African petroleum-producing nations.⁵⁷ Both countries share similar constitutional and economic contexts and have undertaken reforms to enhance the governance of the petroleum sector.⁵⁸ Ghana's petroleum governance system, however, differs from Nigeria's, where executive functions still share responsibilities with regulatory administration.⁵⁹ Ghana's petroleum governance system, however, tends to focus more on institutional separation and regulatory oversight than Nigeria's.⁶⁰

The separation helps cast light on institutional responsibilities and reduces the likelihood of overlapping mandates, as the Petroleum Commission is the key upstream regulator within a structure that separates regulatory activities from governmental and commercial concerns.⁶¹ The significance of transparency, regulatory professionalism, and accountability in the administration of petroleum resources in Ghana is also highlighted in some governance studies conducted in the sector.⁶²

⁵⁴ Julius Ebikekon Takeme and others, 'Revenue Allocation Frameworks and Oil Resource Governance: A Comparative Study of Nigeria and the United States of America' *Journal of Political Science and Law Review* [2025] 11(5) 55.

⁵⁵ United States Code, Title 5, Chapter 5, Subchapter II, §§ 551–559, Administrative Procedure Act (1946, as amended).

⁵⁶ Maryam Bello Malabu and others, 'Policy and Regulatory Frameworks for Renewable Energy Integration: A Comparative Analysis of Nigeria and the United States of America' *International Journal of Innovative Mathematics, Statistics & Energy Policies* [2025] 13(4) 208.

⁵⁷ Petroleum Commission Act 2011 (Act 821), Republic of Ghana.

⁵⁸ Pedro Clayton Zola Da Piedade, *Challenges of Implementing the Extractive Industries Transparency Initiative (EITI) in Nigeria and Ghana* (Master's Thesis, Universidade de Lisboa, 2025) <<https://repositorio.ulisboa.pt/entities/publication/795f5875-c603-47f2-a8e4-0ef638025d57>> accessed 23 June 2026.

⁵⁹ Petroleum (Exploration and Production) Act 2016 (Act 919), Republic of Ghana, ss 4–5, 11, 27–31.

⁶⁰ Nathan Andrews and Eyene Okpanachi, 'Depoliticisation and Ahistoricism of Transparency and Accountability via Global Norms: Assessing the EITI in Ghana and Nigeria' *Commonwealth & Comparative Politics* [2020] 58(2) 228.

⁶¹ Samuel Suraju, 'NUPRC, NMDPRA Intensify Coordination to Reduce Regulatory Conflicts in Oil Sector' *Petroleum Price News* (21 May 2026) <<https://petroleumprice.ng/news/articles/nuprc-nmdpra-intensify-coordination-to-reduce-regulatory-conflicts-in-oil-sector>> accessed 23 June 2026.

⁶² Ishmael Ackah and others, 'Between Altruism and Self-aggrandisement: Transparency, Accountability and Politics in Ghana's Oil and Gas Sector' *Energy Research & Social Science* [2020] 68, 101536.

Governance studies on Ghana's petroleum sector also highlight the importance of transparency, regulatory professionalism, and accountability in resource administration.⁶³

Of particular interest to Nigeria are the transparency mechanisms built into Ghana's petroleum governance system.⁶⁴ In contrast, the Nigerian structure has continued to suffer from institutional overlap, ineffective coordination among regulatory bodies, and the lingering influence of the executive arm on major components of the petroleum administration.⁶⁵ Ghana, therefore, sets a good example of how regulatory oversight can maintain well-defined institutional responsibilities and grant regulatory agencies sufficient autonomy to implement their mandates without excessive executive interference. The experience also indicates that transparency and accountability work best when guided by governance arrangements that separate policy responsibility from regulation.

Despite the institutional differences between the United Kingdom, the United States and Ghana, there are significant common themes. The comparative evidence indicates that increasing petroleum governance in Nigeria goes beyond the creation of specialised petroleum regulatory institutions, as the current governance framework leaves room for interaction between the executive and regulatory authority in several significant ways. If this is not done, the PIA's governance goals can only be partially achieved.

6. Lessons for Strengthening Petroleum Governance in Nigeria

The comparative analysis conducted in this paper has shown that a reasonable and optimal petroleum governance relies on a proper mix of executive control, regulatory independence, transparency, and accountability. In the United Kingdom, the United States, and Ghana, a recurring theme in governance systems is the separation of policymaking and regulatory functions.⁶⁶ To strengthen petroleum governance in Nigeria, however, there is a need to carefully and precisely delineate the powers of the Minister and the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) under the Petroleum Industry Act (PIA) 2021, especially where their powers overlap in regulatory decision-making.⁶⁷

⁶³ Emmanuel Asare and others, 'Natural Resource Governance, Accountability and Legitimising Propensity: Insights from Ghana's Oil and Gas Sector' *Journal of Accounting in Emerging Economies* [2021] 11(4) 509.

⁶⁴ Petroleum Revenue Management Act 2011 (Act 815), Republic of Ghana, ss 6, 8, 15, 48; Petroleum Revenue Management (Amendment) Act 2015 (Act 893), Republic of Ghana, s 5A.

⁶⁵ Okpanachi (n 60) 228.

⁶⁶ OECD, *Assessing the Impact of the Oil Governance Agenda on Africa's New Producers* (Development Co-operation Directorate, 29 October 2021, Document Code DCD(2021)21) <[https://one.oecd.org/document/DCD\(2021\)21/en/pdf](https://one.oecd.org/document/DCD(2021)21/en/pdf)> accessed 23 June 2026.

⁶⁷ Petroleum Industry Act 2021, Part II (Minister of Petroleum) and Part III (NUPRC).

One of the most important reforms to introduce is further diminishing the role of the Minister in issues that are essentially regulatory in nature, such as licensing administration, operational oversight, and routine regulatory decision-making.⁶⁸ Such an arrangement would be consistent with comparative models of governance in which policy formulation is separated from policy implementation, including technical regulatory processes, and would diminish the potential for political manipulation of those processes.⁶⁹ This would reinforce the distinction between policy formulation and policy implementation, align technical regulatory processes more closely with comparable governance models, and make them less susceptible to political interference.⁷⁰

The evidence also underlines the need for transparency in licensing governance. Petroleum licences are a key driver of access to valuable national resources, and the effectiveness of the regulatory system relies greatly on the transparency and predictability of the licensing process.⁷¹ The provision of greater disclosure, clarification of licensing criteria, and improved public access to regulatory information would boost trust in the integrity of the licensing regime and minimise perceptions of administrative arbitrariness.⁷² In addition, the accountability of procedures must be reinforced in the petroleum governance framework. Institutionalised reporting requirements and administrative review processes with clear rules and procedures would help to increase the transparency of regulatory decisions and promote greater legitimacy.

Furthermore, there would be greater institutional distinction between executive supervision and regulatory administration, thereby enhancing the effectiveness of PIA. The continued overlap between the Minister and the NUPRC raises questions about the degree of regulatory independence, and resolving this issue would enhance administrative coherence, investor confidence, and the governance arrangements that foster regulatory effectiveness through transparency, accountability, and institutional independence. Finally, the long-term effectiveness of PIA will rely more on how far a specialised regulatory institution can go beyond the boundaries of a well-defined governance framework and operate independently, rather than on whether the institutions exist.

⁶⁸ Yinka Omorogbe, *The Petroleum Industry Act from a Governance Perspective* (2021) <<https://cuab.edu.ng/wp-content/uploads/2023/09/8.-Omorogbe-PIA-from-Governance-Perspective.pdf>> accessed 23 June 2026.

⁶⁹ World Bank (ed Alexander Huurdeman & Anastasiya Rozhkova), *Balancing Petroleum Policy: Toward Value, Sustainability, and Security* (2019) <<https://documents1.worldbank.org/curated/en/326461556725810981/pdf/Balancing-Petroleum-Policy-Toward-Value-Sustainability-and-Security.pdf>> accessed 23 June 2026.

⁷⁰ Omorogbe (n 68).

⁷¹ Nigerian Upstream Petroleum Regulatory Commission (NUPRC), *2025 Licensing Round Guidelines* (December 2025), ss 2–3, 5, 7; NUPRC, *Nigeria 2025 Licensing Round Portal* (2026), Transparency Measures.

⁷² Iyanu Emmanuel Olatunbosun and others, 'Environmental, Social, and Governance (ESG) Reporting and Stakeholder Trust: A Study of the Nigerian Oil and Gas Sector' *International Journal of Scientific Research and Engineering Development* [2025] 8(6) 146.

7. Conclusion

This paper contends that while the Petroleum Industry Act (PIA) 2021 is the most notable reform of Nigeria's petroleum sector in recent decades, the continued existence of extensive ministerial powers still limits the autonomy that regulators require to ensure good governance of the upstream petroleum sector. As the Act brought significant institutional change, both through the establishment of specialised regulatory bodies and a more unified governance structure, the analysis also shows that executive influence is evident in key parts of the petroleum administration.

The study revealed that the role of the minister in policy supervision, licensing, and institutional oversight still overlaps with regulatory decision-making, which reduces the independence of the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) to operate. As a result, the governance system established by the PIA is one of qualified autonomy rather than full autonomy from the state. The Act enhances accountability mechanisms and introduces provisions to increase transparency. It remains that overlapping authority and executive discretion pose challenges for governance and can affect regulatory effectiveness, administrative certainty, and investor confidence.

The comparative analysis of the United Kingdom, the United States, and Ghana also showed that better petroleum governance is generally linked to a greater separation of powers among institutions, more accountability mechanisms, and greater independence of the regulator from the executive's day-to-day control. These jurisdictions have shown that achieving sustainable petroleum governance requires an appropriate balance of executive oversight and regulatory independence, despite their differing legal and institutional contexts. Their experiences offer lessons for institutional reforms to enhance petroleum governance in Nigeria.

The success of the PIA thus requires not only changes in legislation but also the degree to which regulatory institutions are allowed to operate independently, within a transparent and accountable governance system, based on their statutory powers. The transformative potential of the Act could be only partially realised if further reforms towards institutional autonomy, procedural accountability, and the delineation of executive power and regulatory administration were not implemented. Such reforms, however, have the potential to provide a stronger basis for an upstream petroleum governance framework in Nigeria that is effective, transparent, and accountable.