



# **Rethinking and Rewriting the Economic Losses of Oil Revenue Theft in the Nigerian Petroleum Industry, 1958-2016: Economic and Legal Analysis**

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## **INTRODUCTION**

Crude oil was discovered in Nigeria since 1956 at Oloibiri, Bayelsa State and the first export of crude oil by the Nigeria government, was to Britain in 1958 (Etikerentse, 1985). From 1958 to 2016, Nigeria has been exporting crude oil to all countries in Europe, America and globally. Oil revenue has become the main stay of the Nigeria Economic from 1958-2016. Apart from these large scale amounts of money the Nigeria government has earned from oil revenue, there are several sums of money being loss on a yearly basis through theft by vandals, criminals, cabals, oil companies and in most cases connival with government officials and agencies. While the governments are involve in joint venture activities with some oil merchant and in most cases through over invoicing of business deals and also through racketeering of various forms of leased and licenses agreements, such as: Oil Mining Lease (OML), Oil Prospecting License (OPL) and Oil Exploration License (OEL), thereby incurring various forms of Economic Sabotage and losses Nigeria earnings or revenues from the petroleum industries. This study will now examine the different types of economic sabotage and crude oil theft in Nigeria. It will also examine whether there are adequate legal machineries on the subject matter and options for solution or way forward to curb such menace or social maladies in Nigeria.

## **DIFFERENT TYPES OF ECONOMIC SABOTAGE**

The different types of economic sabotage that will be discuss are as follows: pipelines vandalism, bunkering, crude oil theft, piracy, economic sabotage government officials' involvement in crude oil transactions

### **PIPELINES VANDALISM**

Pipeline vandalism is an intentional destruction of petroleum pipelines. Section 7(a) and (b) of the Miscellaneous Offences (Revised Edition) Act, Cap. M17, Laws of the federation of Nigeria, 2012, deals with any person that is tampering with oil pipeline, crude oil or petroleum products and that such person, if found guilty shall be sentenced for life.

## **BUNKERING**

It is an unlawful delivery of petroleum products to a vessel or ship .Sections 1, 2, 3 and 4 of the Oil in Navigable Waterways Act, 1990, Laws of the Federation of Nigeria, provides as follows: -

(1) If any oil to which this section applies is discharged from a Nigerian ship into a part of the sea which, in relation to that ship, is a prohibited sea area, or if any mixture containing not less than 100 parts of oil to which this section applies is discharged from such a ship into such a part of the sea, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence under this section.

(2) This section applies—

(a) to crude oil, fuel and lubricating oil; and (b) to heavy diesel oil, and shall also apply to any other description of oil which may be prescribed under this subsection by order made by the Minister, having regard to the provisions of any subsequent Convention in so far as it relates to the prevention of pollution of the sea by oil, or having regard to the persistent character of oil of that description and the likelihood that it would cause pollution if discharged from a ship into a prohibited sea area.

(3) The Minister may, by regulations made under this subsection, make exceptions from the operation of subsection (1) of this section, either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of oil or mixtures in prescribed circumstances, or in relation to particular areas of the sea.

(4) In this Act, “subsequent Convention” means any Convention subsequent to the Convention of 1954 to 1962 being a Convention relating to the aforesaid Convention, and accepted by the Nigerian government.

## **3. CRUDE OIL THEFT**

The country loses over 400,000 barrels of crude oil per day through oil thieves (NNPC, 2017). Such concern is particularly well founded as this is coming at a time when multinationals are divesting due to the deteriorating security situation in Nigeria, higher costs and exploration charges, as a result of the Nigerian National Assembly inability to pass the Petroleum Industry Bill into law. Furthermore, the United States’ discovery of shale has shattered the once impregnable notion that Nigeria would always have a viable market for its crude exports in the US. In recognition of the major challenges ahead for Nigeria’s oil revenue and ultimately its economy, this study briefly highlights some issues that need to be urgently addressed by the Nigerian government if it is indeed serious about its intentions to stem the tide that currently threatens to overwhelm the nation’s oil industry. The Nigerian Minister of State for Petroleum, Dr. Kachukwu said recently that stolen oil needs to be in the same category as blood diamonds and called on foreign governments to move against international institutions that launder what he called the proceeds of “blood oil”. This is a commendable step which needs to be followed through, as several quarters hold the belief that oil theft is lucrative because thieves find it easy to sell their consignments either to private buyers or on the international spot market. A key step is for foreign governments to help determine who the buyers are and through what fiscal

institutions the proceeds are being laundered. The European Parliament in line with this, indicated at a meeting of the members of the African, Caribbean, Pacific Parliaments and their European Union counterparts (ACP-EU) that it intends to stop the purchase of stolen oil from Nigeria in Europe by ensuring that any unrefined petroleum meant to be sold in the European market would need to be accompanied by a certificate of origin. A further step could be for the Federal Government to invest in its own “finger printing” technology and certification process to make it easy to identify oil that comes from legitimate sources and thereby interrupt sales of illegal crude by criminal elements. The certification process would mirror similar protocols meant to ensure so called blood diamonds are not sold in the international market. We must however, be careful not to simply pass the buck, as whilst this illicit oil ends up in foreign markets, the actual bunkering is done by unemployed youths and militants in the Niger Delta.

such theft where necessary. What is particularly worrisome is the fact that the above suggestion was one of the recommendations of the Nuhu Ribadu report which came about as a result of the Petroleum Revenue Task Force; set up in the wake of the fuel subsidy protests, a period during which outrage was expressed over the level of corruption and mismanagement. It however appears that the recommendations in the report have been largely ignored to date, as there has been little or no effort made by the Nigerian Ministry of Petroleum Resources to implement the recommendations of the Nuhu Ribadu report. It is imperative that the Minister of Petroleum Resources implements these recommendations if we are to be taken seriously by the international community at all. Another major issue to address is the adequate monitoring and protection of pipelines against oil thieves and vandals. The current situation is worrying as there is a lack of adequate efficiency, transparency and technology in the entire process. There have been criticisms over the award of multi-million Naira pipeline defense by the warlords, as the oil theft essentially continued unabated under their watch. There has also been some criticism over the apparent lack of transparency in the IOCs’ award process of their pipeline surveillance contracts, thereby encouraging theft from their pipelines through the activities of potentially dubious contractors. Added to this is the lack of modern technology such as monitoring sensors and alarm systems that could be triggered off whenever a pipeline is tampered with, as well as a lack of adequate incentives and sophisticated equipment for the JTF; to prevent certain members from turning a blind eye to the activities of oil thieves as has been alleged and to also enhance their operations and unlawful activities. As there are reports of ongoing negotiations over the renewal of oil pipeline surveillance contracts with ex Niger Delta militant leaders which expired last year, the Federal Government must at least assess their various performances and the effectiveness of their surveillance activities over the previous term and where necessary, it should refuse to renew the contracts of those that clearly did not perform their obligations adequately in this regard. The regulatory agencies must also become more alert and ensure that whatever surveillance contracts are being entered into by IOCs are as transparent as possible. It is hoped that if the Petroleum Industry Bill is passed into law, it should make for stronger, independent, regulatory bodies in the sector that can adequately monitor such processes and thereby improve surveillance activities. In addition, the provision of up to date pipeline surveillance technology and equipment for the JTF will further improve the policing of pipelines and could ultimately lead to the end of

pipeline vandalism in the country. Finally, the collaboration of the host communities to check the unlawful petroleum theft from the pipelines is imperative. It is a fact that there has been neglect

and alienation of the host communities where these pipelines traverse, and without their cooperation many of the other suggestions above may be absolutely futile.

#### **4. PIRACY**

The piracy problem off the coast of West Africa highlighted by an International Maritime Bureau (IMB) report is, overwhelmingly, a Nigerian problem. The IMB report said maritime piracy was now more prevalent off the coast of West Africa than around Somalia. This is partly because an international naval task force has been patrolling the coast of Somalia. But it is also partly because of the peculiarities of the Nigerian economy and widespread corruption there. A map in the IMB report showing the most dangerous waters in West Africa draws a line around the coast of Nigeria - with a small extension into the territorial waters of the much smaller countries of Benin and Togo. While the typical modus operandi of a Somali pirate has been to hold ships and kidnap sailors for ransom, in Nigeria the main motivation is to steal refined and unrefined petroleum products from tankers. "Many vessels are attacked while at anchor, drifting, or conducting ship-to-ship transfers of refined cargo," said the IMB report. "Only 33% of vessels were attacked while actively in transit in the Gulf of Guinea. In contrast, attacks off Somalia almost always occur while ships are underway." The IMB report - and the reason so many tankers are plying the coast in and out of Nigeria - has been a chronic failure by the authorities there to build and maintain domestic Nigerian oil refineries. There is so much money to be made from exporting crude from the sub-region's biggest oil producer - and re-importing refined fuel to the very large, petrol-thirsty Nigerian population - that developing a real, productive economy by doing things like building oil refineries has been almost forgotten. In a good year Nigeria produces more than two million barrels of oil a day, making it one of Africa's largest producers. But it only has the capacity to refine less than a quarter of that. In practice, poor maintenance at the handful of oil refineries means far less than a quarter is actually processed in-country. So every day hundreds of tankers are plying the Gulf of Guinea and the mangrove swamps in the Niger Delta region. The tankers are either taking crude oil out or bringing refined fuel back in. When combined with weak and sometimes corrupt security forces, this creates a perfect scenario in which pirates can operate. The swamps conceal numerous private jetties and mini-ports as well as a network of pipelines which are often broken into. Corruption and armed rebellion in the Nigeria's oil producing areas have led to the development of an entire, well-organised industry for stealing - or, as it is known in Nigeria, "bunkering" - oil products. This criminal import-export industry has become almost institutionalized by a national government subsidy on petrol sales that costs the country several billion dollars a year and encourages illicit activities. The subsidy is paid to politically well-connected fuel importers to keep prices low and so stop unrest among the majority of Nigerians who are very poor. Nigerians know perfectly well how much money is being stolen at the top of their society and have therefore come to demand cheap petrol as their slice of the pie - and their political right. However, what actually happens to much of the subsidized fuel is that it, too, is sold on the black market at higher prices. When this happens, Nigerians are hit by a double whammy. Their government is ripped off by the fuel importers breaking the rules. And they are personally ripped off by the higher prices. Ordinary Nigerians live in a topsy-turvy world where petrol stations are never quite what they seem. It is commonplace in Nigeria to see petrol stations which are abandoned and empty - but where there are small mountains of stacked jerry cans of petrol being sold just by the roadside. The petrol stations are supposed to be selling the subsidised petrol. But the fuel has been diverted to the

jerry cans where it is sold at a higher, black market rate. When the authorities clamp down on this diversion and fuel is correctly sold at the subsidized rate inside petrol stations, huge queues develop as people try to get their share. Some ministers in the Nigerian government have on occasion tried to remove the subsidy and introduce a more rational system. But they have been prevented from doing so by the threat of near revolution from ordinary people and what Nigeria's President Goodluck Jonathan has called an "evil cabal" of people making money from the current arrangements.

### **ECONOMIC SABOTAGE**

It is the practice of undermining the economy of a nation. It is a tactic used to pressure governments. The power of the markets is such, that the country loses the following amount: 2011 – 385 Million Barrels, 2012 – 402 Million Barrels, 2013 – 363 Million Barrels, 2014 – 342 Million Barrels Total- 1492 Million Barrels, (Vanguard of June 11, 2017). The Dailypost.ng of 3rd September, 2014 titled: "Navy Warns Oil Companies against Economic Sabotage". The former Chief of Naval Staff (CNS), Vice Admiral Usman Jibrin has warned oil companies to desist from committing economic sabotage against Nigeria. The naval chief gave the warning at a meeting with Chief Executives of the International Oil Companies (IOCs) at the Naval Headquarters in Abuja to discuss issues bordering on oil theft, pipeline vandalism and other related crimes in the nation's maritime industry. Jibrin expressed anger and frustration over the failure of most oil companies to attach seriousness with the meeting, which was meant to find solutions to the aforementioned challenges that had been eating deep into the country's economy. He emphasized that the meeting was "conveyed to discuss some of our security challenges that we have in the maritime sector, particularly petroleum theft. He further stated thus: "When a meeting of this nature is called, the IOCs must take it very seriously. After all, it took me almost seven and half months to call for this meeting and specifically we said we were not going to accept representation not that those of you representing your various companies are not competent enough to discuss but to drive home the point we wish to make today". "We want to make the point very clear- that we have a serious challenge and we need the cooperation of the Chief Executives to be able to provide solution to the daunting security challenges with respect to oil thefts. "Particularly, it has become very worrisome that we have not been able to check this and I personally believe that it had gotten to a point that instead of pointing accusing finger at each other, we shall be mentioning names, including the major stakeholders", he warned. The former Naval Chief said that authorities and concerned stakeholders "cannot pretend to say that the oil companies do not have hands in some of these illegalities; pretending is to allow you to continue and on my part, you will not pretend. He reiterated that: -"I can start by citing some examples of some companies that have left their well heads open for years and they have done nothing to seal their wells". Providing details to back up his allegations, Jibrin said that he had pictures, which exposed the complicity of the IOCs in the whole petroleum theft business and also stated that: "I can pass it for you to look at them. Why is it that as gentlemen, that you are, all of you cannot sit at a round table and provide solution. Why are we dirtying the image of this country? I felt that it had come to a point that we should meet to discuss and provide solutions to the issue pertaining to oil theft", he explained. Speaking further, he said that the government was worried "and those of us that are agents of government are equally worried". He promised that on the part of the Nigerian Navy, they would deal decisively with any personnel involved in the

oil theft, adding “the person will be dealt with in accordance with existing laws of the armed forces”. Jibrin, however, noted that he had limitations to what he could do with the oil companies, since they were not directly under his control, when he opined thus: “But I have decided that I will take some steps, that if a manifold, for instance, is open for years and our attention is drawn to the need for its closure and the companies, that own these oil wells are not taking appropriate action, we shall look for them and start arresting them as we are not only loosing crude oil but losing revenue”, he noted; “You also pollute the environment and we want to continue to do business in our various communities unhindered, unmolested and to the extent that youths will not protest and we must work assiduously together to get the synergy and get a desired result to curb oil theft”, he added. Responding on behalf of the IOCs, the Chair, Security Sub-Committee, Oil Producers Trade Sector, Mr. Ayobami Olubiyi, assured the Navy of their support in the ongoing effort to curb petroleum theft, piracy and other forms of criminality in the nation’s maritime sector, and reiterated thus: “We want to assure you Sir, concerning the petroleum theft. Companies will be assisting the Federal Government to mitigate the oil theft and other related issues”, Olubiyi said. “As far as we are concerned, we will continue to advocate for an improved platform for the Nigerian Navy”, he assured.

## **6. GOVERNMENT OFFICIALS’ INVOLVEMENT IN CRUDE OIL TRANSACTIONS**

Most government officials are involved in various forms of corruption and illegality on matters relating to crude oil, thereby filling their individual pockets to the disadvantage of the nation’s economy. In the Nations Newspaper of Monday October 9th 2017, titled “Economy to Loss One Hundred and Fifty Billion Naira (N150,000,000,000) PENGASSAN, NUPENG strike –LCCI”, it stated that the Lagos Chambers of Commerce and Industry (LCCI), has warned that the economy would lose an estimated N150 billion daily, if the proposed strike by PENGASSAN and NUPENG is not averted. The Director-General of LCCI, Mr. Muda Yusuf, disclosed this in an interview on Monday in Lagos. Yusuf said that it would not be a good development for an economy that was just emerging from recession. The two unions had threatened to embark on an indefinite strike over delay in the payment of N800 billion subsidy arrears to oil marketers. Yusuf urged the Federal Government to engage the unions and propose a plan to settle the arrears. He noted that the consequences of the proposed strike would be severe because of the strategic and critical nature of the oil and gas sectors and further stated thus: “It would paralyze the chain of logistics in the economy as economic activities are driven largely by road transportation, both for computing and freight. “It will impact on revenues as the upstream sector would be affected as well. It would impact the power sector which is largely powered by gas, “he said. The LCCI boss noted that the fuel subsidy phenomenon had become a recurring distraction in the management of the country’s economy and opined as follows: “It is regrettable that government has over the years got itself entangled in a problem which should not have arisen in the first place, “he said. He alleged that the country’s economy had suffered several scandals and monumental corruption in the petroleum industry because of the phenomenon of petrol subsidy and further alleged thus: -“We have consistently argued that the government should completely decouple itself from the business of importation, refining, transportation and retailing of petroleum products. “This arrangement has created considerable distortions and stagnated private investment in the downstream sector because these are enterprises that the private sector is best suited to manage, “he said. Yusuf said that government has no business fixing prices and subsidizing the players. He said that in spite of the monumental problem the economy had from

the subsidy regime, government has not taken urgent steps to put an end to price fixing for PMS and further stated: -“The economy cannot sustain this arrangement. The current debt of N800 billion is 151 percent of the total capital allocation for the federal ministry works, Power and Housing in the 2017 budget. “it is 1,568 percent of the capital allocation to health; it is 305 percent of the capital allocation to federal ministry of transportation; and 1,600 percent capital allocation capital to education. “This raises vital questions about the optimality and efficiency of resource allocation and utilization by government, “he said. He called for speedy *passage of the petroleum industry bill (PIB)*, adding that it will help to normalize the petroleum industry. Yusuf urged the government to replicate the telecoms sector model in the petroleum industry, adding that it would free resources for investment in critical infrastructures like power, roads the railway, health and education sector. He stressed that the model would improve product availability, eliminate fuel queues, and create more jobs for the teeming youth in the downstream oil sector strategic and critical nature of the oil and gas sectors and further stated thus: “It would paralyze the chain of logistics in the economy as economic activities are driven largely by road transportation, both for computing and freight. “It will impact on revenues as the upstream sector would be affected as well. It would impact the power sector which is largely powered by gas, “he said. The LCCI boss noted that the fuel subsidy phenomenon had become a recurring distraction in the management of the country’s economy and opined as follows: “It is regrettable that government has over the years got itself entangled in a problem which should not have arisen in the first place, “he said. He alleged that the country’s economy had suffered several scandals and monumental corruption in the petroleum industry because of the phenomenon of petrol subsidy and further alleged thus: -“We have consistently argued that the government should completely decouple itself from the business of importation, refining, transportation and retailing of petroleum products. “This arrangement has created considerable distortions and stagnated private investment in the downstream sector because these are enterprises that the private sector is best suited to manage, “he said. Yusuf said that government has no business fixing prices and subsidizing the players. He said that in spite of the monumental problem the economy had from the subsidy regime, government has not taken urgent steps to put an end to price fixing for PMS and further stated: -“The economy cannot sustain this arrangement. The current debt of N800 billion is 151 percent of the total capital allocation for the federal ministry works, Power and Housing in the 2017 budget. “it is 1,568 percent of the capital allocation to health; it is 305 percent of the capital allocation to federal ministry of transportation; and 1,600 percent capital allocation capital to education. “This raises vital questions about the optimality and efficiency of resource allocation and utilization by government, “he said. He called for speedy *passage of the petroleum industry bill (PIB)*, adding that it will help to normalize the petroleum industry. Yusuf urged the government to replicate the telecoms sector model in the petroleum industry, adding that it would free resources for investment in critical infrastructures like power, roads the railway, health and education sector. He stressed that the model would improve product availability, eliminate fuel queues, and create more jobs for the teeming youth in the downstream oil sector.

### **ARE THERE ADEQUATE LEGAL MACHINERY TO DETER INDIVIDUALS AND COMPANIES FROM ENGAGING IN THESE FRAUDULENT CRUDE OIL TRANSACTION IN NIGERIA?**

There are adequate and sufficient legal machineries by the Nigerian government to deter persons and companies from engaging in such illegal and fraudulent crude oil practices. Such laws includes: -Miscellaneous Offences (Revised Edition) Act, Cap. M17, 1990 Laws of the federation of Nigeria. This law is presently before the Nation Assembly as a Bill to repeal and to recast for fuller Acts that is capable of deterring persons and oil companies from engaging in such nefarious activities against the nation economy. The Oil in Navigable Waterways Act, Economic and Financial Crimes Commission Act, Criminal Code Act, Nigerian Navy Act, State Security Services Act, Police Act, National Security Act, etc. The above laws are adequate and capable to deter persons and oil companies. The only problem is the delay in the investigation, prosecution and enforcement of our laws. The government should fashion ways and means to fill such gaps associated with such delays.

### **WAYS FORWARD, OPTIONS AND SOLUTIONS TO CURB ECONOMIC SABOTAGE IN NIGERIA**

There are hopes to solve these problems in Nigeria. Such option includes the quick passage of the Petroleum Industry Bill into law by the National Assembly. Other options and solution to curb economic sabotage includes: The international communities and their multinational oil companies should refuse to buy and pay for petroleum unlawfully obtained from Nigeria; as such transactions are illegal and must be resisted by all and sundry. As Nigeria is a member of the United Nation, it should propose or suggest to all U.N members that illegality obtained petroleum from Nigeria, should be an international crime against humanity. The Nigerian government needs to lobby these suggestions to five permanent members of the U.N. The Nigerian government should partner with Britain, Rusia and other maritime countries with a view to their sending well equipped international monitoring ships to assist its Navy in the course of fighting illegal bunkering and theft of crude oil through Nigerian territorial waterways and high seas across Nigerian border. There should be a law that would enable speedy investigation, prosecution and enforcements. Government should dialogue and liaise with all riverine communities in the Niger Delta, with a view to using them to assist government officials

and its agencies in fighting or combating such menace in their various communities. There should be good working relationship between the government and the International Association of Independent Tanker Owners (Intertanko)

### **CONCLUSION**

This study has been able to espouse and examined the difference types of economic sabotage, causes and those that are engaging in it. It has also stated that there are adequate laws to curb such menace so as to deter persons from engaging in it. We have looked at various option to solve such wide ranging problem and save the country such grate economic loss on daily basis. If these our suggestions are fully addressed by those in authority, the government will cure those leakages in its economy and save more money for its citizens.

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