

Oil Wealth and Illicit Financial Flows in Nigeria's Petroleum Sector

Oluebube Christopher Offor

Price Waterhouse Coopers (PwC), Lagos, Nigeria
e-mail: oluebubeofforc@gmail.com or ebube.offor@pwc.com

Abstract: It is quite a phenomenon that natural resources of most developing nations today have become a driving force for sustained poverty, armed conflict, and illicit financial flows (IFFs). Against this background, this paper presents a detailed analysis of this phenomenon and seeks to assess the intersection between natural resources and illicit capital outflows with Nigeria's oil economy acting as a dominant theme of discussion. Despite being the richest oil-producing country, with other abundant natural resources in Africa, the paradox remains that Nigeria operates a weak mono-economy with many of its citizens living in abject poverty. This paper reveals that Nigeria's oil and gas sector is a landmark for money laundering, corruption, tax evasion, and oil spills which prevents the nation from achieving the 2030 sustainable development goals. This problem is due to entrenched corruption by Nigerian public officials, weak institutions, non-policy implementation, corrupt tax agencies, and noncompliance with petroleum laws. The study recommends that the international communities should achieve a collective reform on transfer pricing policies, while the Nigerian government should achieve a transparent mechanism for disclosing beneficial ownership and as well digitalized anti-money laundering activity.

Keywords:

1. Paradox of Plenty
2. IFFs
3. Oil theft
4. Crude oil
5. Nigeria

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1. Introduction

As far back as 1981, the Indian Nobel laureate, Amartya Sen – in his essay titled: “Poverty and Famine,” – proposed that people died not because there are limited food supplies, but because they lack entitlements to such food supplies (Amartya, 1981). This encapsulates the ongoing quagmire that has beclouded resource-dependent countries, like Nigeria, where only a few

enjoys the benefits of natural resources at the expense of many. The popular “liquid black gold,” formally known as crude oil, is one major resource that has been enjoyed by “a few” at the expense of others, and has been encroached upon by pervasive political corruption, illegal bunkering, armed conflict and internal violence, extreme poverty, and gross human deprivations in Nigeria. Although statistics from the UNECA High-Level Panel on Illicit Financial Flows indicate that crude oil, among other natural resources, contributes greatly to Nigeria’s gross domestic product (GDP) – which has almost tripled to \$490.857 billion, (African Union/Economic Commission for Africa, 2011, p17); a larger portion of the money has been laundered and stashed away in foreign banks. Crude oil theft alone amounts to US\$6bn annually, representing 10% of IFFs in Africa (Porter and Anderson, 2021). This exposes the nation to “macro-critical risks of economic instability, exacerbating their often-high vulnerability to chronic poverty, fragility and episodic conflict” (Porter and Anderson, 2021, p. 3).

Global Financial Integrity (GFI, 2019) in a Twitter report, published that Nigeria has lost a total of \$217 billion to IFFs between 1970 and 2018¹ – and 92.9% of this loss was linked to fraudulent practices in the nation’s oil and gas industry (Ibid). Foul play on business transactions by multinationals such as tax evasion and transfer pricing, unhealthy tax holidays, duty waivers, and mis-invoicing, account for 60% of IFFs in the oil sector, while 5% are driven by bribery and corruption (Porter and Anderson, 2021, p. 11).

These stolen funds are way higher than Nigeria’s net official development assistance and official aid received, according to the World Bank Official report (2022)². In a study carried out by the Organization for Economic Co-operation and Development (OECD, 2014), the extractive sectors (particularly oil and gas) are the most vulnerable to foreign bribery. A lot more could go wrong if we look on with hands akimbo. Hence, vibrant measures should be taken at the international and national levels to intercept gross illicit capital outflows in Nigeria’s oil and gas sector. This essay presents detailed information on the theme of the topic. The content of the paper covers a conceptual framework, the evolution of oil crime and perpetrators in Nigeria, the magnitude and estimates of financial losses, selected root causes, consequential impacts, and possible reforms.

2. The Paradox of Plenty: Understanding the Concept

It has become an aging phenomenon that many countries of the world, bestowed with abundant natural resources such as oil, minerals, diamonds, and timber, are torn between high-level of corruption and violent conflict. International scholars defined this problem as a resource curse – a situation where countries with abundant natural resources grow slower than expected considering their resource wealth, and, in many cases, grow slower than resource-scarce countries (African Development Bank, 2007, p. 97).

Scholars categorized this form of resource curse into two theory models: The first model was developed by Van Wijnbergen in 1984. In this model, Moti (2019, p. 486) explained that “when a country discovers oil, its population wants to spend part of the value of this as consumption of non-traded goods. Demand for these increases, pulling resources out of traded sectors, and decreasing production here.” He states that “decreased traded sector, in turn, means less learning by doing, and lower productivity growth than would otherwise be the case. This effect

¹ Global Financial Integrity (2019). A Twitter post on crude oil theft in Nigeria. Retrieved from <https://twitter.com/illicitflows/status/1101493643968421888?lang=bg>

² World Bank (2022). [Net official development assistance and official aid received \(current US\\$\)](https://data.worldbank.org/indicator/DT.ODA.ALLD.CD). Retrieved from <https://data.worldbank.org/indicator/DT.ODA.ALLD.CD>

may be sufficiently strong to outweigh the initial increase in income that the oil discovery generated" (Moti, 2019, p. 486).

The second model, common with today's state officials and power influencers, consists of rent-seeking, bribery, and corruption. To gain favor from the government, oil moguls and multinational petroleum companies offer huge bribes to government officials to win contracts and licenses from the government officials; and to avoid petroleum tax fees and royalties. Government officials, on the other hand, masquerade behind these lobbyists – in form of anonymous beneficial ownership – to launder oil revenues. This undermines social-economic development and fuel internal violence and armed conflicts. Countries like Angola, Sudan, Gabon, Equatorial Guinea, Sierra Leone, Liberia, Nigeria, and several others, have endured hardships brought on by the presence of highly sought-after raw materials, notably oil and precious gemstones (Mbabazi, 2009).

2.1 Oil Theft

According to the United Nations on Drugs and Crime (UNODC, 2009) and the London School of Economics³, oil theft, which could also be referred to as "illegal crude oil bunkering," is seen as the practice of stealing and trafficking oil not only in Nigeria but across the West African countries and the world at large. In Anyio's article (2015, p. 54), "oil theft is an unauthorized carting away or stealing of petroleum products by individuals, organized gangs and other vested interests for personal aggrandizement to the detriment of the entire society." In a more complex world, oil theft has grown largely at the international level.

Ikegbe (2005, p. 221) opined that:

There is a large-scale illegal local and international trading of crude oil. This has grown from a few amateurs in the 1980s who utilized crude methods to extract crude from pipelines to a very sophisticated industry that uses advanced technologies to tap crude and sophisticated communications equipment to navigate through the maze of hundreds of creeks, rivers, and rivulets. The oil theft syndicates have also graduated from boats and barges to ships and large oil tankers on the high seas. The stealing and smuggling of crude have become very extensive and large-scale since the late 1990s.

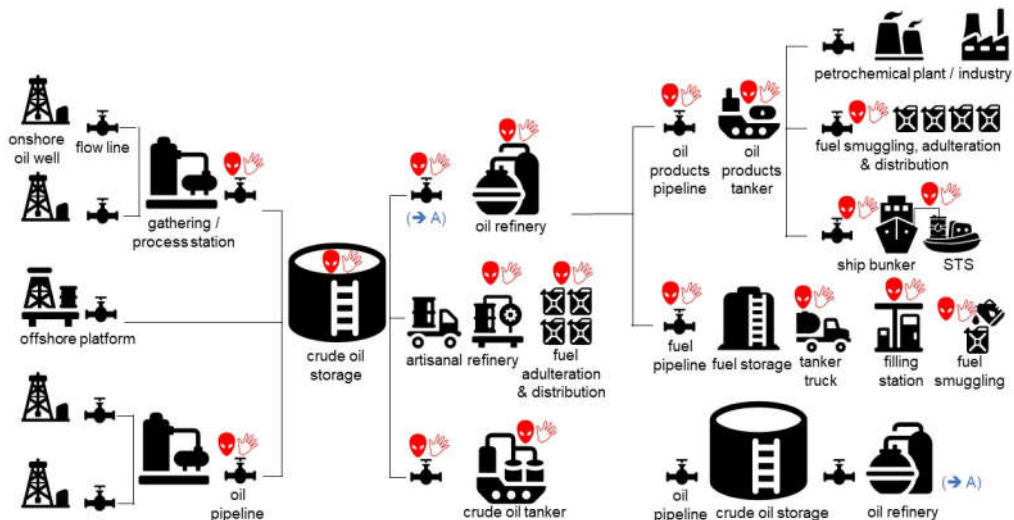
Anyio (2015) buttressed that oil theft involves three stages which include:

- Minor and small-scale pilfering of condensate and petroleum products destined for the local market.
- Direct hacking into pipelines or tapping with a hose from the oil wellhead.
- Excess lifting of crude oil beyond the licensed amount, using forged bills of lading.

Etienne wrote in the United Nations Wider Working Paper (2022) that "Oil theft regularly occurs across the supply chain, from the gathering station, crude oil pipeline, oil storage facility, and oil bunkering station, during crude oil tanker loading, during illegal ship-to-ship (STS) transfers facilitated by oil tanker crews and owing to violent acts of robbery and piracy at sea," as captured in the below figure.

³ London School of Economics (November 2, 2015). Curbing Crude Oil Theft. <https://blogs.lse.ac.uk/africaatlse/2015/11/02/curbing-crude-oil-theft/>

Fig. 1. Stages of Oil Theft in the oil supply chain



Source: Romsom (2022)

Reuters posits that crude oil is being stolen on an industrial scale. Proceeds are laundered through world financial centers and used to buy assets in and outside Nigeria⁴. “The world’s biggest cause for worry in oil theft is money laundering which poses financial risks for the centers that facilitate it.”⁵ For the purpose of this paper, oil theft is defined as any illegal activity that is associated with the discovery, refining, selling, and usage of oil resources which include vandalism, tax evasion and transfer pricing, illicit export of crude oil, bribery for oil license and contract, and money laundering perpetrated by some politically exposed persons (PEPs).

2.2 Illicit Financial Flows

When dirty money is earned, transferred, or utilized from one country to another, according to Global Financial Integrity (GFI), it is classified as IFFs. This is not to say that the movement of money or funds across borders is illegal in its entirety – it is even imperative for world economic growth – however, it is termed dirty and illegal when the means of earning and utilizing them contravenes national and international laws. Put differently, “these flows of money are in violation of laws in their origin, or during their movement or use, and are therefore considered illicit” (African Union/Economic Commission for Africa, 2011, p. 23).

That is why Baker (2005) argues that if it breaks any law in its origin, movement, or use, then it could be seen as IFFs. In recent times, intellectual efforts have been made to distinguish between IFFs and capital flight. While capital flight is concerned about the outflow or the movement or outflow of capital or assets from one country to another due to poor economic

⁴ Reuters (September 9, 2013). Nigeria’s oil is sold and laundered abroad. Retrieved from <https://www.reuters.com/article/nigeria-oil-theft/nigerias-stolen-oil-is-sold-and-laundered-abroad-report-idUSL5N0HE2RC20130919>

⁵ Ibid

events (such as currency depreciation)⁶, IFFs – according to the Organization for Economic Co-operation and Development (OCED) – include:

- Funds with a criminal origin, such as the proceeds of crime (including corruption);
- Funds with a criminal destination, such as bribery, terrorist financing, or conflict financing;
- Funds associated with tax evasion;
- Transfers to, by, or for, entities subject to financial sanctions; and
- Transfers that seek to evade anti-money laundering /counter-terrorist financing measures or other legal requirements, (OECD, 2015).

IFFs come in form of abusive transfer pricing, trade mispricing, misinvoicing of services and intangibles, and using unequal contracts to evade taxes, avoidance, and illegal export of foreign exchange (AU/ECA, 2015, p.24). three major stages of IFFs will include **corruption** (i.e., bribery, embezzlement, and money laundering); **criminal activities** (drug trading, human trafficking, racketeering, counterfeiting, oil theft, contraband, and terrorist financing); and **commercial activities** (i.e. transfer pricing, tax evasion, trade mispricing, unequal contracts, beneficial ownership, to mention but a few, [ECA, 2013; AU/ECA/2015]). These stages are not mutually exclusive in the sense that commercial activities such as transfer pricing and tax evasion can be facilitated by corruption in form of bribery and money laundering.

2.3 Oil Boom Narrative: Origin of IFFs in Nigeria's Petroleum Sector

Nigeria – a nation estimated as Africa's biggest economy, with a gross domestic product of \$441.54 billion, according to a report released by Statista⁷ – found crude oil in 1956 at Oloibiri, Bayelsa State, in the Niger Delta, and joined the ranks of top oil producers in the world, after 50 years of oil exploration by the British colonial government⁸. Within 13 years of oil discovery (1958-1971), the nation had produced over 600 million barrels, with her revenues at \$23 million. World Bank (1987, p. 419) highlighted that the global oil price shocks of 1973-74 and 1979 resulted in a large transfer of wealth to Nigeria. "Public expenditure increased greatly, as did the country's access to international capital markets," (World Bank, 1987, p. 419).

Hopes were high in the 1970s. Through a series of new laws and mutual agreements, the Nigerian government remodeled its internal market to attract potential foreign investors. Multinational oil companies – including Shell exploration company, Midwestern Oil, AGIP Energy, and Pan Ocean Oil Corporation, among many others – responded favorably to the new laws and competed to take part in joint venture agreements with the Nigerian government. Private indigenous oil industries were also springing up in great numbers⁹. And by 1975, Nigeria had the fifth largest stock of foreign direct investment in the developing world¹⁰. Such were the good old days!

⁶ Corporate Finance Institute (February 12, 2021). Capital Flight.

<https://corporatefinanceinstitute.com/resources/knowledge/economics/capital-flight/>

⁷ Statista (May 17, 2022). African countries with the highest gross domestic product IN 2021 (in billion U.S. dollars). Retrieved from <https://www.statista.com/statistics/1120999/gdp-of-african-countries-by-country/#:~:text=Nigeria's%20GDP%20amounted%20to%20441.5,2021%2C%20the%20highest%20in%20Africa.>

⁸ Nairametrics (2013). Development of Nigeria's oil industry. Retrieved from

<https://nairametrics.com/wp-content/uploads/2013/01/History-of-Oil-and-Gas-in-Nigeria.pdf>

⁹ Chris Hajzler (n.d.). Nigerian Oil Economy: Development or Dependence. Retrieved from

https://artsandscience.usask.ca/economics/resources/pdf/hajler3.htm#_ftn1

¹⁰ World Bank (2022). Foreign direct investment, net inflows (% of GDP) – Nigeria. Retrieved from <https://data.worldbank.org/indicator/BX.KLT.DINV.WD.GD.ZS?locations=NG>

With the concomitant flow of crude oil and high increase in public revenue, illicit financial flows – in form of exorbitant contracts and allocation of oil licenses for exportation of crude oil, massive embezzlement of funds, bribery collection, pipeline vandalism, and tax evasion – became even more pronounced in the oil and gas industry. A former Nigerian Minister of Petroleum and Energy, Tam David-West, decried that the country had lost over \$16 billion (about 20 percent of her oil revenue) during the Second Parliamentary Republic (from 1979-1983) due to fraud, unreasonable contracts, incessant oil theft and other fraudulent practices perpetrated by some staff of the Nigerian National Petroleum Corporation, otherwise known as NNPC. In the same wise, Pius Okigbo, an eminent Nigerian economist, reported that Nigeria lost an oil revenue of \$12.2 billion which was siphoned from the Public Treasury Accounts between 1988 and 1994.

These fraudulent acts have been accompanied by tax evasion and illegal drilling/bunkering. Chioma Achinike, a legal luminary in the Brickman Law firm, reported that a multinational oil company, known as Chevron Nigeria Limited, was indicted for tax evasion in 1998 and 1999. It was alleged that the Company, in collaboration with some unscrupulous tax officials at that time, successfully evaded the due tax amount of \$2.7 billion, accruable to the federal government. Nigeria is gradually losing its place as the top oil-producing country to Angola.

2.4 Channels of IFFs in Nigeria’s Petroleum Industry

The passion for illicit wealth extends along the entire oil supply chain – from oil wells to an export terminal, with reported cases of artisan refining/illegal bunkering, tax evasion, and money laundering. Illegal bunkering – being one of the commonest channels of IFFs in the oil and gas sector – refers to the direct and widespread theft of oil from oil pipelines. The Human Rights Watch classified it as Nigeria’s most profitable private business¹¹, where oil is often stolen from high-pressure pipelines by skilled criminals who weld a tap into the channel and siphon oil to nearby vessels or containers (Robin and Nicholas, 2020, p. 6). These containers or vessels are primarily hidden in small brooks or creeks covered in Mangrove forests and there are little or no proactive efforts to fight off the vandals in the process of tapping crude oil for sales, (Ibid). The stolen crude can currently be sold at around U.S.\$15 to \$20 per barrel on the spot market. And estimates of the financial loss from bunkering stands between \$750 million and \$1.5 billion annually¹².

With transfer pricing, on the other hand, oil multinationals can easily dodge petroleum profit taxes and other tax fees. The Tax Justice Network (2022) defines transfer pricing (TP) as a tool employed by multinational corporations to shift profits out of the countries where it genuinely does business and into a tax haven where it has to pay very little or no tax on profit¹³. The abuse of this act has been on the radar of the multinational corporation today and Nigeria is dead vulnerable to this strategy of tax avoidance because it lacks sufficient information from parent companies to understand and arrest transfer pricing crimes and other forms of tax corruption. Oil companies such as Shell International Petroleum, Halliburton, and Chevron in 2003, 2002, and 1999 evaded over \$17million, \$14 million, and US\$710,506,000 in taxes respectively by using a novel design of accounting and tax transactions with a domestic and foreign government (Bakre 2006, p. 16-19).

¹¹ Human Rights Watch (2013). Illegal oil bunkering. Retrieved from <https://www.hrw.org/reports/2003/nigeria1103/5.htm>

¹² Ibid.

¹³ Tax Justice Network (2022). What is transfer Pricing? Retrieved from <https://taxjustice.net/faq/what-is-transfer-pricing/>

In addition, there is a vicious cycle between elected public officials and IFFs in Nigeria's oil and gas sector. Some government officials abuse power by awarding oil licenses and contracts to undeserving private oil companies and hiding under the shadow of anonymous beneficial ownership with the purported aim of collecting humongous bribes and pocketing proceeds from crude oil sales. This was the case of Alison-Madueke, a former petroleum minister, who pocketed over \$17 million in gifts from three Nigerian oil moguls in exchange for awarding oil contracts and licenses to them¹⁴.

3. Money Laundering Scheme in Nigeria's Oil Sector: Who is Involved?

3.1 James Ibori (Former Governor of Delta State)

James Ibori is arguably a household name in the history of fraud and oil theft in Nigeria's post-colonial leadership. The former governor of a rich-but-impooverished-oil Delta state was arraigned (in the British Southwick Crown Court, London in 2012) and found guilty of a ten-count charge, which includes money laundering and fraud conspiracy¹⁵. Ibori, a man who forged his biodata and asset before emerging as the governor of Delta State, looted \$250 Million from Delta State's oil revenue, through offshore companies, during his eight-year regime as a governor (Ibid)¹⁶. Reuters revealed that the ex-convicted Ibori hid some of his assets in the Oando oil company and money passed from the company's accounts to his [Ibori's] Swiss accounts¹⁷. Among some of the illicit property he acquired, Ibori had six foreign houses worth 6.9 million pounds in the United Kingdom, a fleet of luxury cars including a Bentley, a Maybach 62, and a fleet of ranger rovers worth over \$700,000, and that he had tried to purchase a \$20-million private jet before he was apprehended by the security operatives¹⁸. He also traveled around the globe, frolicking in the most expensive hotels, and spending lavishly in luxury stores along with his sister, whereas his oil-rich state was wallowing in abject poverty¹⁹.

3.2 Dan Etete and the Malabu Scandal

The Malabu oil scandal, a company controlled by a former Petroleum Minister, Dan Etete, was reportedly involved in an oil money scandal with the British-Dutch Shell and the Italian Eni oil and Gas companies. According to the Global Witness Report (2017, p.2), the Malabu scandal was involved the transfer of about \$1.1 billion bride through the Shell and Eni companies to accounts controlled by Dan Etete to win licenses to explore oil and gas in Block OPL 246, one of Nigeria's richest blocks. From accounts controlled by Etete, about half the bride's money (roughly \$520 million) went to accounts of companies controlled by Aliu Abubakar, owner of AA Oil Limited. The proceeds from this bride were used to purchase three properties in Maitama, two in central area Abuja, three properties in Lagos in Ikoyi, Lekki, and Victoria Garden City VGC, and a commercial Property Shopping Mall in Dubai, and a residential property also in Dubai,

¹⁴ Sahara Reporters (October 12, 2021). Malabu Oil Scam: Group Exposes Ploy By Corrupt Officials To Cover Dirty Tracks, Blackmail HEDA Boss, Suraju. Retrieved from <https://saharareporters.com/2021/10/12/malabu-oil-scam-group-exposes-ploy-corrupt-officials-cover-dirty-tracks-blackmail-heda>

¹⁵ Aljazeera (February 28, 2012). Ex-Nigerian governor pleads guilty of graft. Retrieved from <https://www.aljazeera.com/news/2012/2/28/ex-nigerian-governor-pleads-guilty-of-graft>

¹⁶ Ibid

¹⁷ Reuters (September 16, 2013). Jailed ex-governor hid assets in Nigeria's Oando: British prosecutor. Retrieved from <https://www.reuters.com/article/us-britain-nigeria-ibori-idUSBRE98F0KT20130916>

¹⁸ Ibid

¹⁹ Ibid

United Arab Emirates²⁰. Global Witness (2017, p.2) estimates that the extent of this illicit deal roughly cost the people of Nigeria a sum as high as its public health expenditure in 2017.

3.3 Diezani Alison-Madueke (Former Petroleum Minister)

In 2014, the Department of Justice in the United States lodged a formal report that two Nigerian business moguls, namely Kowale Aluko and Jide Omokore, alongside others, paid bribes to Diezani who oversaw Nigeria's owned oil company²¹. The proceeds of these illicit oil contracts, according to the Department of Justice, were laundered in the U.S. and used to purchase exotic assets including a \$50 million condominium which is in one of Manhattan's most expensive buildings (in 157. 57th street) and an expensive Galactica Star superyacht which cost about \$80 million²². In a further statement released by Abdurashed Bawa, the chairman of Economic Financial Crime Control (EFCC – is a government regulatory agency that scrutinizes financial crimes such as money laundering in Nigeria), the EFCC recovered \$150 million in cash and over 80 properties worth \$80 million from Diezani's possession²³.

3.4 Olajide Omokore (Nigerian Oil Mogul)

Jide Omokore, the chairman of Energy Brass Development Limited, who sidelined Diezani in perpetrating crude oil fraud, was also penalized by the law. Gatherings from EFCC revealed that Omokore, alongside Victor Briggs, Abiye Membere, and David Mbanefo, were involved in the criminal diversion of about \$1.6 billion, which was traced as proceeds of petroleum products belonging to the federal government, (EFCC, 2018). This led to the subsequent confiscation of his properties including the \$80 million Galactica Star Yacht which he owns jointly with his business partner, Aluko Kowale, (Ibid).

3.5 Farouk Lawan (A former Nigerian Lawmaker)

A Nigerian lawmaker who is currently keeping his cools in the Nigerian prison was involved in a fraud conspiracy and bribery corruption. In an allegation, which was later proved in Nigeria's Court of Appeal, Farouk Lawan demanded and collected bribe cash of \$500,000 from a billionaire oil magnate, known as Femi Otedola, to exonerate his (Femi) oil firm from the fuel subsidy scam list that happened in 2011²⁴. The 2012 fuel subsidy is a fact that struck the Nigerian historical annals. In a report of the 2011 "fuel subsidy", seven of Nigeria's oil companies were reported to have manufactured fictional or fake oil vessels – with phantom petrol – which, in their false claims, traveled across seas and oceans of the world with Nigeria being the final destination of the "product." As a reward for supplying the phantom petrol product to Nigeria, the seven companies involved pocketed a huge sum of N13 billion naira (approximately \$31

²⁰ Sahara Reporters (February 7, 2022). Malabu Fraud: Nigeria's Ex-Petroleum Minister, Dan Etete's Ally Admits Receiving \$400million As Consultancy Fee. Retrieved from <https://saharareporters.com/2022/02/07/malabu-fraud-nigeria%E2%80%99s-ex-petroleum-minister-dan-etetes-ally-admits-receiving-400million>

²¹ The United States Department of Justice (July 14, 2017). Department of Justice Seeks to Recover Over \$100 Million Obtained From Corruption in the Nigerian Oil Industry. Retrieved from <https://www.justice.gov/opa/pr/departement-justice-seeks-recover-over-100-million-obtained-corruption-nigerian-oil-industry>

²² Ibid

²³ The Guardian Newspaper (May 12, 2021). We recovered \$153 million, 80 houses from Diezani, says EFCC boss. Retrieved from <https://guardian.ng/news/we-recovered-153-million-80-houses-from-diezani-says-efcc-boss/>

²⁴ BBC (February 1, 2013). Nigerian Farouk Lawan charged over \$3m fuel scam 'bribe' retrieved from <https://www.bbc.com/news/world-africa-21294154>

million) from the fuel subsidy payments²⁵. While another category of other oil companies, who were also part of this scandal, pocketed about N21 billion naira (\$50 million)²⁶. In response to this fraud, the Nigerian authority set up an investigative committee, which Farouk Lawan was part of, to investigate and identify oil companies involved in such illicit acts. Farouk's greed for money, however, pushed him into bribery collection – as shown in the evidence (video camera) presented in the law court – where he was captured collecting a monetary offer of \$500,000 from Femi Otedola²⁷.

4. Magnitudes and Estimates

It is difficult to estimate the magnitude of IFFs, considering their complex and hidden nature, especially in the extractive industry (i.e., oil and gas). However, concrete research and findings to track illicit financial transactions have been made over the years. A study carried out by the Nigeria Extractive Industries Transparency Initiative (NEITI, 2019), shows that crude oil and refined product (about 505 million barrels of oil), valued at about \$41.9 billion, were stolen from Nigeria between 2008 and 2018 – a breakdown of this \$41.9 billion includes \$38.5 billion on crude theft alone (e.g., artisan refining and vandalism), \$1.6 billion on domestic crude and another \$1.8 billion on refined petroleum products. This is the size of Nigeria's entire foreign reserve and about 5% of the nation's entire budget by estimates, according to NEITI.

Estimates from "Africa's High-level Panel on Illicit Financial Flows revealed that Nigeria lost over \$140 billion to illicit financial flows, between 2000 and 2014 – with crude oil theft and commercial money (tax evasion by oil multinational companies) constituting the largest component of the \$140 billion loss, followed by proceeds from corruption and over-invoicing of contract fees, (Bonnie and Oluwaseun, 2017). Oil bunkering – otherwise referred to as pipeline vandalism – accounts for 35 percent of illicit financial flows in Nigeria (Central Bank of Nigeria [CBN] Financial Stability Report, 2014).

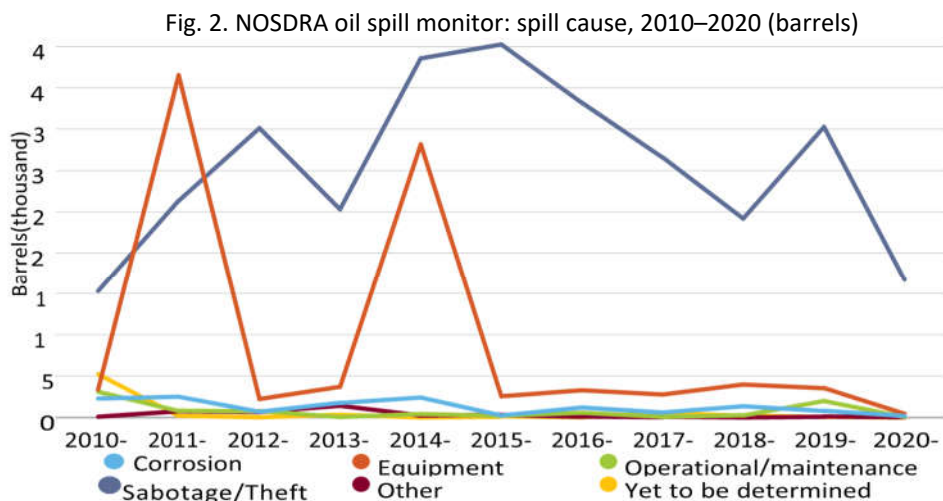
Nigeria loses about 400,000 barrels of oil (valued at \$40 million) per day to theft. Other estimates produced by private studies have, however, suggested that up to a fifth of Nigeria's daily crude oil production may be lost to theft and vandalism (NEITI, 2019). Oil theft, according to a Reuters report, accounts for \$1 billion in losses in the first quarter of 2022. Data from the National Oil Spill Detection and Responsible Agency (NOSDRA) – an agency under the Federal Ministry of Environment in Nigeria – recorded a total number of 4919 oil spills and about 4.5 trillion oil barrels between 2015 and 2021²⁸, this runs into billions of dollars when estimated. In the figure below, NOSDRA suggests that oil theft and sabotage, besides from other incidents, majorly contribute to oil spill adversity, which affects barrels of oil and the financial stability of the nation.

²⁵ Premium Times (August 16, 2012). EXCLUSIVE: Nigeria's biggest oil fraudsters; the worst subsidy scam ever. Retrieved from <https://www.premiumtimesng.com/business/96716-exclusive-nigerias-biggest-oil-fraudsters-the-worst-subsidy-scam-ever.html>

²⁶ Ibid

²⁷ Premium Times (June 22, 2021). How Farouk Lawan, 'cap banker' was sent to jail for taking \$500,000 bribe. Retrieved from <https://www.premiumtimesng.com/news/headlines/469425-how-farouk-lawan-cap-banker-was-sent-to-jail-for-taking-500000-bribe.html>

²⁸ NOSDRA (2020). Nigeria Oil Spill Monitor. Nigeria Oil Spill Monitor. Retrieved from <https://oilspillmonitor.ng>



Source: NOSDRA (2021)²⁹

Asides these humongous financial losses, the magnitudes of tax evasion by oil multinationals are quite alarming. Data from NEITI suggested that 77 petroleum industries in Nigeria currently owe over \$6.3 billion to the federal government, through evasion of petroleum profit tax, company income tax, education tax, value added tax, withholding tax, royalty, and concession on rentals. According to NEITI, Nigeria lost \$1.17 billion between 2009 and 2014 and \$1.56 billion between 2014 and 2016, to unreasonable tax exemptions. These financial losses, in Prof. Sagay’s voice, can provide: “...635.18 kilometers of roads, 36 ultra-modern hospitals per state, 183 schools, educated 3,974 children from primary to tertiary level at 25.24 million per child, and built 20,042 units of 2-bedroom houses.”

5. Consequential Impacts

5.1 Drastic Cut in Government Revenue

Nigeria’s federal government will largely depend on oil revenue to provide vital infrastructure and distribute allocation funds/revenues to other tiers of government, since 80% of her revenue, 95% of export receipts, and 90% of foreign exchange earnings come from oil exports (Brookings, 2021). But on the contrary, reckless bunkering and the sheer exploitation of crude oil resources in many of Nigeria’s communities today have shrunk revenues, thereby limiting the government’s capacity to perform its statutory functions. Data from the Nigeria Natural Resource Charter (NNRC) suggests that Nigeria lost a huge amount of \$10.7 billion to oil theft activities between 2015 and 2018 alone. This is not right for a nation faced with a budget deficit of \$14 billion (PwC, 2021), a debt loan of \$100 million³⁰, a rising inflation rate that has worsened

²⁹ NOSDRA (2020). Nigeria Oil Spill Monitor. Nigeria Oil Spill Monitor. Retrieved from <https://oilspillmonitor.ng>

³⁰ Debt Management Office Nigeria (2022). Nigeria’s total public debt portfolio as at march 31, 2022. <https://www.dmo.gov.ng/debt-profile/total-public-debt/3938-nigeria-s-total-public-debt-as-at-march-31-2022/file>

prices of food items, a weak purchasing power, and a high unemployment rate that stands at 33.3 percent³¹.

5.2 Violence and Internal Strife

In the Niger Delta region where there are about 37 billion barrels (bb) of oil reserves and 168 trillion cubic feet of gas deposits (Omotola, 2009), a group of criminal gang known as “the Avengers” has been on a ceaseless war with the government and oil multinationals. It is believed that this militant group has been on ceaseless war for the Movement for the Emancipation of the Niger Delta (MEND) against environmental degradation and oil exploitation. Aside from blowing up a lot of oil pipelines installed by the government, this militant group kills and abducts oil contractors and security personnel at offshore sites. On 25 April 2019, according to a Reuters report, two Royal Dutch Shell Oil workers, who were returning from an official trip to Balysea state, were kidnapped by the Avengers and their security escorts were killed on the spot³². Cases like abductions, ransom demands, killings, security clashes, and bomb blasts at offshore sites are carried out by this terrorist group. A lot of oil companies are shutting down and inhabitants of the affected areas are taking to their heels for safety.

5.3 Environmental and Health Hazards

75% of oil spills in Nigeria are due to theft and sabotage, mostly carried out by militants and organized crime groups, which have become a threat to human existence and other biotic interactions³³. About 5 – 10% of Nigeria's mangrove ecosystem has been eroded by unregulated oil spillage; the rainforest which covered over 7,400sq.km of land in the Niger Delta region has disappeared as well, (Agunobi, Obienusi, and Onuohia, 2014, p125). The heat from spills does not only kills and destroys mangrove swamps and salt marshes, but equally induces soil degradation and diminishes agricultural productivity. Aquatic lives are gradually going into extinction. When an oil spill occurs near the shore, the water body is invaded by a deadly pungent smell as the air current carries volatile components for a field (Ibid, pg.126). This leaves different species of fish and other sea animals in a very awkward state. The combustion from Oil spills often leads to widespread fires, which release respirable particulate matter (PM) into the air. Hazards to human health may result from dermal contact with soil and water; ingestion of contaminated drinking water, crops, or fish; and inhalation of vaporized chemical substances which can cause skin cancer and lung damage, as well as deformities in children, asthma, bronchitis, pneumonia, neurological and reproductive problems³⁴.

5.4 Exploitation and Impoverishment of Individuals

The Niger Delta has an enormous, rich natural endowment in the form of land, water, forests, and fauna – one of the largest wetlands in Africa and the world at large – making it a great place for industrial agriculture, but when oil spill invades water bodies, plant and organic soil, it destroys their crop-livestock and fishery farming. Most of the rural dwellers are low-scale

³¹ Nairametrics (2021). Nigeria's unemployment rate jumps to 33.3% as at Q4 2020

<https://nairametrics.com/2021/03/15/nigerias-unemployment-rate-jumps-to-33-3-as-at-q4-2020/>.

³² Reuters (April 28, 2019). Two foreign workers kidnapped from oil rig in Nigeria's Delta. Retrieved from <https://www.reuters.com/article/nigeria-oil-kidnapping-idUSL5N22A0MZ>

³³ Institute for Security Studies (March 24, 2022). Endless oil spills blacken Ogoniland's prospects. Retrieved from <https://issafrica.org/iss-today/endless-oil-spills-blacken-ogonilands-prospects>

³⁴ CSL Stockbrokers (2020). Crude Oil: “Historic” production cuts; Implications for Nigeria. [Online] Nairametrics, Available At: <https://nairametrics.com/2020/04/14/crudeoil-historic-production-cuts-implications-for-nigeria/>

farmers and traders who depend on livestock farming to provide for the upkeep of their families. However, crude oil spills have negatively impacted the environment, cutting off major sources of living and livelihood for the vast majority of settlements which comprise mostly rural residents. This deprivation usually leads to economic predicaments such as widespread poverty and high hunger rates. Currently, the Niger Delta Region is characterized by widespread poverty with about 70% of the population living below the poverty line.³⁵

6. Key Enablers/Drivers of IFFs in Nigeria's Petroleum Sector

Nigeria has been tagged as the country most plagued by oil vandals and thefts among its contemporaries of Indonesia, Russia, Iraq, Venezuela, and Mexico (Adishi and Hunga, 2021). The urge to destroy oil pipelines, launder oil revenues, and evade petroleum taxes, for one selfish reason or the other, are being encouraged by a plethora of odious factors which include:

6.1 Corruption and Unbridled passion for Illicit Wealth

The culture of political corruption and the problem of poor transparency and steadfastness to fight this malfeasance and other relatable corrupt practices, which have encroached on the nation's wealthiest resource (Olusola 2021, p. 5), has constantly occasioned the quest for illicit financial gains. Individual government representatives are purportedly profiting from fraudulent practices by defying and sabotaging all transparency mechanisms stipulated to curb fraud and other forms of IFFs in the oil sector (Ibid). Little wonder the nation continues to appear at the forefront of global corruption, being ranked 146th out of 180 countries in the 2019 Corruption Perceptions Index of Transparency International (148th in 2017)³⁶ and the 14th most vulnerable country out of 125 countries on the 2020 Basel Anti-Money-Laundering Index³⁷. And a significant level of this corruption according to the Chr. Michelsen Institute report is domiciled in Nigeria's oil sector.³⁸

6.2 Poor Compliance and Inadequacies of Petroleum Transparency Acts and Laws

One of the fundamental challenges that encourages massive capital flight in the petroleum sector today is non-compliance with petroleum several Acts and laws. The NEITI Act of 2007, section 16, sub-section section one, for instance, states:

An extractive industry company that: (a) gives false information or reports to the Federal Government or its agency regarding its volume or production, sales and income; or (b) renders a false statement of account or, fails to render a statement of account required under this Act to the Federal Government or its agencies, resulting in the underpayment or non-payment of revenue accruable to the Federal Government. or statutory recipients commit an offense and are liable of conviction to a fine, not less than N30,000,000 [which is \$72, 639 in Nigeria's CBN exchange rate).

³⁵ Nigeria Delta Budget (n.d). History, the Niger Delta Region. <https://www.nigerdeltabudget.org/the-niger-delta/>

³⁶Transparency International (2017). Corruption Perception Index. Retrieved from https://images.transparencycdn.org/images/2017_CPI_Brochure_EN_200406_140253.PDF

³⁷Transparency International (2019). Corruption Perception Index. Retrieved from https://images.transparencycdn.org/images/2019_CPI_Report_EN_200331_141425.pdf

³⁸ Chr. Michelsen Institute (2009). Reforming corruption out of Nigerian oil? Part one: Mapping corruption risks in oil sector governance. Alexander Gillies. Retrieved from <https://www.cmi.no/publications/3295-reforming-corruption-out-of-nigerian-oil-part-one>

To the best of this research work, no petroleum firm has been stated to be reprimanded for non-conformity with the NEITI Act, despite significant infringements of the Act (Olusola, 2021, p15). And even if there is (which I am yet to see), stipulating an amount of \$72,639 is not sufficient to discourage tax evasion and falsification of documents among big oil and gas industries. The punishments seem deficient, bearing in mind the billions of dollars that are engendered by the industry. Even two years of incarceration does not have a rigorous dissuasion consequence, seeing the prevalence of corruption in the industry (Ibid).

6.3 Bad Eggs Among Tax Officials

Some multinationals and private oil companies in Nigeria bribe tax officials to slash their petroleum profit tax fees, accept forged documents stating fake profits for the year and enable them to earn tax exemptions, oil licenses, and clearances (Transparency International, 2014). This was the case of Chevron Nigeria Limited, an American Multinational Energy Corporation that was indicted for tax circumvention and deception between 1998 and 1999 (Otusanya, 2011). The firm, in collusion with some [unnamed] tax officials, evaded approximately US \$2.7 billion due taxes by reprocessing the sum of tax owed to the Federal Government, in addition to the accrued fines of \$8 million (Ibid). Even when all accrued taxes are paid to tax officials, there are tendencies that these fees would be misappropriated or tampered with even before it gets to government officials. A report from KPMG audit had shown that, within a period of five years [from 2010-2015], the Federal Inland Revenue Service [FIRS: which collects petroleum profit taxes, among other forms of taxes], Department of Petroleum Resources [a department that collects royalties on oil producing fields, gas flare penalties, rents, etc.], among others, had failed to remit \$21 billion into the Federation Account³⁹.

6.4 Lack of Opportunities and Youth Retaliation

The Niger Delta region is considered the most oil impacted region around the globe due to poor regulated oil and gas activities (such as gas flares and oil spillage), which results in grave environmental crises like climate change, water and land pollution, destruction or degradation of livestock and other farm produce – and this, to a large extent, has culminated to widespread hunger and poverty, diseases, loss of income generation and other sources of living. (Omotola, 2009; Raji & Abejide, 2013; and UNEP, 201). In retaliation, a group of people has gone on a rampage, causing wanton destruction of lives, vandalizing, and stealing crude oil resources, with the proceeds going into the procurement of sophisticated arms and ammunition.

Although the government has made concerted efforts to improve economic development in the region through the establishment of the Niger Delta Development Commission (NDDC), Oil Mineral Producing Areas Development Commission (OMPADEC), Ministry of Niger delta (MND), and Amnesty program for the militants and improvements of revenue derivation for the oil-producing states in the region from 1 to 13% over the years, no vibrant progress has been recorded partly due to inconsistency in programs implementations and political corruption, (Ahmed and Moh'd, 2017, p. 3). Consequently, the aggrieved individuals have taken this as a pretext for sustaining decades-long financial crime and conflict.

6.5 Challenges with Beneficial Ownership Disclosure

In most oil-rich countries like Nigeria, the concept of anonymous ownership of businesses without thorough scrutiny from law and anti-graft agencies today serves as a vehicle for capital

³⁹ Olalekan Adetayo, "NNPC, NPA, FIRS, others failed to remit N526 bn, \$21 bn - NEC", The Punch, May 18, 2018, <https://punchng.com/nnpc-mpa-firs-others-failed-to-remit-n526bn-21bn-nec/>

flight and conflict of interests by Politically Exposed Persons (PEPs). When corrupt government officials and politically connected individuals seek to profit from a country's mineral assets, they latch onto anonymous ownership structures that do not provide sufficient information about the true identities of the natural persons behind the title.

According to NEITI:

...the real problem is not just about anonymity, it is that this lack of transparency allows influential officials to use their positions to extract maximum rent from a country's mineral resources with minimum or no benefit to the citizens. In practical terms, billions of dollars are lost annually which politically connected individuals appropriate to themselves using fronts and secret ownership arrangements... local and international oil companies operating in developing countries [like Nigeria] typically exhibit a complex structure of ownership that makes it difficult to identify the real individuals behind these companies or their connection to companies with whom they transact business.

The complexity of this anonymous structure, coupled with Nigeria's weak institutions and law enforcement agencies, has enabled both PEP and oil firms to conceal fraudulent activities and evade due taxes commensurate to their profit earnings. A well-designed beneficial ownership policy, backed up by free-corrupt agencies and with legislative enactments, can help restrict IFFs practices between PEP and companies engaged in the petroleum sector.

7. Policy Recommendations for International Communities

7.1 Collective Reforms on Transfer Pricing Policies

Since transfer pricing has become a global technique for shifting oil profits and avoiding taxes, the Organization of the Petroleum Exporting Countries, responsible for regulating petroleum production, supplies, and prices in the global market, should work closely with the International Centre for Tax and Development and the Organization for Economic Co-operation and Development (OCED: an organization geared towards for stimulating global policies for better economic lives) – among other international communities – in reforming existing transfer pricing policies in a way that would bring about transparency in the method of intercompany transactions, while curtailing illicit financial flows such as tax evasion. The OPEC should place a binding law on its member states to strictly adhere to the reformed TP policies and indicate penal sanctions where the reformed or new policies are violated.

7.2 International Regulation on the Petroleum Transparency Acts and Laws

In August 2021, Nigeria subscribed to a new act known as the Petroleum Industry Act (PIA 2021) with a view to regulating its petroleum sector, but the question is: will the nation activate sustainable action plans toward implementing the new Petroleum Acts? An international eye like the OPEC should regulate Nigeria's efforts in implementing the PIA 2021. OPEC should often run a quality check to ensure that the PIA 2021 is in line with the international Petroleum Act standards, Anti-money laundering, and are free from excessive political interferences. Amendments should be made in PIA sections where there are ambiguous or imprecise language and ineffective paragraphs. Collective aids should also be taken in building capacities that would address and implement the new PIA.

7.3 Roles of International Banks

Every year, billions of dollars are being stashed away in foreign banks, making them a haven for illicit accumulated oil wealth. Against this, foreign banks, especially in the United Kingdom and elsewhere in the world, should continue to shun corruption and keep conducting critical assessments in investigating, detecting, and freezing illicitly gained wealth from Nigeria. In cases where ill-gotten wealth has been traced and frozen by an international bank, a proper reportage channel should be transparent enough to communicate to the relevant Nigerian government authority and air on a tv news broadcast for the public to note. This will discourage many PEPs and oil moguls from stashing away public oil revenue.

8. Policy Recommendations for the Nigerian Government

8.1 Established transparent mechanism for oil licenses and contract awards:

Government, in collaboration with its anti-graft agencies, should create a robust and transparent mechanism for issuing oil licenses and contract awards to private oil companies in Nigeria. This mechanism should act as a yardstick for explaining the “who-and-why” reason(s) for granting oil contracts to a private oil company. It should be able to identify and understand the business entity of such an oil company, its financial capacity, and its possible connection with a politically exposed person to prevent money laundering schemes and other fraud activities.

8.2 Improved Transparency on beneficial ownership

The anonymous, unaccountable, and complex structure of beneficial ownership – that does not provide sufficient information about the true identities of the real persons behind such ownership structure – has remained a tool for coveting oil revenue. The government needs to step up its game by improving – rather than establishing new – standards and procedures that regulate beneficial ownership in Nigeria's oil and gas sector. In line with the EITI's⁴⁰ 2016 standards, the government must establish public registers that would disclose who owns, controls, and benefits from any oil contracts or related arrangements so as to improve the transparency of any transactions and discourage individuals from engaging in fraudulent oil activities such as money laundering and tax evasion.

8.3 Strict Regulation of Petroleum Industry Acts

Nigeria has taken a good step by signing the new Petroleum Industry Act (PIA) 2021. The new PIA guides the overall governance of the oil and gas sector to ensure that petroleum resources are free from fraudulence and are utilized in the best effective manner.

According to Brookings (2021):

PIA can represent the gold standard of natural resource management, with clear and separate roles for the subsectors of the industry; the existence of a commercially-oriented and profit-driven national petroleum company; the codification of transparency, good governance, and accountability in the administration of the petroleum resources of Nigeria; the economic and social development of host communities; environmental remediation; and a business environment conducive for oil and gas operations to thrive in the country.

⁴⁰ Extractive Industries Transparency Initiative (EITI) is a global standard for the good governance of oil, gas, and mineral resources. It seeks to address the key governance issues in the extractive sectors.

These are great steps to save our oil and gas sector from IFFs, but what vibrant actions have been taken to sustain the PIA 2021? In as much as I earlier recommended for international regulation of petroleum transparency acts, it is also imperative for the national government to play vital roles in sustaining her new Petroleum Act, hence, I suggest that:

- Government should create an independent expert team that will regulate the new PIA and ensures that the oil and gas industry operates in accordance with the stipulations of the Petroleum Industry Act. More so, the expert team should be responsible for any amendments that may improve the stipulations of the new petroleum act.
- In a current democratic state, the government should enable anti-graft agencies to work collaboratively with the (proposed) expert team in monitoring and apprehending individuals, oil companies, and PEPs that are into fraudulent activities contrary to the stipulations of PIA.
- Government control over several components of the oil and gas sector should be subject to critical reviews, where an independent team of investigative reporters will have the right to carry out deep investigations and reports on government reactions towards the implementation of the new PIA.

8.4 Addressing Social Injustice

It is the responsibility of the government to improve social justice and the welfare of her citizens. Ordinary citizens are the ones who suffered the adverse effects of pipeline vandalism and oil explosion. To ensure social justice in oil-producing areas, the government needs to be intentional about cleaning up contaminated sites in the oil producing communities. A long-term partnership with multinational oil companies and private investors could help raise funds for the purpose of cleaning up contaminated areas affected by artisanal refining. In addition, a comprehensive assessment should be put in place to keep track of the budget expenditure on the clean-up action. Revenue from oil resources should also be used to address significant issues such as hunger, contaminated water, and other forms of poverty that affect the needs of the people. Strict enforcement of laws and stiffer punishment should be meted out to criminal groups involved in pipeline sabotage, revenue theft, artisanal refineries, and pipeline corrosion – to serve as a deterrence to perpetrators of crime.

8.5 Digitalized Anti-Money Laundering Activity

Public officials can keep track of oil resources by embracing regulatory technology developments, including automating and digitalizing Anti-Money Laundering Software (AML Software) which aims to report or curtail illegally obtained oil income. The Nigerian government can use this technology to track IFFs (such as oil theft), monitor financing projects, and oversee spending in its political institutions.

8.6 Tax Reforms

Government, through its advisers, should embark on feasible tax reforms to improve capacity building and eliminate bad eggs in the tax system. A specific, proactive, and sustainable policy should be consolidated to achieve efficient tax justice in the oil and gas sector. When confronted with complex challenges, tax officials should engage in comparative tax analysis (i.e. comparing our poor tax system with other improved tax systems elsewhere in the world) to identify and fix loopholes in our tax system.

8.7 Government Agencies and civil society

There should be an increased collaboration among petroleum agencies, tax authorities, law enforcement, and community-based organizations (CBO) to highlight supporting, feasible ideas that could help the government to fight illicit financial flows in the oil and gas sector.

The National Orientation Agency of Nigeria – a body responsible for communicating government policy and documenting public opinions – should carry out actionable campaigns against violence such as pipeline vandalism and violent attacks on the oil and gas infrastructure. Local communities, most especially, need to be enlightened on the grave consequences of pipeline vandalism and other related attacks.

9. Concluding Remark

The sad reality about crude oil is that it has become a vehicle for money laundering and capital flight; a tool for armed conflict and violence; and a paradoxical promoter of abject poverty, human right violation, and environmental degradation. Resource-dependent countries like Nigeria have, over the years, licked from the sour of decades-long corruption, artisan refineries, and cronyism that has encroached on her oil and gas sector. This does not only serve as a threat to Nigeria's fragile economy, but also brings great disadvantages to the majority of her citizens – whose lives have been compromised and subjected to severe socio-economic crises such as poverty, hunger, environmental and health hazards, to mention but a few.

Considering the magnitude of IFFs in Nigeria's oil and gas sector – and the vicious acts perpetrated by oil multinationals and corrupt public officials, this paper concludes that the intervention of the international community and that of the government of Nigeria are pivotal to rescuing the crude oil resource from IFFs. The international community should create a collective reform that will curtail fraudulent practices on transfer pricing, while the government of Nigeria should improve the mechanism and transparency of beneficial ownership and push for strict regulations of the new Petroleum Industry Acts.

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