



# OIL THEFT, ILLEGAL REFINERIES AND THE FIRST EIGHTEEN

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## ABSTRACT

The emergence of a parallel economy in the Niger Delta of Nigeria built around oil theft and illegal refineries has already been acknowledged by all stakeholders in the industry. The influence of the said informal economy on the Nigerian State has also been considered as far reaching. This paper adopts the

## Introduction

The discovery of oil off shore Lagos by Yinka Falawiyo Petroleum in 1996 has encouraged increased oil prospecting in Western Nigeria. Some investors have been issued with Oil Prospecting Licences (OPL) and if they discover oil, the potential contribution of Lagos to the nation's oil reserve will increase significantly.<sup>1</sup> But international oil companies are beginning to divest in Nigeria because of several negative reasons including insecurity, illegal bunkering, corruption, policy inconsistency, tax issues, vandalism, increasing overhead, expatriates staying over two years on the job without grooming Nigerians for takeover.<sup>2</sup> In the same vein, Aituaje in 'Nigeria's National Security in an Age of Terrorism' had equally identified the major threats to Nigeria's security to include Niger Delta insurrection and militancy, trans border crimes, illicit arms trafficking, illegal bunkering, corruption, porous international borders, cyber-crime and terrorism and many of these are traceable to oil bunkering.<sup>3</sup>

<sup>1</sup> 'Lagos Oil Discoveries may Boost Reserve by 855mboe'. Punch Mobile, <http://punch.mobile.mobi/output.php>. July 25, 2017.

<sup>2</sup> Ahiuma-Young, V., 'PIB: IOCs can't Blackmail Nigeria'. [www.vanguardngr.com](http://www.vanguardngr.com). August 6, 2017.

<sup>3</sup> Aituaje I. P., 'Nigeria's National Security in an Age of Terrorism (4)'. [www.ngrguardiannews.com](http://www.ngrguardiannews.com). July 24, 2017.



The Oil and Gas Forum in Aberdeen, Scotland held by the Society of Petroleum Engineers (SPE) Offshore Europe toed the same lines. At the forum, according to Okere,<sup>4</sup> a mix of disincentives, have contributed to the dwindling foreign investment in the sector. The prevailing insecurity, particularly kidnap, in the Niger Delta, inadequate infrastructure and inconsistency in government laws and policies have kept players away from the Nigerian environment preferring Angola and Ghana despite the huge potentials observing that it costs three times more to operate in Nigeria than in other African countries. For instance, Nigeria was to sink a staggering sum of \$2.68 billion in the construction of three oil refineries in faraway Indonesia, the Jakarta Post reported. Previously, the refineries were to be built in Nigeria but as Indonesia had improved its downstream industry, it called the shots and the irony was that the crude oil for the refineries was to come from Nigeria.<sup>5</sup> Theft of oil across the country has caused further disagreements

doctrinal method and argues that the growing unemployment of youths of the delta and their lucrative engagement in the rogue economy pose major hurdles to the fight against oil theft and illegal refineries in the creeks. The sundry corrupt activities of both the Nigerian State and the multinational oil companies in creating the environment in which theft and illegal refining thrive can also not be under-emphasized. It advocates for new legislative frame work for oil theft and illegal refineries by canvassing for a review of the present stiff penalties to a more effective legal framework in combating the scourge of oil theft and illegal refineries in Nigeria to encourage the development of the local technology behind oil theft and illegal refineries.

**Keywords:** oil theft, illegal refineries, informal economy, pipeline vandalism, legal framework

<sup>4</sup> Okere, R., 'Why Investors are Shunning Nigeria's Oil, Gas Sector'. [www.ngrguardiannews.com](http://www.ngrguardiannews.com). September 9, 2017.

<sup>5</sup> 'Mission Incredible: Nigeria to invest US \$2.68 billion in Indonesia Refinery Deal'. <http://mobile.saharareporters.com>. October 12, 2017.



according to Ujah.<sup>6</sup> Nigerian National Petroleum Corporation (NNPC) for instance, had disagreed with Shell that Shell's loss of \$700 million dollars to oil theft in the 2<sup>nd</sup> quarter of 2013 was defective and not based on its operations in Nigeria. NNPC argued that Shell's divestments were a blessing in disguise for the nation as they had increased indigenous participation which would in turn create new job opportunities, reduce capital flight, encourage capacity building and support gas-based industrial aspirations. In a swift reaction to the contention of NNPC, Shell recanted and reposted that it lost \$250 million instead of \$700 million.<sup>7</sup> In other words, the parental claim by Royal Dutch Shell that it lost \$700 million in the second quarter of 2013 due to oil theft whereas the actual amount lost to operational difficulties was \$250 million is a clear indication and corroboration of the allegation that the figures posted out there on oil theft are unrealistic and exaggerated and that the popular narrative of crude oil theft as it affects Nigeria is not entirely true. In addition, Members of the Oil Producers Trade Section (OPTS) have opined that the current figure bandied around as Nigeria's daily crude oil loss to theft owing to illegal bunkering activities in the Delta is inaccurate. It is around 49,000 bpd as against the often quoted figure of 400,000 bpd depending on the level of criminal activities recorded at a particular production point within the Niger Delta. Moreover, it is necessary to distinguish between shut in, deferment and force majeure from outright stealing. Deferment is where production from a particular sabotaged line is stopped and then a force majeure is declared leading to a shut in.<sup>8</sup> Force majeure is meant to protect a multinational from bearing any liabilities to crude oil buyers due to a shut in. The focus of the narrative is short or narrow according to Ayanruoh when it seeks to indict the Jonathan Administration as the sole or principal culprit for oil theft without drawing from the lessons of the previous administrations.<sup>9</sup> This is because the 70-page report entitled, 'Nigeria's Criminal Crude' by the London-based Chatham House links the growing scourge of crude oil theft and pipeline vandalism in the delta to

<sup>6</sup> Ujah, E., 'NNPC Disagrees with Shell on \$700 million Loss'. [www.vanguardngr.com](http://www.vanguardngr.com). August 8, 2017.

<sup>7</sup> Eboh, M., 'Crude Oil Theft: Shell Recants, says it lost \$250m not \$700m'. [www.vanguardngr.com](http://www.vanguardngr.com). August 7, 2017.

<sup>8</sup> Okafor, C., 'OPTS Disputes Figures on Nigeria's Daily Crude Oil Theft'. [www.thisdaylive.com](http://www.thisdaylive.com). August 22, 2017.

<sup>9</sup> Ayanruoh, F., 'Nigeria – Cold Facts of Crude Oil Theft'. [www.vanguardngr.com](http://www.vanguardngr.com). October 15, 2017.



the 2015 general elections. According to Adeola, proceeds from oil theft may have expectedly been used to fund politics ahead of the 2015 election which is one of the reasons for inability of government to record any high level convictions. It was argued that anyone who was capable of curbing the theft really did not have the will to do so because the web of beneficiaries made it difficult to stop. Even the security agencies particularly the Joint

Military Task Force (JMTF) have had occasion to lament the frustration of noticing that certain culprits arrested soon returned to the creeks and pipelines shortly after being arrested and handed over to the police for prosecution.<sup>10</sup>

However, the clamour of the gains of divestment is not always positive. Prominent leaders in Isoko in Delta State had had cause to kick against Shell and Nigeria Petroleum Development Company (NPDC) in divesting OML 26 and OML 30 to First Hydrocarbon Nigeria Limited in 2010 and Shoreline Resources Limited in 2012. The leaders kicked against divestment on grounds of flagrant breach of the extant provisions of the Petroleum Act and its regulations in that they had been sold to government cronies at give away prices or the blocks were largely undervalued. This was because while OML 26 was estimated to be producing only 5,500 bpd, its production capacity soared to 12,000 bpd in less than a month after the lease and OML 30 estimated to produce 200,000 bpd was producing 45,000 due to the ineptitude of NPDC at the time of divestment and the buyers lacked the financial capabilities, requisite technical knowledge, manpower and experience to manage the blocks as against other well rooted local content vehicles.<sup>11</sup>

Despite the impressive profile of the Nigerian oil and gas sector's contribution to the nation, the Gross Domestic Product (GDP), according to Okere,<sup>12</sup> had continued to decline due to the absence of the required human capital needed for operations and the menace of crude oil theft. These two challenges are so critical that Sumonu<sup>13</sup> of Shell has claimed

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<sup>10</sup> Adeola, Y., 2015 Elections behind Oil Theft in Nigeria – Report. <http://dailyindependentnig.com>. September 23, 2017.

<sup>11</sup> Anote, A., Delta Communities Seek Probe of Alleged Illegal Divestment of Oil Mining Leases. [www.ngrguardiannews.com](http://www.ngrguardiannews.com). October 10, 2017.

<sup>12</sup> Okere, R., How to Tackle Theft, Human Capital Issues in Oil, Gas Sector. [www.ngrguardiannews.com](http://www.ngrguardiannews.com). August 8, 2017.

<sup>13</sup> Id.



that Shell was losing 60,000 barrels of oil daily to thieves and the only way to grow the nation's oil reserves to 40 billion barrels per day was to fight oil theft. Sumonu argues that the impact of the activities of crude thieves and illegal refineries on the environment in the Niger Delta and the national economy had worsened causing serious damage to the environment while a significant proportion of the stolen crude used in the illegal refineries were disposed off in the environment. The perpetrators of these crimes need to be arrested and prosecuted; until there is deterrence, the industry does not stand a chance against illegal bunkering of the scale prevalent in Nigeria.<sup>14</sup>

However, Nigeria crude output dropped an additional 150,000bpd when Shell shut a section of the Trans Niger Pipeline due to a fire outbreak along the pipelines joint venture right of way at Patrick Waterside, Bodo, Ogoniland even as investigations and repair work continued on spill sites that occurred previously in the same area. According to Shell, 'The entire Trans Niger Pipeline comprising the 24 inch line and 28 inch line had been closed on 9<sup>th</sup> October, 2013 as a precautionary response to the spills, but the 28 inch Trans Niger Pipeline (TNP) was reopened shortly after investigations established that the leaks were on the 24 inch line only.' Investigations into earlier incidents showed that unknown persons had drilled holes on the 24 inch TNP at B-Dere, while an excavation was observed at Bodo West.<sup>15</sup>

Due to the rising incidences of pipeline vandalism and crude oil theft, Shell announced plans to sell off the 97 kilometer 150,000 bpd Nembe Creek Trunk Line in the Niger Delta region. Along with its Joint Venture Partners, Total of France and Eni of Italy, Shell also planned to sell off four oil blocks in the region being oil mining licenses (OML) 18, 24, 25 and 29. According to Mackenzie, the four blocks produced 70,000 barrels of oil and natural gas in 2012 accounting for 10 percent of the Joint Venture's total production and 8 percent of Shell total production in Nigeria.<sup>16</sup> Shell has further indicated its intention to divest OML 13 and 16 onshore Niger Delta and OML 71 and 72 in shallow waters. OML 13 and 16 are in Ogoniland where Shell has had a long running battle with local

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<sup>14</sup> Id.

<sup>15</sup> Eboh, M., 'Shell Shuts-in 150,000 barrels of Crude over Pipeline Fire.' [www.vanguardngr.com](http://www.vanguardngr.com). October 14, 2017.

<sup>16</sup> Id.



communities, multiple oil spills and widespread pipeline sabotage and theft. OML 72 is stated to have proven reserves of about 120 million barrels while OML 71 has lower reserves.<sup>17</sup>

Shell had already sold 8 oil blocks for a total of \$1.8bn since 2010 to previous buyers of Shell blocks including London-listed Afren and Heritage Oil. Oando Energy has equally acquired a marginal field in OML 13. On the other hand, Chevron has also planned to divest in 5 shallow water blocks including OML 52, 53 and 55 located in onshore Niger Delta disposing off 40 percent of its stake as it has done in OML 83 and 85 operated as a joint venture with NNPC. On its part, ConocoPhillips is selling its Nigerian business to Oando Energy for about \$1.79bn.<sup>18</sup>

There is no doubt that a significant role is said to be played by oil theft in the politics of multinational divestments in the delta. The critical views of Ogun, President of PENGASSAN in an interview with Ahiuma-Young and Azubike are incisive.<sup>19</sup> Chevron, according to Ogun, was in the process of divesting about 3 to 4 oil fields and Shell had been divesting repeatedly and was going to divest more, while Total oil would also divest further. A significant feature of divestments in the delta is that indigenous local content vehicles are taking over sometimes, vehicles that are nondescript instead of other well funded multinationals.

Although the positive propensities of these divestments have been highlighted more often than not, it is obvious that they are taking place in the downstream problematic sector infested with monumental fraud. Ogun<sup>20</sup> argues that politicians taking cover and shield under the current petro-state complex are trying to frustrate the multinationals in order to acquire their onshore assets. Ogun argues further that most of the stolen crude oil might be as a result of some of these divestments by operators that are not well known or well funded and established which may dabble into bunkering in order to break even. Government interest thesis is therefore actuated towards easing out the multinationals in order to acquire the facilities onshore which have been bedeviled by kidnapping

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<sup>17</sup> Amanze-Nwachuku, C., 'Shell to sell four more Oil Blocks'. [www.legaloil.com](http://www.legaloil.com). <http://www.thisdaylive.com/articles/> August 2, 2017.

<sup>18</sup> Id.

<sup>19</sup> Ahiuma-Young, V. and Azubike, K., 'Crude Theft, Vandalism Frustrating Nigeria's Petroleum Industry – PENGASSAN'. [www.legaloil.com](http://www.legaloil.com). November 5, 2017.

<sup>20</sup> Id.



issues or vandalism becoming ‘uncontrollable, ungovernable and unmanageable.’ It is this government interest thesis that may have informed the recommendation proposed by Lledare<sup>21</sup> that all onshore fields should be handed over to the oil producing states, while the Federal government concerns itself with offshore exploration and exploitation.

It is further opined by Ogun that these relinquishments being informed by oil theft and vandalism that are running out of norm without the state showing any concerted efforts at bringing the scourges to check is indicative of the fact that roguery is beginning to sip in and take the centre space in the oil and gas industry and that it might as well be that ‘criminal’ is the name of the organizations surging forward to fish in the troubled fields that the multinationals have considered no-go areas. The government interest thesis has the flip side of the coin to the effect that the multinationals that are divesting may have studiously looked at it that it may no longer be profitable in the near future to continue to be entangled with the fields that they are currently putting up for sale and may want to get as much as possible in the present and parry the risks in the fields to the independent vehicles jostling for them as the wells may no longer be as productive as they had been.<sup>22</sup>

### **Oil Theft Sustains Illegal Refineries**

Kuku has called on countries such as Cameroon, Gabon and others where ‘illegal refineries’ exist to stop the menace of illegal oil bunkering in the sub-region arguing that the mode that indigenes of the Niger Delta are involved in is illegal refining which is called ‘coal fire’ but which has been successfully combated by the Joint Task Force (JTF). Kuku regrets that illegal oil bunkering runs into about 500,000 barrels per day and that the state legally drills about 2.6 million barrels per day.<sup>23</sup> The Joint Task Force (JTF) had claimed that it had arrested 608 suspected oil thieves between January and June, 2013 and seized 24 Vessels and 133 barges. The Nigeria Extractive Industries Transparency Initiative (NEITI) claimed that Nigeria

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<sup>21</sup> Ebiri, K., ‘How Bunkering Puts Nigeria’s Oil Export in Jeopardy’. [www.legaloil.com](http://www.legaloil.com). September 29, 2017.

<sup>22</sup> Ahiuma-Young, V., and Azubika, K., Loc. Cit.

<sup>23</sup> Onochie, B. C. and Azimazi, M. J., ‘Mark Insists on Death Penalty for Oil Thieves’. [www.ngrguardiannews.com](http://www.ngrguardiannews.com). June 25, 2017.



lost over \$11 billion to crude oil theft and pipeline vandalism between 2009 and 2011.

Kuku has admitted that illegal refineries existed in the past. He states:

*Yes we used to have illegal refineries but after Mr. President issued the directive, the Nigerian Military has been expanding their mode of operation and rules of engagement in dealing with the issue of oil theft and bunkering. They have been able to wipe away the issue of illegal refineries, particularly in Rivers State and most part of the Niger Delta. The Navy in particular has been dealing with those involved in illegal refineries*

Flowing from above, according to Amaize, the Nigeria Navy, Warri Naval Base, cracked down on oil thieves in Opumami and Olero Creek in the riverside areas of Delta State and razed over 33 unlawful crude oil refineries; the Naval Operatives also destroyed over 33 cottonou boats intercepted during the offensive to act as deterrence to bunkerers.<sup>24</sup> In another report, the Joint Task Force (JTF) code-named 'Operation Pulo Shield' carried out 594 illegal oil bunkering patrols and made several arrests to scupper and scuttle 148 illegal refineries within the Niger Delta impounding 24 sea-going vessels and arresting 133 barges involved in oil theft; 861 giant open wooden cottonou boats had been scuttled; and 910 large surface tanks which oil thieves engaged in illegal refineries use to reserve crude had been scuttled.<sup>25</sup>

In yet another report by Oyandongha, the JTF 'Operation Pulo Shield' destroyed 32 illegal crude oil refining camps in Ekeremor and Southern Ijaw Local Government Area of Bayelsa State,<sup>26</sup> open wooden boats used by oil thieves in Lagos-gbene, Akamubugo, Forabagbene and Shigogbene communities were destroyed. The JTF and NNS Delta also destroyed 29 illegal crude oil distillery camps, 11 open boats with 55 large steel surface tanks, 20 dug out pits, 10 plastic surface tanks filled with

<sup>24</sup> Amaize Emma, 'Navy Raids Oil Thieves, Razes 33 Unlawful Oil Refineries in Delta'. Vanguard Newspapers. August 1, 2017.

<sup>25</sup> 'JTF Arrests 608 Suspected Oil Thieves, Seizes 24 Vessels'. Vanguard Newspapers, July 31, 2013 p. 21.

<sup>26</sup> Oyandongha, S., 'JTF Destroys Illegal Refineries in Bayelsa'. Vanguard Newspapers. July 26, 2013 p.46.



stolen crude oil and illegally distilled adulterated Automated Gas Oil (AGO) in Warri South Local Government Area in Delta State. In Edo State, between January and November, 2013 alone the National Security and Civil Defence Corps destroyed seven illegal refineries in two local government areas alone in the state; three at Agbede and three at Iluoke both in Etsako West Local Government Area and one at Abudu in Orhionwon Local Government Area.<sup>27</sup>

However, the military option has not seemed to work out well. In the past, the Nigerian government tended to approach the problem through an admixture of military force and co-optation of local strongmen. Both strategies, to Obadiah, are not working.<sup>28</sup>

The Nigerian Navy is ill-equipped to maneuver through the primeval mangroves of the Niger Delta. They are bought over by robber barons. In the case of the Bolo illegal refinery, Bolo leaders, represented by Oforibika, a lawyer and Chief of Bolo Community, for instance, admitted that the military was paid off as he stated: 'When the refinery was working it used to refine around 10,000 liters of oil a day. It could only operate with the help of the police and military. The pay off system to the armed forces and police was well organized. It was a plum posting for the military here. Most army has a lifestyle that you cannot explain.'<sup>29</sup> In the end, for Bolo illegal refinery on the small island of Odokian, it was invaded and raided by the military in May, 2013 mainly because the consortium that owned it refused to pay the authorities for protection and consequently, the four acre site stinks of oil and may never recover. It is saturated with waste oil, blackened by fire without fish in its waterways. Rusting pipes burned out oil drums and old metal tanks litter several acres of what used to be lush farmland.<sup>30</sup>

Kuku has stated further, 'If the people who are not specialists in drilling, refining can create that kind of ways and means to turn crude to kerosene and fuel, as even as it is, there is something positive about the fact that our people can be that creative. So, we need to re-channel the energies to something legal. So, it is not just about stopping it, it is also

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<sup>27</sup> 'How NSCDC Destroyed 7 Illegal Refineries in Edo'. [www.legaloil.com](http://www.legaloil.com). November 13, 2017.

<sup>28</sup> Obadiah, M., 'Nigeria's Oil Pillage Crisis'. <http://businessdayonline.com>. September 30, 2017.

<sup>29</sup> Vidal, J., 'F1bn a month: The Spiraling Cost of Oil Theft in Nigeria'. [www.theguardian.com](http://www.theguardian.com). October 5, 2017.

<sup>30</sup> Id.



about identifying those who are involved and getting them to channel their energy legally and positively in the oil and gas industry, at the level of local participation.<sup>31</sup>

Thus for Ledum,<sup>32</sup> at the artisanal level the question arises as to what to do with them because these illegal refineries employ over 450,000 youth of the Niger Delta and the average GDP of the business is more than twice the national average. Some youths out of school on the business earn as much as N500,000 a week or month. To such a youth, the threat of arrest becomes less when he looks at the gains and the options. The real risk of death, illness, pollution and the Nigerian armed forces smashing up the illegal refinery camps are all outweighed by the lure of jobs and money in the impoverished communities. Young men and women, often working into the night, pump crude oil from barges into massive tanks or open air pits, heat to boiling point with naked flames and then pass the liquid through water-cooled pipes where it condenses and evaporates. Black smoke billows across the swamps into the night skies, the waste oil residue is tipped straight into the waterways and at any point the tanks could explode.<sup>33</sup>

From Vidal's account, an illegal refinery camp takes about \$4,700 to set up, employs over 12 – 20 people and can make about \$7,800 a month profit from sales. But the camp operators must hire boats, bribe the security forces, and pay the communities to turn their faces the other way and condone the illegal activity; and no sooner is one refinery camp broken down by the military than another one emerges from the ashes of the dead one within a few weeks and the cost of reconstruction is usually not more than 7 percent of the total annual profits.<sup>34</sup>

Calling them firewood distillers, the ex-Minister of Petroleum, Allison-Madueke, has argued that Nigeria may not survive from the set back caused by the current vandalism of oil and gas installations in the next 20 years.<sup>35</sup> Yet, Okeke at the Civil War seminar at the National Defence College, Abuja in 2001 has noted that during the Biafra civil war, Biafran

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<sup>31</sup> 'Presidency Indicts International Oil Companies in Oil Theft'. [www.vanguardngr.com](http://www.vanguardngr.com). August 1, 2017.

<sup>32</sup> Ahamefula, O., 'Nigeria: Oil theft – We are yet to Catch the Big Thieves, says Mittee'. <http://m.allafrica.com/stories>. October 14, 2017.

<sup>33</sup> Vidal, J., 'Nigerians Risk Death Working at Illegal Oil Refineries'. [www.theguardian.com](http://www.theguardian.com). October 16, 2013.

<sup>34</sup> Id.

<sup>35</sup> See Okere, R., 'Counting the Cost of Pipeline Vandalism'. [www.ngrguardiannews](http://www.ngrguardiannews). August 14, 2017.



scientists built mini-refineries. Pointing out that at the National War Museum, Umuahia has a Biafran Fuel Distiller or ‘Cooking Pot’ used to refine petroleum Okeke submits that any crude refinery now would become modern with innovation in science and technology with time.<sup>36</sup> The roots of illegal refineries are thus to be traced to the bloody Biafran civil war of 1967-1970, the continuing injustice of the people getting no benefit from oil, and the inability of the oil companies to stop or clean up their pollution. The basic refining techniques first used in the Biafran war were resurrected and modernized by the militants to provide cash for insurgency. But after an amnesty deal was struck in 2009, the militants returned to the creeks ‘taking their knowledge of refining with them’ and taking their destinies in their own hands.<sup>37</sup>

An interviewee stated, ‘The government and oil companies are collecting our oil and we don’t have jobs, no money, so we have to collect the oil and refine our own.’ Another stated, ‘We have no fish in these creeks because of pollution. Even the farmers, their lands have been polluted with oil – so they all joined the practice of illegal oil refining’. John Vidal<sup>38</sup> who studied the report of the Port Harcourt based Stakeholders Democracy Network (SDN) which based its report on interviews with operators of 9 illegal refineries in Bayelsa, Rivers and Delta States submits that a vicious circle of pollution and self-determination drive the economy of illegal refineries. The militants started pipeline vandalism due to their aggression towards the oil companies and because the amount of money their communities were being paid as compensation for spills were peanuts. They went back to the creeks not with guns, but the illegal refining technology.<sup>39</sup>

The refineries may be crude and possibly the most dangerous place to work, but they depend on a sophisticated network of high level corruption led by government security forces to keep them going and running. According to interviewees, the security forces are key factors and players in the whole corrupt system. ‘They must be paid off all along the line, from when the first illegal tap is placed on the pipeline to when

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<sup>36</sup> Osita, O., ‘Geopolitics and Strategy of Petroleum. The Nigerian experience’. [www.vanguardngr.com](http://www.vanguardngr.com) September 27, 2017.

<sup>37</sup> Vidal, J., Loc. Cit.

<sup>38</sup> Id.

<sup>39</sup> Id.



they collect “transport” fees, protection money and sales taxes’. The illegal trade often begins in the oil companies, with pipeline operators being bribed up to \$6,000 to reduce the pressure in pipes to allow gangs to break in and siphon off the oil. The operators of “tap points” must pay thousands of dollars a month for security, and labour, but they can make over \$1 million a month from stealing oil and selling it on to traders.<sup>40</sup> The case for illegal or indigenous oil refineries has been vibrant equally. Over 500 small scale illegal oil refineries that have sprung up across the Niger Delta in the past five years make diesel and kerosene of good enough quality for use in generators and cars. And until now, little has been known about how they operate or get funded, or how important they are to the local economy.<sup>41</sup> It is been argued that the preponderance of a natural resource in a locality is one of the major factors to be considered in locating an extractive industry in such an area. Oil exploration is conducted under stringent control of government through the enactment of the Petroleum Act 1969. The Nigeria National Petroleum Corporation and the 7 sisters have monopolized the system until later that firms like Dubri Oil, Muni Pulo, Consolidated Oil, Midwestern Oil, Seplat, Pillar Oil, Energia etc came upon marginal fields hitherto neglected by the majors.<sup>42</sup> For Magnus Onyibe,<sup>43</sup> it has been further argued that 18 licences were issued for refineries establishment in 2002 and none or a negligible few have taken off till date in the sense that the licenses appeared to have been issued to firms with business plans for replication of the four already existing monstrosities in terms of capital outlay and refining capacity. This is a mission impossible in a country where access to capital is highly limited more so as the market is yet to be completely deregulated for market driven prices. What is advocated by Onyibe is not licencing for green business but licensing for going business.<sup>44</sup> Crude refineries are still sprouting like mushrooms despite constant attacks from the JTF and this suggests that they are serving a niche market – a relevant fact which cannot be ignored. In other words,

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<sup>40</sup> Vidal, J., ‘Nigerians Risk Death Working at Illegal Oil Refineries’. [www.theguardian.com](http://www.theguardian.com). October 16, 2017.

<sup>41</sup> Id.

<sup>42</sup> Onyibe, M., ‘A Case for Niger Delta Indigenous Oil Refineries’. [www.vanguardngr.com](http://www.vanguardngr.com). October 29, 2017.

<sup>43</sup> Id.

<sup>44</sup> Id.



beyond the illegal development, the refinery business is now an important part of the eco-system of the Niger Delta and crude oil theft and illegal refining business appear to support the families, small businesses and social aspiration of many communities in the delta.<sup>45</sup> For Onyibe, therefore, the impropriety of consigning critical oil and gas assets to government and foreigners alone at the expense of indigenous investors is reflected in the dilapidated state of State refineries leading to reliance on imported fuel with the petrol subsidy scam, resulting in excess of N2 trillion loss in 2013 alone as a by-product.<sup>46</sup>

In 'The Illegal Refineries' Ofuani<sup>47</sup> has continued to wonder what really makes these refineries illegal recalling that the earliest crude oil refineries were not built like the Warri Refinery and Petrochemical plant. Indeed before world war 11, most petroleum refineries in the US consisted simply of crude oil distillation units which were referred to as atmospheric crude oil distillation units. Refining crude oil is simply the heating up of crude oil to very high temperatures until the molecular components begin to separate into different products. Thus, to think of oil refineries only as units like those in Warri, Port Harcourt and Kaduna misses the point of its function and technological evolution and by branding indigenous efforts as 'illegal refineries' the risk is run of losing the opportunity of developing the Nigerian indigenous oil and gas industry.

Ofuani<sup>48</sup> further wonders if the reason the refineries the JTF destroys in the Niger Delta are branded illegal is because they are not registered and licenced or because their products are sub-standard. Nigeria is grappling with low capacity; dependence on importation of oil and huge subsidy. There is high unemployment, therefore one is at a loss whether the destruction of indigenous refineries branded illegal is a smart response to the evolving technology. Ofuani raises the following knotty questions: If government were to set regulation and standards and scrupulously enforce them to govern the operation of the refineries, including licencing, access to crude, environmental standards and product

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<sup>45</sup> Vidal, J., Loc. Cit.

<sup>46</sup> Onyibe, M., Loc. Cit.

<sup>47</sup> Ofuani, C., 'The 'Illegal Refineries'. [www.vanguardngr.com](http://www.vanguardngr.com). June 27, 2017.

<sup>48</sup> Id.



standard, would the energies of these indigenous entrepreneurs not be better managed and channeled to address the low refining capacity of the nation, create jobs for the youths and reduce pressure on external reserves? Would it not be a beginning of technological breakthrough in the oil and gas sector? How can it be explained that at a time of national crisis people developed indigenous measures and the response of the state through the JTF is to smash them down. How puerile!<sup>49</sup>

Pursuing further the case for local refineries, Akanimo<sup>50</sup> states that in the creeks of Brass, Escravos, Ogoniland, Akassa and indeed other creeks of the Niger Delta artisanal refining of crude oil forms part of the economic eco-system and the mainstay of families. Illegal refining of crude oil is a booming trade in the creeks although the JTF has destroyed a lot of small-scale artisanal refineries that dot the landscape. Akanimo argues that it is a very superficial approach to addressing the problem as the small refineries would spring up again and start production. In most cases when the military fights the militants and oil refiners, it is because one side or the other is not getting their 'cut'.<sup>51</sup> There is therefore the need for government to explore the viability of supporting these local refiners with a view to boosting domestic production and also redistributing wealth. Local refining provides makeshift employment to a lot of youths. In a camp, it could be up to 400.

Refining petroleum is not so much of rocket science. Crude methodologies are employed by the artisans in the process of refining the oil. Thermal cracking is used in breaking crude oil into useful products. To be refined, it is put into a container and heated at different temperatures. This process may be inefficient, clumsy and a bit dangerous but it works and the end product is cynically called adulterated according to Akanimo.<sup>52</sup> Arguing further, he submits that since large scale production from the nation's refineries still remain a mirage, it behooves on government to review its policies and laws on the refining of crude. Therefore, the Petroleum Industry Bill should be reworked to recognize the operations of these artisans as stakeholders;

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<sup>49</sup> Id.

<sup>50</sup> Akanimo, S., 'Encouraging Local Refining of Crude Oil in Nigeria'. <http://mobile.saharareporters.com>. August 13, 2017.

<sup>51</sup> Goldfarb, B., 'Delta Blues: Documenting Nigeria's Oil Conflict'. [www.sagemagazine.org](http://www.sagemagazine.org). October 15, 2017.

<sup>52</sup> Akanimo, S., Loc. Cit.



accommodate their needs and incorporate them into the scheme of things.

The foregoing more so when licences were granted to private lawful refineries and nothing came off it; and against the backdrop that the so-called illegal refineries are working, it makes sense to wager that had the licences been issued to these small scale refiners, they would have aggregated to form a common entrepreneurial front. Akanimo therefore submits that Government should be innovative and ingenious in formulating policies that regulate the extractive industries. Home made policies regarding the extractive industry should be considered against the practice of copying hook line and sinker the obtaining practice elsewhere. In other words, local refining by the aborigines of Delta should be encouraged as Nigerians deserve to have equal access to their resources but certain criteria should be employed: the Petroleum Industry Bill may have to be re-jigged, a pilot scheme could become necessary for the purpose of standardization and safety and licences should be issued to illegal refiners who should purchase crude from the NNPC.<sup>53</sup>

### **The First Eighteen Private Refineries**

In May 2002 the Department of Petroleum Resources (DPR) granted 18 private refineries licences to operate out of which only one was able to come on stream. They were: Akwa Ibom Refinery and Petro-chemicals Limited; Badagry Petroleum Refinery Limited; Clean Waters Refinery; Ilaje Refinery and Petroleum; Niger Delta Refinery and Petrochemical Company Limited; NSP Refineries Oil services; Ode-Aye Refineries Limited; Orient Petroleum Resources Limited; Owena Oil and Gas Limited; Rivgas Petroleum and Energy; Sapele Petroleum Limited; Southland Associates; South-West Refineries and Petrochemical Company; Starex Petroleum Refinery; The Chasewood Consortium; Tonwei Refinery; Total Support Refineries; Union Atlantic Petroleum Limited.<sup>54</sup>

As at 2010, Amakpe International Refinery Incorporated with 12,000 barrels per day capacity got its Approval to Operate (ATO) revalidated in 2007 but got stuck due to political reasons. In fact US based Nigerian

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<sup>53</sup> Id.

<sup>54</sup> Okere, R., 'How Investors Stall Government's Drive for Private Refineries'. [www.ngrguardiannews](http://www.ngrguardiannews) . December 9, 2017.



investors and promoters of Amakpe International Refineries in Akwa Ibom were said to have completed the fabrication of the plant, machinery and equipment of the refinery when the strained relationship between them and the State Government became a scupper to the realization of the dream. The scuttle arose when an additional sum of \$20,792,308 was said to be needed to pay the US engineers that fabricated the refinery; to ship the refinery to Nigeria; to sort out some financial management issues and administrative costs; to build a foundation of the refinery at Eket; to build a single line 12km steel pipeline; to build a 120,000 BBL refinery tank farm; to construct a pre-engineered project building and construction of internal roads at the site amongst others. But in the midst of these, the State Government requested for a partial refund of its investment leading to a strained relationship between the government and the investors in the project. It was agreed to refund \$1.5 million to the State Government out of its investment of \$10 million. Ex-Presidents Yar'Adua and Jonathan intervened to no avail in a project expected to cost \$60 million and \$38,307,692 had already been expended. The State Governor cancelled the 2007 foundation ceremony of the local site when he failed to show-up at the ceremony.<sup>55</sup>

Akwa Ibom State Resources Petroleum and Petrochemicals International Incorporated with 100,000 barrels per day capacity located at Ikot Abasi also got its Approval to Construct (ATC) in 2010. Rehoboth Natural Resources Limited with 12,000 barrels per day capacity got Permission to Operate (PTO) in 2008 but applied to convert Approval to Construct (ATC) to Licence to Establish (LTE) as at 2010. Amexum Corporation with 100,000 barrels per day capacity complained of lack of fund which stalled the project's take off. Antonio Oil with 27,000 barrels per day capacity located in Ogun State commenced civil and structural works on its site and went no further. Gasoline Associate International with 12,000 barrels per day capacity located at Ologbo, Edo State completed its engineering package but its licence was not renewed by DPR and could therefore go no further.<sup>56</sup>

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<sup>55</sup> Empowered Newswire, 'How Akpabio Blocked Nigeria First Private Refinery in Akwa Ibom. By US Investors'. <http://nigeriavillagesquare.com>. August 29, 2017.

<sup>56</sup> Okere, R., Loc. Cit.



In 2007 when the DPR saw that the first eighteen private refineries did not have either the financial resources or engineering expertise or the zeal to follow the specific guidelines, it cancelled all the outstanding licences and only a few reapplied under more strenuous guidelines. When the investors complained, the DPR removed the statutory \$1million performance deposit required from investors for the establishment of private refineries in Nigeria. Okere<sup>57</sup> argues that government realized that the deposit requirement was a disincentive to investors who were willing to establish refineries in Nigeria as contained in the 'Guideline for the establishment of hydrocarbon processing plant (Refinery and petrochemical) in Nigeria' which states that a \$1million refundable deposit is to be made by an investor for every 10,000 barrels per day refinery capacity to be established. The strategy was to encourage private sector participation in crude oil refining and refine 50 percent or more in Nigeria.<sup>58</sup>

The revocation of the licences issued to investors in 2004 by DPR was premised on lack of credible milestones by the companies; and in enacting the 2007 revised Guidelines, the DPR introduced the \$1million refundable deposit requirement. The first stage for a private investor is to get a license to establish (LTE) involving the submission of the basic engineering design package of the plant to the DPR at the completion of which an approval to construct (ATC) would be granted to only those who meet the specifications. Any investor given the licence has up to 2 years to meet the requirements of the second stage or lose the preliminary licences. The last stage of approval is a License to Operate (LTO) a future plant, which would affect only an investor that has successfully gone through the second stage. Over the years, many applicants have got stuck at different stages of the processes of the projects and their licences have been withdrawn or revoked.<sup>59</sup>

### **Hurdles of Private Refineries**

In their article, 'How to Raise Oil Production Profile', Okere and Salau have identified seven challenges of private refineries to include: illegal

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<sup>57</sup> Id.

<sup>58</sup> Id.

<sup>59</sup> Id.



bunkering, sabotage, security threat to facilities and employees, shortfall in joint venture partners funding, lengthy delays in project approvals, operating cost escalation, lack of domestic gas infrastructure and low domestic gas prices.<sup>60</sup>

Since 1990 till date, the jinx of the giant mentality has continued to stall the establishment of mini refineries. Many have volubly asked why Nigerian public refineries have failed to the point of fuel importation. It has shown another area of Nigerian proclivity for exporting national resources without value addition with embarrassing consequences which is also an element of the worst case scenario of the resource cause thesis. Yet, private investors would not succeed unless the current operating environment is modified. If Nigeria continues with subsidy regimes, private operators would find it difficult to survive. Government must allow a market driven environment to thrive. Regulation is a market killer.<sup>61</sup>

According to Izeze in 'Between Private Refineries and Access to Crude Oil feedstock', recent directive issued by the Department of Petroleum Resources clearly shows that all is not well with building and operating privately owned refineries as an interventions to persistent fuel crisis in the economy. The efforts may not yield results in the next five years. The hostile operating environment has remained the major, if not the only obstacle faced by the licencees in the nation's quest to establish privately owned and operated refineries. He argues that no investor is ready to put money in a dangerously volatile environment as the Niger Delta and no financial institution would want to sink its funds into ventures in such areas regarded as sinkholes. How many foreign engineers and technicians would be ready to go into the Niger Delta with all the kidnaps and killings to carry out construction works on private refineries which may span up to three months or more? How many of the refineries construction firms would be ready to use an all-Nigerian workforce for their projects?<sup>62</sup>

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<sup>60</sup> Okere, R. and Sulaimon, S., 'How to Raise Oil Production Profile, by Stakeholders'. [www.ngrguardiannews.com](http://www.ngrguardiannews.com). August 25, 2017.

<sup>61</sup> Okere, R. and Sulaimon, S., 'How to Raise Oil Production Profile, by Stakeholders'. [www.ngrguardiannews.com](http://www.ngrguardiannews.com). August 25, 2017.

<sup>62</sup> Izeze, I., 'Between Private Refineries and Access to Crude Oil Feedstock'. [www.gamji.com/article](http://www.gamji.com/article). August 27, 2017.



When Obasanjo Administration was ceding away licences for private refineries to ‘cronies and funny’ Asian partners it never occurred to the government that the most critical consideration to such sensitive projects would be access and security of the crude oil feedstock supplies to the sites. ‘Where else can anybody build a refinery outside the Niger Delta that would be feasible and make economic sense?’ It is difficult and unreasonable to site such facilities in areas that are very far from where the crude oil feedstock is expected to come. Izeze argues that with widespread awareness within host communities hosting pipeline right of way and the carefree attitude of the authorities to the plight of the people, there is a very serious problem of relationship between oil companies and land owners where the facilities are built.<sup>63</sup> For instance, the pipeline communities of the Kaduna refinery which cuts across different cultures and geopolitical interests have been resisting and sabotaging the right of way in their respective places. Therefore, the issue still boils down to the over-sung campaign for dialogue and engagement.<sup>64</sup>

According to Nzemiro,<sup>65</sup> Vammager refinery India refines 1.2 million barrels per day. Falco in Venezuela refines 940,000 barrels per day. SK Energy of South Korea refines 850,000 barrels per day Exxon Mobil Singapore refines 605,000 barrels per day. Ras Taura of Saudi Arabia refines 550,000 barrels per day. Venezuela has 29 million people with 11 refineries and Falco as one of the refineries with capacity of 940,000 barrels per day. She refines all her products. But Nigeria’s three refineries refine 445,000 barrels per day. And this current capacity is being augmented with imports largely from Venezuela, the Caribbean and Europe. The four refineries are facing financial and operational challenges which led the Government to licence 18 private refineries. But after more than 8 years, most of them are yet to take off.<sup>66</sup>

For Essiet, the Nigerian government had intended as the wish-list of the sector, first, to raise daily production and reserves, secondly, export refined oil with greater valued added and thirdly, stop importation of

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<sup>63</sup> Id.

<sup>64</sup> Id.

<sup>65</sup> Nzemiro, C., ‘NNPC: Surviving Vandalism and Fire Disasters’. February 18, 2017.

[www.vanguardngr.com](http://www.vanguardngr.com).

<sup>66</sup> Essiet, D., ‘How to make Private Refineries Viable’. [www.thenationonline.net](http://www.thenationonline.net). December 13, 2017.



refined products. But these aspirations are stymied by lack of funding to build basic infrastructure, lack of adequate technology and logistics, and regulated fuel pump price.<sup>67</sup>

Small scale refineries are not peculiar to Nigeria because they are in effect modular refineries which abound in the western world and unfortunately not popular in Nigeria because the cash-laden NNPC is only interested in mega-projects like the four refineries in Port Harcourt, Warri and Kaduna undergoing turn-around without success. As late as 2013, the ex-Minister approached the National Assembly for N251 billion for turnaround maintenance of these dead four refineries. For Aganga,<sup>68</sup> the proposed foreign direct investment of \$4.5 billion in six modular refineries reinforces the case for small scale refining in Nigeria. For a start, the crude oil (445,000 barrels per day) allocated to NNPC for local refining and most of which is currently being refined abroad and therefore against the intendment of the policy could be re-allocated to the local refineries in fulfillment of the spirit and of the regulation and by so doing, create jobs at home.<sup>69</sup>

Mini-refineries are automate, skid-mounted oil distillation units for processing about 6,000 barrels per day or more. Cheaper and easier to run and mount, they do not need years to build and install. Less land space and personnel are required than the large ones and they can be mounted close to feed stock supply source. Four plots of land and not more can be adequate. It can be mounted in a few days because they are prefabricated, can be dismantled and relocated if the need arises due to x-factors including objections. Their capacities vary between 5,000 to 60,000 barrels per day and requires N800 million to N10 billion to build and can be sited in both industrial and rural communities. For instance, the 12,000 barrels per day Topping Modular refinery for Akwa Ibom State costs \$10 million while the 100,000 barrels per day complex refinery for Tonwei refinery in Bayelsa State is \$1.2 billion. Mini refineries have the capacities to mitigate the Niger Delta crisis, mainstream the activities of several petrol-refining entrepreneurs whose businesses are currently classified as illegal, reduce incidences of pipeline vandalism and settle

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<sup>67</sup> Id.

<sup>68</sup> Oyibe, M., 'A Case for Niger Delta Indigenous Oil Refineries (2)'. [www.vanguardngr.com](http://www.vanguardngr.com) October 30, 2017.

<sup>69</sup> Id.



resource control agitation or weightier issues of participation in petrol business by indigenous concerns.<sup>70</sup>

However, the National Refineries Special Task Force (NRSTF) may have jettisoned two of its three Greenfield refinery project as the economy only strongly favours Lagos Greenfield refinery. The Kogi and Bayelsa Greenfield refineries have been kept in view. The three Greenfield refineries were NNPC/China State Construction Engineering Corporation (CSCEC) MoU projects. China Export Credit Insurance Corporation (SINOSURE) and a consortium of Chinese banks led by the Industrial and Commercial Bank of China are involved at a sharing ratio of 80 percent for China and 20 percent for NNPC. The projects are to stem importation and boost the existing capacities although NNPC was said to have failed to fulfill its conditions under the MoU.<sup>71</sup>

Rather than encourage indigenous small scale investors International Oil companies like Shell, Chevron, Exxon Mobil and Total Fina Elf and AGIP may be compelled to establish refineries as a precondition for retaining their oil blocks. But if the current body language of the International Oil Companies is anything to go by, building a refinery in Nigeria is not their priority. For instance, Brinded, Executive Director (SPDC)<sup>72</sup> posits that Shell cannot build a refinery in Nigeria because there are surplus refineries across the globe; rather than build, the company is prepared to divest from those areas it has interest around the globe because refineries are running at a loss. It is no longer profitable and it is better to go into gas. Since the big players are not keen for the reason that refining is not as lucrative as extracting crude oil with a joint venture agreement that favours them to boost the economy, who will fill the gap?<sup>73</sup>

Indigenous Operators whose local oil refineries have been operating under the radar have been filling the gap but are presently being destroyed daily in the Niger Delta by Joint Task Force at such an alarming rate that could further accelerate the impoverishment of the embattled people of the region which the Federal Government amnesty

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<sup>70</sup> 'Private Mini Refineries, a Compelling Option', Loc. Cit.

<sup>71</sup> Amanze-Nwachukwu, C., 'F.G may Dump Bayelsa, Kogi Greenfield Refinery Projects as only Lagos is Viable'. [www.thisdaylive.com](http://www.thisdaylive.com). August 25, 2013.

<sup>72</sup> [www.google.com/m?q:impartandimpactbusiness.review.blogspot](http://www.google.com/m?q:impartandimpactbusiness.review.blogspot).

<sup>73</sup> Oyibe, M., Loc. Cit.



programme was meant to ameliorate. The reason for destroying the refineries is that they are illegal and are allegedly responsible for the increasing rate of crude oil theft. While the allegation may be true, it does not appear to Onyibe that these small scale refineries have the capacity to refine the volume of theft oil that the ex-Minister, Okonjo-Iweala, was referring to when she raised alarm that crude oil theft could negatively impact the nation's economic fundamentals.

Disallowing small oil refineries in Nigeria might have been a policy born out of the overbearing influence of the International Oil companies much the same way they persuaded Government to cap marginal oil and gas fields for a very long time but which are now being profitably explored by indigenous investors after a long period of being fallow. And having succeeded, refining oil locally by Nigerians may be an innovative way of creating employment and boosting the economy of the Niger Delta.<sup>74</sup>

Perhaps the strongest challenge of private refineries is the State. The Association of Private Refineries Owners of Nigeria (APRON) has accused the Federal Government of frustrating the take off by private refineries by introducing policies that are not favourable to the projects. Ilori submits that the benefit of oil subsidy discouraged government from allowing private refineries spring up:

*For the past five years, the association has been lobbying the Federal Government to guarantee the investment of ... foreign partners as demanded by them but to no avail. Each licensee has gone abroad to look for creditors and spent a lot of money in searching for foreign partners but they are not willing because Government is not willing to guarantee condition for investing.<sup>75</sup>*

Sixteen years after Government granted licences to 18 private firms to build and operate refineries upon paying \$1 million each and spending \$2million to \$3million on site development, their licences were later revoked by the Department of Petroleum Resources (DPR) for failure to

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<sup>74</sup> Id.

<sup>75</sup> APRON: FG Policies Frustrating Private Refineries' Take-off'. [www.nigeriaoilandgas.com](http://www.nigeriaoilandgas.com). August 27, 2017.



meet the 18 month deadline to build the refineries. Incentives granted by the DPR were said to be half measures. The DPR contended that international market price will apply for Nigerian crude procured by refiners- implying that crude oil price discount will not apply to local refiners. This is discriminatory because those who buy crude oil in Nigeria get a discount whereas the local refiners are to buy at international market price. Ilori further submitted that the crude oil allocation formula of Government to guarantee 60 percent requirement for the local refiners was not enough and ought to be 100 percent as an incentive to private refineries. In other words, to ask refiners to source 40 percent needed would be problematic.<sup>76</sup>

The state of insecurity is equally a bane necessitating foreign investors to ask for sovereign guarantee from Government to ensure that their investments will not be nationalized. Ilori's Atlantic Petroleum Limited, Badagry spent \$3.8 million on its project as at 2013 and was still pushing. It had foreign backers with up to \$600 million but for insecurity, kidnapping etc it was finding the environment enervating. It has 100,000 barrels per day capacity and had arranged for a bridging loan of \$130 million to kick start the refinery.<sup>77</sup>

It is instructive that Atlantic Petroleum Limited was one of the 18 entrants that government granted preliminary approval on 31<sup>st</sup> May, 2002 and issued licence on 14<sup>th</sup> June, 2002 as a going private refinery. In fact, the licencees for private refineries, according to Okere,<sup>78</sup> have recoiled into their respective shells seeking other opportunities in the oil and gas sector in that since 2002 when the Federal Government issued 39 licences to private operators to establish refineries of various capacities in the country to lift the profile of local refineries only Niger Delta Petroleum Resources located at Ogbelle, Rivers State has commenced production of 1,000 barrels per day. Also Orient Petroleum has completed detailed engineering, sourced the modules of its refinery and completed site acquisition, perimeter and topographical surveys, geotechnical, geological and hydro-geological surveys, site civil

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<sup>76</sup> Id.

<sup>77</sup> Id.

<sup>78</sup> Okere, R., 'How Investors Stall Government's Drive for Private Refineries'. [www.nguardiannews.com](http://www.nguardiannews.com). December 9, 2017.



engineering works prior to construction of internal roads and reinforced concrete plinths for installation of refinery equipment but it is yet to commence operation.

However, virtually all the licenced operators have serially defaulted on their respective deadlines to commence production leading to licence withdrawals and revocations on their part, with even increased reluctance for mandate renewals as stipulated in the enabling law. Factors listed as challenges for the take off of the various projects by the licencees included but are not limited to huge up-front start-up fee, lack of sovereign guarantee to secure cheaper loans from international finance markets and uncertainty over guarantee of free market pricing policy. Despite government reconsideration of the start-up fee in favour of the licencees, the investors still failed to show sufficient and serious commitment thereby truncating initial objectives of the private refineries initiative. New applicants who are depot owners are beginning to emerge who may have problems of bank guarantees. The initial entrants of 39 licencees would have been able to process over 2.654 million barrels per day to reduce importation.<sup>79</sup>

But with the coming on board in 2013 of Dangote's 400,000 barrels per day refinery dwarfing the production capacity of the Federal Government's four behemoths, blistering the lies inherent in the subsidy regimes and giving hope to a nation that is one of the world's richest in oil that imports 80 percent of its refined products, the issues of insecurity et al have petered into insignificance and the 2002 old boys have been challenged to lift their proposals from papers and drawing boards to the construction sites.<sup>80</sup>

It is prefigured that the Dangote refinery would not only help Nigeria but sub-saharan Africa being that there has not been a new refinery for a long time in the entire region. A surge in domestic capacity would be welcomed by investors in Nigeria but it would cut into profits made by European refiners and oil traders who would lose part of that lucrative market. Past efforts have been delayed or cancelled by vested interests such as fuel importers profiting from the status quo and it is equally opined that interests which were supposed to invest in refineries, which

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<sup>79</sup> Id.

<sup>80</sup> Editorial, 'As Dangote Leads the Way to Private Refineries'. <http://leadership.ng/news/02>. April 29, 2017.



understand the market, were benefiting from the absence of refineries and fuel importation business.<sup>81</sup>

In fact, query began to emerge a decade after as if these companies were proxies for Government patronage or that the licences were issued to political hirelings, who would have them whimsically sold to foreign companies; and that the 2002 old boys should be disallowed from using their licences to procure crude oil wells to sell to multinationals and other oblique economic hegemony. Indeed, the House of Representatives raised the question of the worst case scenario of resource curse again: Why is Nigeria the only major oil producing nation that sells 100 percent of its crude to private traders rather than market it herself and benefit from the resulting added value with the greatest number of beneficiaries of export allocation? The House was worried by sharp practices in NNPC crude oil allocations to local refineries which are not utilized but sold fraudulently at knock down prices to Geneva based 'letter box companies' (Vitol and Tranfigura) by swap arrangements.<sup>82</sup>

Consequently, the House canvassed that Government should do well to revoke the dormant licences as it did in 2007 before issuing the 9 new entrants of 2013. It should stop paying lip service to deregulation of the downstream sector with subsidy running into trillions as importation and subsequent subsidy payment on same have become an industry from which some government lackeys are feeding fat with serial scam trailing them.<sup>83</sup> It is said to be shameful but a factual reality that out of the 24 fields that are marginal only 6 to 7 onshore are producing. The worse scenario is the 2007 bid round. Out of it, no single marginal field is producing; 18 of the 24 marginal fields awarded before 2007 are not producing as at 2017. The 6 producing are being hit left and right by theft. Like private refineries, marginal fields are equally hunted by lack of access to funding, community security issues and low productivity. For instance, the cluster group of: Energia Limited, Midwestern/Suntrust, Platform Petroleum and Frontier Company in Delta State, which is producing between 8,000 to 45,000 bpd, have had their operations stymied by sundry challenges. Chief Executive Officer of Britania U, a

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<sup>81</sup> Ameh, J., 'Reps Probe \$6.8bn NNPC Swiss Oil Deals'. [www.legaloil.com](http://www.legaloil.com). November 13, 2017.

<sup>82</sup> 'Dangote to build \$8 billion Oil Refinery in Nigeria'. <http://mobile.punchng.com>. April, 16, 2017.

<sup>83</sup> Id.



local independent vehicle and operator of OML 90, Ifejika, consider the withholding of funding by banks as the bane. For Amieyeofor, Managing Director of Energia Limited, continuous export line vandalism has been a major challenge. In every barrel of crude pumped through the lines, about 25 percent to 30 percent is lost before it gets to the terminal. In other words, if 3,500 barrels of crude oil is pumped, and about 30 percent is lost in the process through theft, it is a great loss to the operator.<sup>84</sup> In 2012 Energia limited lost N11.2b to crude theft and N15.6b in 2013. Chief Executive Officer of Walter Smith, an indigenous independent, Isa-Kutepa, submitted that its company which is yoked to the Trans Niger Truck line lost \$50m between January and November 2013 due to theft.<sup>85</sup> Platform Petroleum and Seplat Petroleum Development Limited were more frontal and revealing of the infighting and disagreement on the concept of oil theft between the seven sisters and the marginal clusters. Reacting for and on behalf of Midwestern Oil and Gas-Sun Trust, Pillar Oil, Platform-Newcross, Energia-Oando etc, Avuru queried how 20 percent to 30 percent daily production loss to vandals may have occurred 'taking into consideration that such figures are imposed by the multinational companies on the marginal operators.' While repudiating the claim and the figures as impositions, they called for their review as their 'independent findings had shown less than 5 percent loss to vandals' and that it was more likely to be due to production deferment or and measurement errors than the challenges of lack of bank funding and vandalism.<sup>86</sup>

On the other hand, Greenfield and Modular refineries have their drawback against the backdrop of the Local Content Development Policy and philosophy. For instance, six refineries under a memorandum of understanding and partnership of a private United State's company and a Nigerian company with the Nigerian Government were to be built at 30,000 barrels per day each and according to Mansfield,<sup>87</sup> the modular construction process for the refineries entailed 6 months of construction

<sup>84</sup> Akpan, U., 'Indigenous Operators Express Worry as Cost of Oil Theft hits N15.6bn'. [www.legaloil.com](http://www.legaloil.com). November 12, 2017.

<sup>85</sup> Dodondawa, T., 'Crude Oil Theft may Crash Crude Out-put – Operators'. [www.legaloil.com](http://www.legaloil.com). November 12, 2017.

<sup>86</sup> Avuru, A., 'The Marginal Fields in Ndokwa Land produces 71.6 percent of the Marginal Field Production in Nigeria'. Ndokwa Reporters Newspaper, Vol.1, No. 1. November 8-15, 2013, p. 4.

<sup>87</sup> Editorial, 'As Dangote Leads the Way to Private Refineries'. Loc.Cit.



work in the US, one month of test running and dismantling the refinery, another month for transportation to Nigeria and 4 months for reassembling the parts to commence production. It was canvassed that it was regrettable that the local host communities for these refineries and domestic supplies and contractors would enjoy little or no benefits for such modular construction process as such contracts and related employment opportunities would be lost to the United States. Income from the successful operations of the six refineries may equally be domiciled in the USA with minimal impact on exchange rates, reserves and employment generation.

Still, foreign technical knowhow is inevitable in the industry at the current level of development in Nigeria. Amanam of Amakpe Refinery has revealed that a project of the size and complexity of Amakpe Refinery deserves the engineering prowess and expertise of a world renown and experienced engineering firm like Ventech Int. Engineer Pasadena, Texas for equipment manufacturing and fabrication; UPS Capital Business Credit Windsor, Connecticut, for comprehensive insurance guarantee; US Export-Import Bank, Sterling Bank Plc for credit facility; and Nigeria's Export Import bank (NEXIM BANK) to finance the bridge loan.<sup>88</sup> The Niger Delta Exploration and Production Plc is also another emerging success story. According to Adetona<sup>89</sup> of Niger Delta Petroleum Resources Ltd (NDPR), it was fabricated and completed by Chemex Inc Texas, California, USA in December 2010 and began operations in Ahaoda East Local Government Area of Rivers State after it was granted Licence to Operate (LTO) by the Federal Government with full authority to operate its mini-diesel refinery, a 'Topping Plant' at Ogbele oil field in old Oil Mining Lease (OML) 54 in Rivers State.<sup>90</sup>

Ofurhie<sup>91</sup> has attributed the delay in the effective take-off of private refineries to government continued regulation of the price of Premium Motor Spirit (PMS), difficulties in securing foreign bank loans and investors and the difficulty in making investments in a market full of price uncertainties. In the face of Government floated incentives of

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<sup>88</sup> Six New Refineries Hurray! But not yet Uhuru'. [www.vanguardngr.com](http://www.vanguardngr.com). July 9, 2017.

<sup>89</sup> 'Oil Refineries in Nigeria – Amakpe International Refineries Nigeria Limited. From the President's Desk'. [www.amakperefineries.com](http://www.amakperefineries.com). June 10, 2017.

<sup>90</sup> Essiet, D., 'How to make Private Refineries Viable'. [www.thenationonline.net](http://www.thenationonline.net). December 13, 2017.

<sup>91</sup> Onwuka, S., 'Why Private Refineries are delayed'. [www.nairaland.com](http://www.nairaland.com). August 18, 2017.



guaranteeing crude oil feedstock to licencees, he further cited the fear of labour unions and civil society organizations which would resist hike in fuel price in a strike that may necessarily arise from deregulation as another disincentive.

### **Conclusion**

The Nigerian government should critically revisit the current legislative frameworks obtaining in the law books against oil theft and local oil refineries in the creeks and promulgate in replacement more considerate and liberal legislative regimes that would accommodate and regulate the existence of illegal refineries within the mainstream of the economy as they seem to be one of the ways out of the technological deficit calling for attention in the Nigerian oil and gas sector: particularly the Petroleum Industry Bill that it has failed to enact into law with 10 percent share to the ‘undefined’ host communities. That is, the development and advancement of the technology beneath indigenous oil refineries and their potentials to create job: 50 years after the find of oil and the United Nations Resolution of 1962 are enough for progress to be made and for things to change in the sector.

### **Recommendation:**

The Nigerian government should deregulate and diversify its mono-cultural economic base by liberalizing the rules of engagement in the creeks of the delta to encourage greater and far reaching participation of the local, indigenous people in the operations of the industry, particularly the recognition of the local refiners in the creeks of the delta who have made bold statements irights of inclusion and de-marginalization. The times that the oil and gas sector was made the exclusive preserve of the State and the multinationals are long past and the passage of the Petroleum Industry Bill will enhance economic activities and development of the delta. The critical integration of the emerging local refiners through regulation and encouragement of the technology beneath same should come to stay for peace to reign as it will encourage value addition and discourage capital flight.

### **REFERENCES:**

- Adeola, Y., 2015 Elections behind Oil Theft in Nigeria–Report. <http://dailyindependentnig.com>. September 23, 2017.
- Ahamefula, O., ‘Nigeria: Oil theft – We are yet to Catch the Big Thieves, says Mittee’. <http://m.allafrica.com/stories>. October 14, 2017.
- Ahiuma-Young, V. and Azubike, K., ‘Crude Theft, Vandalism Frustrating Nigeria’s Petroleum Industry – PENGASSAN’. [www.legaloil.com](http://www.legaloil.com). November 5, 2017.



- Ahiuma-Young, V., 'PIB: IOCs can't Blackmail Nigeria'. [www.vanguardngr.com](http://www.vanguardngr.com). August 6, 2017.
- Aituaje I. P., 'Nigeria's National Security in an Age of Terrorism (4)'. [www.ngguardiannews](http://www.ngguardiannews). July 24, 2017.
- Akanimo, S., 'Encouraging Local Refining of Crude Oil in Nigeria'. <http://mobile.saharareporters.com>. August 13, 2017.
- Akpan, U., 'Indigenous Operators Express Worry as Cost of Oil Theft hits N15.6bn'. [www.legaloil.com](http://www.legaloil.com). November 12, 2017.
- Amaize Emma, 'Navy Raids Oil Thieves, Razes 33 Unlawful Oil Refineries in Delta'. Vanguard Newspapers. August 1, 2017.
- Amanze-Nwachukwu, C., 'F.G may Dump Bayelsa, Kogi Greenfield Refinery Projects as only Lagos is Viable'. [www.thisdaylive.com](http://www.thisdaylive.com). August 25, 2013.
- Amanze-Nwachuku, C., 'Shell to sell four more Oil Blocks'. [www.legaloil.com](http://www.legaloil.com). <http://www.thisdaylive.com/articles/> August 2, 2017.
- Ameh, J., 'Reps Probe \$6.8bn NNPC Swiss Oil Deals'. [www.legaloil.com](http://www.legaloil.com). November 13, 2017.
- Anote, A., Delta Communities Seek Probe of Alleged Illegal Divestment of Oil Mining Leases. [www.ngguardiannews](http://www.ngguardiannews). October 10, 2017.
- APRON: FG Policies Frustrating Private Refineries' Take-off'. [www.nigeriaoilandgas](http://www.nigeriaoilandgas). August 27, 2017.
- Avuru, A., 'The Marginal Fields in Ndokwa Land produces 71.6 percent of the Marginal Field Production in Nigeria'. Ndokwa Reporters Newspaper, Vol.1, No. 1. November 8-15, 2013, p. 4.
- Ayanruoh, F., 'Nigeria – Cold Facts of Crude Oil Theft'. [www.vanguardngr.com](http://www.vanguardngr.com). October 15, 2017.
- Dangote to build \$8 billion Oil Refinery in Nigeria. <http://mobile.punchng.com>. April, 16, 2017.
- Dodondawa, T., 'Crude Oil Theft may Crash Crude Out-put – Operators'. [www.legaloil.com](http://www.legaloil.com). November 12, 2017.
- Ebiri, K., 'How Bunkering Puts Nigeria's Oil Export in Jeopardy'. [www.legaloil.com](http://www.legaloil.com). September 29, 2017.
- Eboh, M., 'Crude Oil Theft: Shell Recants, says it lost \$250m not \$700m'. [www.vanguardngr.com](http://www.vanguardngr.com). August 7, 2017.
- Eboh, M., 'Shell Shuts-in 150,000 barrels of Crude over Pipeline Fire'. [www.vanguardngr.com](http://www.vanguardngr.com). October 14, 2017.
- Editorial, 'As Dangote Leads the Way to Private Refineries'. <http://leadership.ng/news/o2>. April 29, 2017.
- Empowered Newswire, 'How Akpabio Blocked Nigeria First Private Refinery in Akwa Ibom. By US Investors'. <http://nigeriavillagesquare.com>. August 29, 2017.
- Essiet, D., 'How to make Private Refineries Viable'. [www.thenationonlineng.net](http://www.thenationonlineng.net). December 13, 2017.
- Goldfarb, B., 'Delta Blues: Documenting Nigeria's Oil Conflict'. [www.sagemagazine.org](http://www.sagemagazine.org). October 15, 2017.
- How NSCDC Destroyed 7 Illegal Refineries in Edo'. [www.legaloil.com](http://www.legaloil.com). November 13, 2017.
- Izeze, I., 'Between Private Refineries and Access to Crude Oil Feedstock'. [www.gamji.com/article](http://www.gamji.com/article). August 27, 2017.



- JTF Arrests 608 Suspected Oil Thieves, Seizes 24 Vessels. Vanguard Newspapers, July 31, 2013 p. 21.
- Lagos Oil Discoveries may Boost Reserve by 855mboe'. Punch Mobile, <http://punch.mobile.mobi/output.php>. July 25, 2017.
- Mission Incredible: Nigeria to invest US \$2.68 billion in Indonesia Refinery Deal. <http://mobile.saharareporters>. October 12, 2017.
- Nzemiro, C., 'NNPC: Surviving Vandalism and Fire Disasters'. [www.vanguardngr.com](http://www.vanguardngr.com). February 18, 2017.
- Obadiah, M., 'Nigeria's Oil Pillage Crisis'. <http://businessdayonline.com>. September 30, 2017.
- Ofuani, C., 'The 'Illegal Refineries''. [www.vanguardngr.com](http://www.vanguardngr.com). June 27, 2017.
- Oil Refineries in Nigeria – Amakpe International Refineries Nigeria Limited. From the President's Desk'. [www.amakperefineries.com](http://www.amakperefineries.com). June 10, 2017.
- Okafor, C., 'OPTS Disputes Figures on Nigeria's Daily Crude Oil Theft'. [www.thisdaylive.com](http://www.thisdaylive.com). August 22, 2017.
- Okere, R., 'How Investors Stall Government's Drive for Private Refineries'. [www.ngrguardiannews](http://www.ngrguardiannews). December 9, 2017.
- Okere, R., How to Tackle Theft, Human Capital Issues in Oil, Gas Sector. [www.ngrguardiannews](http://www.ngrguardiannews). August 8, 2017.
- Okere, R. and Sulaimon, S., 'How to Raise Oil Production Profile, by Stakeholders'. [www.ngrguardiannews](http://www.ngrguardiannews). August 25, 2017.
- Okere, R., 'Why Investors are Shunning Nigeria's Oil, Gas Sector'. [www.ngrguardiannews](http://www.ngrguardiannews). September 9, 2017.
- Onochie, B. C. and Azimazi, M. J., 'Mark Insists on Death Penalty for Oil Thieves'. [www.ngrguardiannews](http://www.ngrguardiannews). June 25, 2017.
- Onwuka, S., 'Why Private Refineries are delayed'. [www.nairaland.com](http://www.nairaland.com). August 18, 2017.
- Osita, O., 'Geopolitics and Strategy of Petroleum. The Nigerian experience'. [www.vanguardngr.com](http://www.vanguardngr.com) September 27, 2017.
- Oyadongha, S., 'JTF Destroys Illegal Refineries in Bayelsa'. Vanguard Newspapers. July 26, 2013 p.46.
- Oyibe, M., 'A Case for Niger Delta Indigenous Oil Refineries (2)'. [www.vanguardngr.com](http://www.vanguardngr.com) October 30, 2017
- Presidency Indicts International Oil Companies in Oil Theft'. [www.vanguardngr.com](http://www.vanguardngr.com). August 1, 2017.
- Private Mini Refineries, a Compelling Option. <http://mobile.punchng.com>. June 26, 2017.
- Six New Refineries Hurray! But not yet Uhuru'. [www.vanguardngr.com](http://www.vanguardngr.com). July 9, 2017.
- Ujah, E., 'NNPC Disagrees with Shell on \$7000 million Loss'. [www.vanguardngr.com](http://www.vanguardngr.com). August 8, 2017.
- Vidal, J., 'Nigerians Risk Death Working at Illegal Oil Refineries'. [www.theguardian.com](http://www.theguardian.com) October 16, 2017.
- Vidal, J., 'F1bn a month: The Spiraling Cost of Oil Theft in Nigeria'. [www.theguardian.com](http://www.theguardian.com). October 5, 2017.
- [www.google.com/m?q:impartandimpactbusiness.review.blogspot](http://www.google.com/m?q:impartandimpactbusiness.review.blogspot).