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OIL PIPELINES VANDALISM AND OIL THEFT: SECURITY THREAT TO NIGERIAN ECONOMY AND ENVIRONMENT

Awodezi Henry*
Department of Private Law, Faculty of Law, Owa-Oyibu Campus, University of Delta, Agbor, Delta State, Nigeria. Email: h.awodezi@unidel.edu.ng
ORCID: https://orcid.org/0000-0002-1179-3371

Safiyya Ummu Mohammed
Department of Public Law and Jurisprudence, Faculty of Law, Usmanu Danfodiyo University, Sokoto, Sokoto State, Nigeria.
Email: safiyyah.mohammed@udusok.edu.ng
ORCID: https://orcid.org/0009-0000-1892-8980
**Corresponding author*

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ABSTRACT

Nigeria is a middle income country whose economy depends largely on crude and refined oil from its natural environment. A larger percentage of Nigeria economy survives mainly on the incomes from oil production. Over the years, there is recurrent dwindling oil revenue orchestrated by oil pipelines vandalism and oil theft in the environment. This is predominant in the Niger Delta Region of Nigeria. This menace has wreaked havoc on the Nigeria's economy. Currently, the Nigerian National Petroleum Company Limited (NNPCL) claims the losses of 470,000 barrels per day of crude oil amounting to $700 million monthly due to oil theft. The disquiets of these menaces in the environment, which have posed serious threat to Nigeria's economy, are addressed in this paper. This paper employed the doctrinal legal research methodology in evaluating the recurrent oil pipelines vandalism and oil theft causing a devastating economic meltdown. On this premise, this paper finds that persistent loss of barrels of crude oil and degradation of the environment are due to the lack of adequate security measures and proper enforcement of Oil Pipelines Act together with other relevant environmental laws. Based on the findings, this paper recommends a review of the Oil Pipelines Act, the establishment of a strong environmental security surveillance, and creation of a special court for accelerated prosecution of vandals. It concludes that this will mitigate the alarming economic meltdown of the Nigeria's economy and promote a sustainable serene environment.

Keywords: Oil pipelines; Vandalism; Economy; Security; Theft; Environment

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**Oil Pipelines Vandalism and Oil Theft:
Security Threat to Nigerian Economy and Environment**

1. INTRODUCTION

Nigeria, as a middle income and oil producing nation has suffered drastic loss of revenue to the hands of vandals who are persistently engaged in oil pipelines vandalism and theft of crude oil in the environment. This situation is very alarming and calls for urgent attention as the nation's economy is going down day by day in a shattering condition.

Reports by The Pointer[1] newspaper discloses that Nigeria loses $700 million monthly due to pipeline vandalism and oil theft in the environment. The Senate President[2] made a call at a meeting with security chiefs in Abuja, lamenting that crude oil theft has badly affected the country in fulfilling its annual projections. This meeting with the head of security agencies was the second since the law-makers went on their annual vacation. According to the Senate President, security agents have fought well in dealing with bandits who were either killed or arrested alive while such efforts should be directed at dealing with oil thieves. He said:

> "We want to see trials of people who are caught because, when this happens, citizens will know that nobody, no matter how high that person is, can go scot-free, if he or she decides to get involved in this kind of criminal activity"[3].

The Senate President also filed suits in Nigerian courts across the country pleading to expeditiously adjudicate cases bordering on crude oil theft and expose those elements behind the racketeering that has brought the nation to its knees.[4] It suffices to say that due to oil pipelines vandalism and theft of crude and refined petroleum products, Nigeria has suffered huge financial losses. Oil pipelines vandalism has serious implications in the environment putting Nigeria in a great disadvantage with regard to ecological and socio-economic impact. It also leads to environmental degradation, loss of revenue, and loss of jobs. Based on the above, this paper is divided into four parts, including the introduction to allow for proper elucidation of issues. Part two discusses the catastrophe of vandalism and oil theft on the environment, which lays the background for the discussion on the effectiveness of the available legal framework to address the menace highlighted in part three. Part four, which is the last part, concludes the paper.

2. THE CATASTROPHE OF VANDALISM AND OIL THEFT IN THE ENVIRONMENT

Vandalism in the environment is the act of wilful or ignorant destruction of public or private property, actions or attitudes of one who maliciously or ignorantly destroys or disfigures public or private property.[5]

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1 The Pointer, 'Oil Theft: Senate Fumes, Demands Speedy Trial of Suspects' 'As Nigeria Loses $700 m Monthly' (2022) 1 Tuesday 13 September 2022.
2 Ahmed Ibrahim Lawan, President of the Senate of the Federal Republic of Nigeria, (2022)
3 Ibid, 1.
4 Ibid
5 Bryan A. Garner, et al, 'Black's Law Dictionary' 11th edn. (USA; Thomson Reuters) (2019) 1867

Petroleum pipeline vandalism in the environment has to do with the violation of the safety and functional integrity of a petroleum pipeline for political, economic or idiosyncratic reasons. This principally takes the form of sabotage, motivated by political reasons or theft motivated by economic need.[6] Oil pipelines vandalism in the environment is majorly confronted with two destructive factors, viz. sabotage and theft of crude oil, which entails a situation whereby the perpetrator intentionally hack into the oil pipelines in order to divert the product thereof for commercial purpose or conversion into personal use.

Oil theft in the environment involves the stealing of crude oil and its derivatives from pipelines through a variety of mechanisms including illegal bunkering and fuel pilfering.[7] The issues relating to oil pipelines vandalism can be best explained and understood from the general premise of its operational elements of crime. Propounded by criminologists, the structural theory holds that crime is a creation of the society and that people tend to take to crime principally as a consequence of existential conditions making a criminal living not only attractive but also compelling.[8]

Nigeria is a country well-endowed with environmental natural crude oil and its economy depends largely on the proceeds from crude and refined oil. Oil wealth and petroleum resources account for about 75% of Nigeria's foreign exchange earnings.[9] Thus, it can rightly be said that the petroleum sector is the mainstay of Nigeria's economy. It is justifiably seen as the backbone of Nigeria's economy. Notwithstanding, it has created a double-edged sword simultaneously centred as a platform for primeval accumulation of wealth as well as a means of violating oil regulations relating to oil rents from the natural environment. Within this sector, petroleum rents from the natural environment have been the object of an opportunistic scramble by corrupt political elites and their counterparts. In effect, the significance of oil wealth in Nigeria has been contradictory; it has been a blessing as well as a curse by generating both revenue and criminality in the Nigerian environment. This seeming paradox resonates with the resource-curse thesis, which holds, among other things, that oil-rich nations have the tendency to squander their development prospects through the abuse or mismanagement of their oil wealth.[10]

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6 Reuters and Akintunde Akinleye, 'Oil Pipeline Vandalism in the Niger Delta', 2 September (2019) <https://www.accord.org.za/conflict-trends/oil-pipeline-vandalism-in-the-niger-delta/> accessed 27 February 2023.

7 Odalonu Boris, 'The Upsurge of Oil Theft and Illegal Bunkering in the Niger Delta Region of Nigeria; Is There Any Way Out'? Mediterrean Journal of Social Sciences, (2015) 6 (3), 363-573.

8 Alemika Etannibi, 'The Impact of Organized Crime on Governance in West African', (ed.) (Abuja-Nigeria: Friedrich-Ebert Stiftung) (2013) 55-75.

9 Okoli Al Chukwuma, 'Petroleum Pipeline Vandalism and National Security in Nigeria', PhD Thesis Submitted to the School of Postgraduate Studies, Nigerian Defence Academy, Kaduna, (2012).

10 Ibeanu Okechukwu, 'Oil, Environment and Conflict in Coastal Zone of West Africa', cited in Ibeanu Okechukwu and Ibrahim Jibrin, 'Beyond Resource Violence' (Abuja-Nigeria, Centre for Democracy and Development "CDD") (2020) 1-34. <www.accord.org.za> accessed 27 October 2022.

It is sad to mention that all these menaces are befalling Nigerians in the face of numerous environmental law enforcement agencies and security agents such as the navy, army, police, joint task force, Nigeria Civil Defence Corps, et cetera. For instance, National Oil Spill Detection and Response Agency[11] (NOSDRA), which was established as an institutional framework to coordinate the implementation of the National Oil Spill Contingency Plan (NOSCP) for Nigeria[12], Oil Pipelines Act[13] and Environmental Impact Assessment Act,[14] have ample legal frameworks for the conservation and protection of the Nigeria environment and its rich natural resources, but what Nigerians experience in reality is vandalism of oil pipelines and theft of crude and refined oil especially in the Niger Delta Region of Nigeria.

The consequence of this laxity on the part of the Nigeria Government has over the years led to the illegal construction and operation of oil pipelines in the environment by those who do not have operational license, oil pipelines vandalism and theft of oil in the country. Thus, all these menaces have grossly reduced the Nigeria economy. It is alarming that the nation's revenue goes down day by day. It is almost at the verge of becoming nothing and the government seems to be reluctant in taking effective action to alleviate it, rather it resorted to borrowing from international financial Institutions and foreign governments.

Nigeria, as a nation, now runs a constant deficit budget instead of surplus budget due to incessant oil theft, oil pipelines vandalism, illegal construction and operation of oil pipelines in the environment whereby crude oil is being diverted. Presently, the federal government of Nigeria has made plan to borrow NGN 8.80 trillion (USD 20,203) to fund the 2023 budget. According to media report,[15] President Muhammadu Buhari has presented on 7 October 2022 a total budget proposal of NGN 20.51 trillion (USD 47,065) to the National Assembly for the 2023 fiscal year. The proposal came with a deficit of NGN 10.78 trillion (USD 24,749) which represents 4.78 per cent of estimated Gross Domestic Product (GDP) and above the 3 per cent threshold set by the Fiscal Responsibility Act.[16]

According to President Buhari, the deficit will be financed by new borrowing totaling NGN 8.80 trillion (USD 20,203), NGN 206.18 billion (USD 473,357) from privatization proceeds and NGN 1.77 trillion (USD 4.064) on bilateral multilateral loans secured for specific development projects. The budget as proposed was based on key parameters and assumptions, which include oil price benchmark of $70 per barrel; daily oil production estimate of 1.69 million barrels (inclusive of condensates of 300,000 to 400,000 barrels per day); exchange rate of NGN 435.57 (USD 1) and projected GDP growth rate of 3.75 per cent and 17.16 per cent inflation rate.[17]

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11 (Establishment) Act, 2006.
12 <https://www.un-spider.org/national-oil-spill-contingency-plan> accessed 31 March 2023.
13 CAP. O7, Laws of the Federation of Nigeria (LFN), 2004.
14 CAP E12 Laws of the Federation of Nigeria (LFN), 2004.
15 The Guardian, 'Buhari Plans Borrowing N8.80 trn To Fund 2023 Budget', Vol. 39: No.15,990, Saturday 8 October (2022) 1 & 2.
16 Established 30 July 2007 Act No. 31.
17 Ibid, n.15.

The above report revealed the extent to which the Nigeria economy has been battered and shattered. This paper submits that this crushing economic meltdown is as a result of lack of preservation and management of the natural resources in the environment. Oil pipelines are being vandalized and the nation's precious crude oil stolen by hoodlums but the government has continued to pay a deaf ear to the cry of the citizens to beef up securities in order to secure this natural precious gift from God. This menace and the lackadaisical attitude of the government to forestall it have led to several nation-wide protests by awaken citizens, members of Petroleum and Natural Gas Senior Staff Association of Nigeria. They demanded proactive action from the government and stakeholders' sequel to the economic havoc caused by oil thieves and oil pipelines vandals in the environment.

The government has been borrowing to finance fiscal gaps without planning how the huge amount of indebtedness can be refunded. Explaining the reason for the country's indebtedness, President Buhari quoted thus:

> "Over time, we have resorted to borrowing to finance our fiscal gaps. We have been using loans to finance critical development projects and programme aimed at further improving our economic environment and enhances the delivery of public services to our people. As you are aware, we have witnessed two economic recessions within the period of this Administration. A direct result of this is the significant decline in our revenue generating capacity. In both cases, we have to spend our way out of recession, resulting in higher public debt and debt services. It is unlikely that our recovery from each of the two recessions would have been as fast without the sustained government expenditure funded by debt."[18]

Evaluation of the above assertions made by the President revealed that the country has gone to its worst state of economic meltdown. It is, therefore, the view of this paper that the Government of Nigeria must stop this incessant borrowing as the level of indebtedness keep on rising without any improvement on the economy and the environment. It is appalling to note that a country with different security agents such as the Nigerian Navy, Nigerian Civil Defence Corps, Joint Task Force, et cetera have failed to protect its major source of income from the hands of thieves. These security agents, in their respective capacities, have in several occasions arrested these hoodlums but the outcome has always be an exercise of futility.

The rhetorical questions that are asked include: how can illegal vessels carry oil across the sea without the knowledge of the Naval Officers? How can private individuals construct illegal oil pipelines in the environment to divert Nigerian crude oil without the knowledge of the military or the Nigeria Civil Defence Corps? This paper argues that selfish

[18] Ibid

interest and corrupt practices of the government officials have over time truncated effective service delivery of these security agents.

Recently, there was a media report in Daily Sun[19] tagging "Government Officials behind Oil Theft". In a Private Sector Economic Forum organized by the Lagos Chamber of Commerce and Industry before the 2023 presidential election, Peter Obi, the Labour Party Presidential Candidate, who was guest speaker at the forum, asserted that no one can steal oil except the government. He added that, "subsidy is organized crime", "we need an aggressive production of local refining"[20]. Peter Obi blamed the Government of Nigeria for the rising incidence of oil theft in the environment, which has greatly crippled the country's economy. It is the view of this paper that the response of the government towards curbing the incessant vandalism and oil theft in the environment is not satisfactory and should be blamed for its inaction.

The country's legislators are good at making laws without any strong legal framework for implementation of the laws they make. Thus, Part II of the National Environmental Standard and Regulation Enforcement Agency (NESREA) Act provides for the functions and powers of National Environmental Standard and Regulation Enforcement Agency (NESREA) to the effect that NESREA, as an environmental enforcement agency, shall enforce compliance with laws, guidelines, policies and standards on environmental matters;[21] enforce compliance with the provisions of international agreement, protocols, conventions and treaties on the environment, including climate change, biodiversity, conservation, desertification, forestry, oil and gas, chemicals, hazardous wastes, ozone depletion, marine and wildlife, pollution, sanitation and such other environmental agreements as may from time to time come into force.[22]

The agency is saddled with the responsibility for the protection and development of the environment, biodiversity, conservation and sustainable development of Nigeria's natural resources in general, and environmental technology, including coordination and liaison, with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.[23]

Specifically, section 7(a) and (c) of NESREA Act empowers the agency to enforce compliance with environmental laws through collaboration with relevant agencies including NOSDRA on matters relating to pollution, oil and gas, among others.

NOSDRA Act[24] establishes the National Oil Spill Detection and Response Agency as the coordinating and monitoring body on the implementation of federal government policies on National Oil Spill Contingency Plan. The agency also has a governing board known as

[19] Daily Sun, Tuesday 20 September (2022) 1 & 25.
[20] Ibid
[21] Section 7 (a) NESREA Act, 2007.
[22] Section 7 (c) NESREA Act, 2007.
[23] Section 2 NESREA Act, 2007
[24] (Establishment) Act 2006 (No. 15 of 2006). <www.fao.org> accessed on 31 March 2023

National Oil Spill Response Governing Board. The agency is a body corporate responsible for surveillance and ensuring compliance with all existing environmental legislation and the detection of oil spills in the petroleum sector.[25]

It shall also receive reports of oil spillages and coordinate oil spill response activities throughout Nigeria and the implementation of the plan as may be formulated from time to time by the Federal Government. Furthermore, the agency shall coordinate the implementation of the plan for the removal of hazardous substances as may be issued by the Federal Government.[26]

Sequel to the above provisions of the NOSDRA Act, it is crystal clear that the government has a major role to play in terms of formulation of policies relating to effective security surveillance, implementation and compliance with all existing environmental legislation. On the contrary, the desired expectation of Nigerians from the Federal Government on effective policy making and implementation in securing and sustaining the Nigeria's environment and its natural resources, particularly the natural crude oil, is far from realization.

Recently, there was an outcry from the National Assembly calling on the Federal Government to beef up security and prosecute oil thieves, following the economic sabotage of oil theft in the country. The Senate President, Ahmed Lawan, and the Speaker of the House of Representatives said that the government must rise to halt the social malaise and arrest the thieves. Both presiding officers of the National Assembly spoke during the presentation of 2023 budget proposal by President Muhammadu Buhari before a joint session of the national parliament on September 7, 2022.[27]

Enraged by the unhealthy development and its negative impact on the economy and the environment, Lawan specifically said that oil thieves have declared war on the country. He further said that about 1 million barrels of oil were being lost on daily basis, saying that such was unacceptable.[28] In his statement, he lamented:

> "Mr. President, our economy is still challenged by dearth of revenues. The main source of revenue to the Nigerian Government is oil and gas. We always consider the diversification of the economy as crucial and its indeed crucial… with conflicting figures, projections have put our losses from this malaise at between 700,000 to 900,000 barrels of crude oil per day leading to about 29 to 35 percent loss in oil revenue in the first quarter of 2022. This represents an estimated total fall from N1.1 trillion recorded in the last quarter of 2021 to N790 billions in the first quarter of this year. The situation has worsened. Recently, the loss of our oil has reached 1 million barrels per day. Translated into monetary terms, our loss is monumental. The figures show we are

[25] Ibid
[26] Ibid
[27] Vanguard, 'Fight oil thieves, they have declared war on Nigeria' Vol. 19: No.9442, Saturday 8 October (2022) 1 & 11.
[28] Ibid

not able to meet the OPEC daily quota of 1.8 million barrels per day."[29]

Following the devastating state of the Nigeria economy and the environment, one will doubt if environmental laws and security agents actually exist in Nigeria owing to the increasing rate of oil pipelines vandalism and theft of crude and refined oil, which has posed serious threat to the nation's economy. In this regard, this paper examines some relevant provisions of the Nigeria's Oil Pipelines Act.

3. LEGAL FRAMEWORK OF THE OIL PIPELINES ACT

The Oil Pipelines Act, Cap O7 Laws of the Federation of Nigeria (LFN) 2004 (hereinafter referred to as the Oil Pipelines Act) commenced with a beautiful preamble to the effect that it is an Act to make provision for licences to be granted for the establishment and maintenance of oil pipelines incidental and supplementary to oilfields and oil mining and for purposes ancillary to such pipelines.[30]

3.1 Permit to Survey

Part II of the Oil Pipelines Act provides that any person may make an application to the Minister in accordance with the provisions of the Act and of any regulations made thereunder for the grant of a permit to survey the route for an oil pipeline for the transport of mineral oil, natural gas or any product of such oil or such gas to any point of destination to which such person requires such oil, gas or product to be transported for any purpose connected with the petroleum trade or operation.[31]

Procedurally, every application for a permit to survey shall specify the approximate route or alternative routes proposed[32] and the Minister may grant the permit to survey on payment of the fees required by section 31 of the Act to be paid by the applicant on the submission of the application and on grant of the permit to survey respectively.[33] The Minister may also refuse to grant the permit to survey for reasons that appear sufficient to him.[34] Where the applicant's application is not successful or if the Minister refuses to grant the permit to survey, he shall notify the applicant in writing of such refusal and the reasons thereof.[35]

It is important to mention that an applicant who is applying for a permit to survey shall pay a meagre sum of 20 NGN as an application fee upon submitting his application and a fee of 50 NGN upon the grant of such permit. The applicant for a licence shall pay a fee of 50 NGN upon submitting his application and a fee of 200 NGN upon the grant of such licence.[36] It is the view of the author that the provisions of the Act relating

[29] Ibid
[30] CAP. O7, Laws of the Federation of Nigeria (LFN), 2004
[31] Section 4 (1) Oil Pipelines Act
[32] Section 4 (2) Oil Pipelines Act
[33] Section 4 (3) Oil Pipelines Act
[34] Section 4 (3) (b) Oil Pipelines Act
[35] Section 4 (4) Oil Pipelines Act
[36] Section 31 (1) & (2) Oil Pipelines Act

to application for permit to survey and the respective meagre fees prescribed is not tenable in this present time. These provisions should be reviewed.

3.2 Notice before Entry, Damage, Compensation[37]

Sequel to the foregoing, section 6(1) provides that except with the precious consent of the owner or occupier, no person shall under the authority of section 5 of the Act enter any building or upon any enclosed court or garden attached to any building, without previously having given the owner or occupier at least fourteen (14) days' notice of his intention to do so, nor enter upon any cultivated land without having given such notice to the owners or occupiers thereof or having affixed such notice in some prominent position upon such land.

Moreover, no person shall under the authority of section 5 of the Act as stated above enter any of the lands described in section 15 of the Act except with the prior assent of the owners or occupiers or persons in charge of such lands.[38] The holder of a permit to survey acting under the authority of section 5 of the Act shall take all reasonable steps to avoid unnecessary damage to any land entered upon and any buildings, crops or profitable trees thereon, and shall make compensation to the owners or occupiers for any damage done under such authority and not made good.[39] That being as it were, in the event of any dispute as to the amount of compensation to be paid or as to whether or to whom any compensation shall be paid, the provisions of Part IV of this Act shall apply.

The above provisions on permit to survey, its effect and the meagre fees prescribed under the Oil Pipelines Act are very archaic and need serious review. The amount of money payable in respect of application for permit to survey and grant of permit make a whole jest of the Act. This paper recommends a serious upward review on the various fees. On this note, the paper proceeds on evaluation of the legal framework of oil pipeline licence and the oil and gas pipeline regulations.

3.3 Oil Pipeline Licence

The Oil Pipelines Act provides that a holder of a permit to survey may make an application to the Minister in accordance with the provisions of the Act and of any regulations made thereunder for the grant of an oil pipeline licence in respect of any oil pipeline, the survey of the route for which has been completed by the applicant.[40] The Minister may grant the licence on payment of the fees required by the Act as contained in section 31, to be paid by the applicant on the submission of the application and on the grant of the licence respectively or for reasons which the Minister considers sufficient, refuses to grant the licence, he shall notify the applicant in writing of such refusal and the reasons thereof.[41]

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37 Section 6 (1), (2) & (3) Oil Pipelines Act
38 Subsection (2) Oil Pipelines Act
39 Subsection (3) Oil Pipelines Act
40 Section 7 (1) Oil Pipelines Act
41 Section 7 (2) (a), (b) & (3) Oil Pipelines Act

Section 7 (4) of the Oil Pipelines Act provides that no person other than the holder of a license shall construct, maintain or operate an oil pipeline. Every person who acts in contravention of subsection (4) shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding NGN 1,000 or to both such imprisonment and such fine.[42] This provision needs to be amended otherwise the original purpose of the Act is already defeated.

It is argued that these provisions of the Act do not meet international regulatory best practice. How can a nation like Nigeria, which depends largely on proceeds from crude and refined oil from the natural environment, operate such a watery legislations? In relation to the extant regime, it is obsolete to sustain a legislation, which provides that anybody who contravene its provision as in section 7(4) & (5) by constructing and operating illegal oil pipeline in the environment will be liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding NGN 1,000.

Furthermore, the Act provides further that the Minister may require any person who is convicted of an offence under subsection (6) to have the pipeline in respect of which the offence was committed and any ancillary installation removed to the extent that the Minister does not elect to purchase such pipeline or any such installation or any part thereof and in the event of failure to agree on the purchase price the same shall be determined by arbitration.[43] Again, an offender who is required by the Minister under subsection (6) of section 7 to have a pipeline or any ancillary installation removed shall make good any damage done to any land by such removal.[44]

3.4 Application for License and Notice Thereof

Under this heading, the Act provides that an applicant who is applying for a license shall deliver to the Minister, an application for the same stating the terminal points and giving a description of the pipeline and accompanied by a plan of the proposed route of the pipeline sufficient to identify the environment affected thereby and the position of any pumping stations, tanks or other ancillary installations.[45] The Minister shall upon the receipt of the application shall in relation to subsection (1) of section 8 appoint a date not less than 6 weeks ahead for the hearing of objections, if any, and shall nominate the person or persons by whom and the place or places at which any such objection shall be heard, and shall thereupon cause a notification of such date and other particulars and of the places at which objections shall be lodged to be made in the Federal Gazette of each State concerned.[46]

[42] Section 7 (5) Oil Pipelines Act
[43] Section 7 (6) Oil Pipelines Act
[44] Section 7 (7) Oil Pipelines Act
[45] Section 8 (1) Oil Pipelines Act
[46] Section 8 (2) Oil Pipelines Act

Pursuant to the above, before or upon application being made in accordance with the subsection (1) of section 8, notice of the application shall be given by the applicant in the following manner:

(a) by publication thereof in the State Gazette of each State through which the route of the projected pipeline passes;
(b) by publication thereof in such newspapers circulating in the areas through which the route of the projected pipeline passes as the Minister may require;
(c) by posting or delivering the same to the following persons entitled to be carrying on operations in the area which would be affected by the grant of a license;
    (i) holders of exclusive prospecting licenses, mining rights, oil exploration, licenses, and oil prospecting licenses;
    (ii) lessees of mining leases, temporary mining leases or oil mining leases;
(d) by publication in areas likely to be affected by the license in such other manner as the Minister may direct and by delivering to administrative officers having responsibilities in such area or to such other officers as the Minister may specify such numbers of copies of such notice as the Minister may require for distribution to the occupiers or owners of land in the area so affected who might not otherwise become aware of such notice.[47]

By the provision of subsection (4) of section 8, such notice shall contain a description of the proposed pipeline and its route and the proposed ancillary installations and shall set out a list of places and times at which copies of a plan sufficient to identify the land affected thereby may be inspected; and each copy of such notice shall require that objections (if any) shall be made at least seven (7) days before the date to be appointed by the Minister for the hearing of objections and delivered at the places to be appointed by him for such lodgment.[48]

The legal framework on application for license and notice thereof are subject of mere theoretical work, good on paper but far from implementation in reality. Needful to state that these provisions are not enforced as contained in the Oil Pipelines Act, they have become quiescent legislations that need re-enforcement.

3.5 Rights and Obligations of the Holder of a License[49]

By the provision of section 11 subsection (1), a license shall entitle the holder, his officers, agents, workmen or other servants with any necessary equipment or vehicles, subject to the provisions of section 14, 15 and 16 of the Act, to enter upon, take possession of or use a strip of land of a width not exceeding 200 feet or of such other widths as may be specified in the license upon the route specified in the license, and thereon, there over or

[47] Section 8 (3) (a), (b), (c) & (d) Oil Pipelines Act
[48] Section 8 (4) Oil Pipelines Act
[49] Section 11 Oil Pipelines Act

thereunder to construct, maintain and operate an oil pipeline and ancillary installations.

For the purpose of the provisions of the Oil Pipeline Act, an oil pipeline means a pipeline for the conveyance of mineral oils, natural gas and any of their derivatives or components and also any substance (including steam and water) used or intended to be used in the production or refining or conveying of mineral oils, natural gas, any of their derivatives or components.[50] The power to construct, maintain and operate an oil pipeline shall include the power to construct, maintain and operate on the route of such pipeline and all other installations (referred to in the Act as "ancillary installations") that are ancillary to the construction, maintenance and operation of such pipeline, including roadways, telephone or telegraph lines (subject to section 4 of the Telegraphs Act), electric power cables (subject to the provisions of the Electricity Act), pumping stations, storage, tanks and loading terminals.[51]

The holder of a license shall have power to dig and get free of charge any gravel, sand, clay, stone or other similar substance (not being a mineral within the meaning assigned thereto in the Minerals and Mining Act) within any land included within the area covered by the license to the extent that such gravel, sand, clay, stone or other substance, will facilitate the construction or maintenance of a pipeline or any ancillary installation.[52] The holder of a license shall pay compensation:

(a) to any person whose land or interest in land (whether or not it is land in respect of which the license has been granted) is injuriously affected by the exercise of the right conferred by the license, for any such injurious affection not otherwise made good; and
(b) to any person suffering damage by reason of any neglect on the part of the holder or his agents, servants or workmen to protect, maintain or repair any work, structure or thing executed under the license for any such damage not otherwise made good; and
(c) to any person suffering damage (other than on account of his own default or on account of the malicious act of a third person) as a consequence of any breakage of or leakage from the pipeline or an ancillary installation for any such damage not otherwise made good, and if the amount of such compensation is not agreed between any such person and the holder, it shall be fixed by a court in accordance with Part IV of the Act.[53]

For the avoidance of any uncertainty, subsection (6) of section 11 provides to the effect that the power granted to the holder of a license under the Act shall be exercisable only subject to the provisions of the Act and of any other enactment or rule of law.

[50] Section 11 (2) Oil Pipelines Act
[51] Section 11 (3) Oil Pipelines Act
[52] Section 11 (4) Oil Pipelines Act
[53] Section 11 (5) Oil Pipelines Act

3.6 Use of Oil Pipeline by a Person other than the Owner[54]

This provision of the Act is appraised so as to ascertain its justiciability in the use of Oil Pipeline by a person other than the owner. Section 18 subsection (1) provides that an application may be made to the Minister with respect to an oil pipeline constructed, maintained and operated in pursuance of a license granted under the Act by any person other than the owner of the pipeline who seeks a right to have conveyed by the pipeline on his behalf any of the things mentioned in subsection (2) of section 11 of the Act, which the pipeline is designed to convey. Every such application shall be made in the prescribed manner and form containing the prescribed particulars,[55] in which case, the Minister shall consider every such application in consultation with the applicant and the owner of the pipeline to which the application relates.[56]

Pursuant to the above provision, if upon such consideration the Minister is satisfied that the pipeline could, without prejudice to the proper and efficient operation thereof for the purpose of the conveyance on behalf of the owner, in the quantity required by him of the thing which it is designed to convey, be so operated as to permit of the conveyance thereby on behalf of the applicant of the thing the right to the conveyance of which is sought by the applicant, the Minister shall declare that he is so satisfied.[57] The conditions of the use of the pipeline by the applicant may be determined by agreement between the owner and the applicant and failing such agreement, shall, subject as aforesaid, be determined by the Minister.[58]

By the provision of subsection (6) of section 18, where the Minister makes under subsection (4) of this section a declaration with regard to a pipeline, he may by notice served on the owner impose such requirements as he thinks it necessary or expedient to impose for all or any of the following purposes, namely:

(a) securing to the person whose application resulted in the making of the declaration the right to have conveyed by the pipeline the thing to which the application is related;
(b) regulating the charge to be made for the conveyance of such thing by the pipeline on behalf of that person;
(c) securing that the exercise of a right secured by virtue of paragraph (a) of subsection (6) of section 18 shall be so framed as in the Minister's opinion to secure that compliance therewith will not prejudice the proper and efficient operation of the pipeline for the purpose of the conveyance on behalf of the owner thereof, in the quantity required by him of the thing which it is designed to convey

A notice served on the owner of a pipeline under subsection (6) may authorize such owner to recover from the person to whom a right is

54 Section 18, Oil Pipelines Act
55 Section 18 (2) Oil Pipelines Act
56 Section 18 (3) Oil Pipelines Act
57 Section 18, (4) Oil Pipelines Act
58 Section 18 (5) Oil Pipeline Act

secured by the notice by virtue of paragraph (a) of that subsection, payment of such amount as may be determined in accordance with provisions in that behalf contained in the notice, being payment in consideration of the rights being secured to such person.[59] If the owner of a pipeline fails to comply with a requirement imposed by a notice served on him, under subsection (6) of this section with reference to the pipeline, he is guilty of an offence and liable on summary conviction to a fine not exceeding NGN 1,000, and if the failure continues after his conviction, he is guilty of a further offence and liable in respect thereof to a fine not exceeding 50 NGN for each day on which the failure continues.[60]

With regards to subsection (8), the Minister may by notice to the owner of a pipeline whose failure to comply with any such requirement as aforesaid continues after his conviction of a first offence, revoke the license of such owner.[61]

It is contended that these provisions of the Oil Pipelines Act of the Federal Republic of Nigeria need serious amendment. There is need for upward review owing to the fact that production of crude oil or refined oil from the natural environment is the major sustainable source of income of the country.

4. CONCLUSION AND RECOMMENDATIONS

Oil pipeline vandalism and oil theft menaces in the environment have created economic woes in the country. The Nigerian economy is dwindling day by day due to the incessant oil pipeline vandalism. There is illegal construction of oil pipelines in the environment diverting crude oil and refined oil without the government taking any proactive measures to stop this act of vandalism and theft of the nation's number one source of revenue. Nigeria is a nation that depends largely on proceeds from natural resources particularly crude oil. Vandalism and theft of oil in the environment pose a serious threat to Nigeria economy and until the vandals are caught and prosecuted, the challenge will persist.

It is the view of this paper that some government officials are involved in this unending vandalism and oil theft in the environment considering the fact that all these menaces are happening in the presence of the Nigerian Police Force, the Military, Nigeria Civil Defence Corps, et cetera.

It is recommended that a structural reorganization and establishment of strong environmental security surveillance on oil pipelines by the government should be set up. Government should create a special court for accelerated prosecution of vandals and also look inward in order to flush out officials who are involved in vandalism and oil theft in the environment.

[59] Section 18 (7) Oil Pipelines Act
[60] Section 18 (8) Oil Pipelines Act
[61] Section 18 (9) Oil Pipelines Act

Additional recommendation is that the Oil Pipelines Act should be reviewed as its provisions have become obsolete. A nation like Nigeria that depends largely on proceeds from crude and refined oil from its natural environment should not operate such archaic legislations. In relation to the extant regime, it is obsolete to sustain a legislation which provides that anybody who contravenes its provision as in section 7(4) & (5) by constructing and operating illegal oil pipeline will be liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding NGN 1,000.

The government should also stop borrowing to service debt and finance budget as this act of borrowing will aggravate the economic meltdown of the nation. Furthermore, the government should be proactive by formulating effective regulatory policies with good enforcement mechanisms that will pave way for effective service delivery by National Oil Spills Detection and Response Agency (NOSDRA) and other relevant agencies. It is expected that implementing these recommendations will mitigate the alarming economic meltdown of the Nigeria's economy and as well promote a sustainable healthy environment.

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AUTHORS' DECLARATION AND ESSENTIAL ETHICAL COMPLIANCES

Authors' Contributions (in accordance with ICMJE criteria for authorship)

Contribution	*Author 1*	*Author 2*
Conceived and designed the research or analysis	Yes	Yes
Collected the data	Yes	No
Contributed to data analysis & interpretation	Yes	Yes
Wrote the article/paper	Yes	No
Critical revision of the article/paper	Yes	Yes
Editing of the article/paper	Yes	Yes
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The author(s) solemnly declare(s) that this research has not involved any human subject (body or organs) for experimentation. It was not a clinical research. The contexts of human population/participation were only indirectly covered through literature review. Therefore, an Ethical Clearance (from a Committee or Authority) or ethical obligation of Helsinki Declaration does not apply in cases of this study or written work.

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(Optional) Research Involving Local Community Participants (Non-Indigenous)
The author(s) solemnly declare(s) that this research has not directly involved any local community participants or respondents belonging to non-Indigenous peoples. Neither this study involved any child in any form directly. The contexts of different humans, people, populations, men/women/children and ethnic people are only indirectly covered through literature review. Therefore, an Ethical Clearance (from a Committee or Authority) or prior informed consent (PIC) of the respondents or Self-Declaration in this regard does not apply in cases of this study or written work.

(Optional) PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses)
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