

## **Petro-Economy and Corruption in Nigeria: A Legal Examination**

By

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**Abstract;** *Due to Nigeria government's inability to properly account and convince its citizenry how its petro-gas resources being explored in the Niger Delta region are managed or controlled, it has given rise to militancy, violence and corruption. The study traces these social maladies to both the governments and the multinational oil and gas companies' neglect of the Niger Delta region. It analyses corruption from the legal perspective; the laws regulating the oil and gas sectors in Nigeria; the basis for the Niger Delta agitation and the Nigeria government's blueprint for the Niger Delta region. Our findings are that the joint venture agreements between the government and the multinational companies, over-invoicing by the multinational companies, the laws regulating the oil and gas sectors and also the newly created Local Content Act (other known as the Nigeria's Oil and Gas Industry Development Act, 2010), are the engines for corruption, and that except they are reviewed, corruption will persist in our petro-economy. The study concludes that except adequate machineries are put in place and the enforcement of laws to punish violators for the crimes of corruption in our petro-economy, the situation will degenerate and the Nigerian government will continue to lose huge sums of money.*

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### **I. Introduction**

High-level corruption, bad governance, political instability and cyclical legitimacy crisis has affected the Nigerian state. There is virtually no sector of the Nigerian economy that has not been affected by corruption at its widest form. National development is retarded, and the political environment uncertain. Nigeria is the sixth largest producer of oil and **gas** in the world, and that is the mainstay of the economy, accounting for well over 90 per cent of the exports. The low sulfur content of much of Nigeria's petroleum makes it especially desirable in a pollution conscious world. There are other minerals available in Nigeria, and some of them are: Barite, Coal, Columbite, Fluorite, Gold, Iron Ore, Kyanite, Uranium, Natural Gas, Phosphate, Tin and so forth. In spite of the fact that Nigeria has generated over \$600 billion from oil since 1960s till date, the country is facing serious economic problems, poverty and unemployment (Amnesty International Report, 2009:2). Despite these huge foreign exchange earnings, the economy under-performs, and the great majority of the people have not been able to derive much benefits. Poverty, unemployment, decay infrastructure, corruption at high level, misery, lack of basic human needs **and other atrocious acts, are common in Nigerian society.** Oil and gas, rather being a blessing to the people, is now being regarded as a curse. This is because it has brought with it, negative things, rather than positive things. In this paper, we will examine the procedure in which the federal government of Nigeria through the Nigerian National Petroleum Corporation (NNPC) participates in the petroleum and gas industry, the laws governing the sector, basis for corruption in the sector and how such corruption is the root cause for the Niger Delta militancy and ways to fight against the corruption in the system. Also, attempts will be made to examine the negative impact the newly created Local Content Act (other known as the Nigeria's Oil and Gas Industry Development Act, 2010) **is** an engine of corruption.

### **Procedure For Nigerian Government's Participation In The Petroleum And Gas Sector**

When Nigeria became independent on 1<sup>st</sup> October, 1960 from its British colonialist, its attention was in the agricultural sector until 1967 when the Multinational Oil Companies (MNOCs) made-up of Shell/BP, Gulf, Mobil, AGIP, Elf **and so on** started to determine the level of oil production and to cut down oil prices without consulting the oil producing countries. The Nigerian government through the then Ministry of Mines and Power started to review financial agreements with the Multinational Oil Companies (Turner, 1969). When Nigerian became the eleventh member of the Organization of Petroleum Exporting Countries (OPEC) in July, 1971 efforts were increase the oil prices for its members and to protect the sovereignty of member states.

Following Nigeria's formation of the then Nigerian National Oil Corporation (NNOC) in 1975, which was later transformed to Nigerian National Petroleum Corporation (NNPC), **it** became the agency through which **the government operates** all its oil and gas activities.

During the colonial period, concessionary rights were granted to Shell D'Arcy Petroleum Company and British Petroleum Company (Shell BP) from 1908 to 1959, as they had monopoly. Other oil companies obtained concessions on those areas Shell BP had abandoned after 1959. The concessions or exploration rights granted to these companies for twenty years were at that time governed by the Mineral Oil Ordinances No.17 of 1914 and the fiscal terms comprised payments of some yearly rent in respect of the whole duration plus royalties (Gidado, 1999). In order to commence exploration, production or marketing activities, the oil companies needed to obtain such rights at first from the British colonial government and after independence, from the Nigerian government. The **Mineral** Oil Ordinance continued to operate even after Nigeria's independence until 1969 when it was repealed and replaced by the Petroleum Act 1969 and its subsidiary legislation, the Petroleum (Drilling and Production) Regulation 1969.

The Petroleum Act 1969 made fundamental changes to the Mineral Oil Ordinance 1914 and introduced the following three types of grants to regulate petroleum operations in Nigeria, and each of these licenses are usually granted by the Minister of Petroleum, upon an application by an oil company:-

- (a) Oil Exploration Licence (OEL);
- (b) Oil Prospecting Licence (OPL); and
- (c) Oil Mining Lease (OML)

The Oil Exploration Licence (OEL) entitles the licensee to carry out non-exclusive geological and geophysical search for petroleum within the area of the grant for one year only, with possible extension for another year. The size of the area of the grant must not exceed 5,000 square mile (12,950 square kilometer). Any discovery of hydrocarbon or other minerals by the licensee must be reported to the Head of Petroleum Inspectorate of Nigerian National Petroleum Corporation (NNPC). An Oil Prospecting Licence (OPL) grants to the licensee the exclusive right to search for, drill, to extract samples, as well as export the crude oil and to refine it in Nigeria. The duration of an OPL is at the discretion of the Minister, but must not exceed 5 years, including any periods of renewal in the case of land and territorial waters and 7years for continental shelf areas. The maximum area prescribed for an OPL is 1,000 square mile (2,590 square kilometer). As soon as the licensee undertake crude oil or gas production in the areas of grant, they are obliged to pay royalties and are also subject to taxation, as governed by the Petroleum Profit Tax Act, 1959, which imposes a tax upon the profits from the winning of petroleum of Nigeria, to provide for the assessment and collection of revenues. The Petroleum Profit Tax Act introduced 50:50 profit shares between the licensee and Nigeria. Royalties are collected separately from the 50 percent tax due to the government. While the Oil Mining Lease (OML) gives rise to landlord and tenant relationship or lessor and lessee in respect of the land in which petroleum and gas are being mined. The grant of an OML does not bequeath a leasehold estate to the licensee. There are provisions or conditions in the Petroleum Act 1969 in which an OEL, OPL and OML can be assigned.

At present, the Nigerian government's participation in the oil and gas sector with the Multinational Oil Companies (MNOCs), is through Joint Venture Agreements. The state's participation, as a policy is aimed at sharing ownership and control of its resources, quite unlike the old regime of granting concession to the Multinational Oil Companies. The basic objectives of state's participation are as follows:-

- (a) satisfaction of the national aspiration of public participation as of right with the multinational oil companies in the ownership of petroleum rights and in decision-making on important matters affecting the conduct of petroleum operations;
- (b) increased revenue to government through profit-sharing and sales of government share of crude oil, produced from joint operations;
- (c) acquisition of requisite technology, managerial and technical skill by the state-owned oil company, which participates in the operation;
- (d) supply of internal needs of petroleum and its products; and
- (e) gaining an inside knowledge of the methods, techniques and patterns of petroleum operations necessary for an effective government regulation of the industry (Klan, 1987).

The summary of participation by NNPC in the operations and assets of each oil producing company are as follows:-

- (a) the OPLs and OMLs are held by the oil company;
- (b) the fixed and movable assets of the company in Nigeria, including development, production, transportation, distribution and export operations and associated assets as offices, housing and welfare facilities; and
- (c) the working capital applicable to the joint operations of the OPLs and OMLs.

It is worthy to note that NNPC does not own shares in any of the multinational oil companies with which it has joint venture operation agreements. NNPC only has equity and non-equity participation agreements with these companies. The joint venture denote a variety of forms of cooperation through production sharing contracts and risk service contracts.

### **Criticisms Of Government's Joint Venture Agreements With The Multinational Oil Companies And Loopholes For Corruption**

The Ministry of Petroleum Resources remains essentially a civil service outfit that is ill equipped to conceive and formulate the required policies for such a complex and sophisticated industry. The regulatory body, the Department of Petroleum Resources (DPR) is, by and large, similarly constrained being a body tucked away within the Ministry. The most problematic, however, remains the **Nigerian National Petroleum Corporation** (NNPC). It is simply a typical Nigerian state institution that operates as a huge amorphous cost centre with little or no sensitivity to the bottom line. The Presidential Oil and Gas Implementation Committee Final Report, 2008, disclosed a “bewildering overlap across NNPC subsidiaries and units, partly a function of unrestrained irregularities, covetousness and expansion of incongruent responsibilities” in the following areas:-

#### **(a) Awarding Upstream Licenses**

- the Minister's discretion in the award of licence under the Petroleum Act, 1969; **does not give room for** transparent competitive or bidding system.
- Long history of secrecy, favoritism, neglect of national interest;
- Former President Olusegun Obasanjo's effort to improve the system between 2005 and 2007 improved transparency and increased competition;
- Problems remained and took subtle form, especially before and after each round or stage in the award of upstream licenses;
- Before pre-qualification process, 'local content vehicles', are only invited **to participate, especially after** 'first rights of refusal'.
- After 'forced marriages', uneven enforcement of payment deadlines, term renegotiation, no enforcement of downstream commitments.
- Discretion of Presidency and his advisers trumps due process throughout.
- Court cases, probes, revocation of blocks, suspension of officials have ensued.

#### **(b) Awarding Contracts**

- Majority of costs associated with NNPC activities are contracted out and overlooked by transparency movement.
- NNPC closely involved in these contracting processes through low approval thresholds
- Several procedures and processes are crowded corruption
- There are widespread allegations that KBR paid \$180 million as bribes to secure \$6 billion in Bonny Island NLNG contracts
- There are also widespread allegations that Wilbros paid \$6 million as bribes for pipeline construction business
- In spite of the widespread bribery allegations, no action has been taken against bribe recipients.
- Corruption can take several forms - bribery, favouring companies in which NNPC or government officials have a stake or giving preference to companies of their allies, etc.

#### **© Bottlenecks and Inefficiencies**

- Several delays by NNPC and government officials to process documents
- Throughout the sector and the system, several delay in various forms of approvals and visa for each expatriate worker,
- The United States of America is investigating 12 Customs officials through a third party for bribery scandals in which some NNPC Board members, Federal executives and NNPC organ (NAPIMS) are involved.
- No strong and independent regulatory institutions that are free from political interference in Nigeria.
- Soon after NEITI's (Nigeria's Extractive Industry Transparency Initiative) excellent audit report released in 2006 for the periods 1999-2004 that showed significant loss and fraud in the oil and gas sector, there had not been any further audit report from 2005 till date.
- Most EFCC and ICPC reports are hampered, especially when it affected senior government officials

(d) Over-invoicing, tax evasion and all sorts of corrupt practices surrounding the Nigeria's government participation in the oil and gas industry.

(e) The newly enacted Nigeria's Oil and Gas Industry Development Act, 2010. Since this Act (otherwise known as the "Local Content Act") came into force in 2010, all multinational oil companies have conspired to frustrate Nigeria's indigenous companies from undertaking Quality and Quantity (Q&Q) Analysis **within** Nigerian waters to ascertain the content, volume and viability of **our crude oil in any vessel**. Such analysis are presently done outside Nigerian waters by only the multinational **oil companies'** approved Q&Q companies, thereby frustrating the said Local Content Law. NNPC and government officials are aware of these facts and have not done anything to curtail it.

### **Laws Regulating Oil And Gas Activities In Nigeria**

An examination of the following laws regulating oil and gas industry activities in Nigeria will help us to ascertain why the Nigerian government and multinational oil companies have taken advantage to exploit the rights of people and communities in the Niger Delta region, thus:

(1) Section 44(3) of the Constitution of the Federal Republic of Nigeria 1999 provide as follows:

*"Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria, or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly".*

(2) Section 1 of the Land Use Act, 1978 also provide as follows:-

*"subject to the provisions of this Act, all land comprised in the territory of each state in the federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act"*

(3) Petroleum Act, 1969, Section 1 Schedule 1 states thus:-

(a) The entire ownership and control of all petroleum in, under or upon any lands to which this section applies shall be vested in the state.

This section applies to all land (including land covered by water) which

- (a) is in Nigeria, or
- (b) is under the territorial waters of Nigeria, or
- (c) forms part of the continental shelf.

(4) Petroleum (Drilling and Production) Regulations 1969 section 1(1) states:-

*"every application for an oil exploration licence, oil prospecting licence or oil mining lease shall be made to the Minister in writing on the appropriate form as set out in the schedule to these regulations"*

(5) Petroleum Profits Tax Act 1959 as amended by Petroleum Profits Tax Act No. 15 of 1973 (Part 111) section 2 states thus:-

*"for the purposes of subsection (1) (b) of the value of any chargeable oil so disposed off shall be taken to be the aggregate of" :-*

(b) The value of that oil as determined for the purpose of royalty, in accordance with the provisions of any enactment applicable thereon and any financial agreement; or

(c) Arrangement between the Federal Government of Nigeria and the company.

(6) Associated Gas Re-Injection Act 1979 (as amended by Act, 2008), Section 1 make all natural gas to belong to the federal government of Nigeria.

(7) Nigeria's Oil and Gas Industry Development Act, 2010

From the above enactments or legislation, it is obvious that all lands in Nigeria belongs to the Government of Nigeria, who deals with the multinational oil companies to the exclusion of its citizenry (Gidado, 1999). Thus, oil companies would ordinarily pay compensation to the following category of persons (Etikerentse, 1988):-

(a) Persons who had vested in the land before the commencement of the Land Use Act, 1978 (see Sections 48 and 49). It also means that if any person acquire the land (whether in urban or non-urban areas) of the Land Use Act, the Governor of the State by the provisions of Section 28 of the Land Use Act, can revoke the person's right of occupancy.

(b) By Section 29(2) of the Land Use Act, if the holder or occupier is a community, the Governor may direct that any compensation payable to it shall be paid to:-

(i) The community; or

(ii) To the chief or leader of the community in accordance with the customary law, or

(iii) Into some fund specified by the Governor for the purpose of being utilized or applied for the benefit of the community.

There is no specified formula for assessment of compensation or universally accepted amount in any law in Nigeria for persons or land owners whose lands are affected by oil and gas activities under the Petroleum Act as provided by Section 29(2) of the Land Use Act or the Public Lands Act, Cap. 167. Even where damages by way of compensation are awarded by our courts, in most cases they are hopelessly inadequate. How much money can compensate an individual for the loss of his land, being his source of livelihood or a community for the destruction of their farmlands, fishing rights together with the deaths that result from the drinking water of their polluted streams? The problems created by these laws or legislation violated the rights of people or communities in the Niger Delta region and which the federal government of Nigeria should explore other means such as restoration or restitution and reparation.

### **Types Of Injuries Suffered From Oil And Gas Activities**

The Niger Delta region is one of the most important wetland and coastal marine ecosystems in the world and is home to some 31 million people. The region consist of the following nine states in Nigeria: Rivers, Akwa Ibom, Bayelsa, Cross River, Abia, Edo, Delta, Imo and Ondo. It is the location of massive oil deposits, which have been extracted for decades by the government of Nigeria and by multinational oil companies. Oil has generated an estimated \$600 billion since the 1960s (Daily Times, 2003).

In 2008, Amnesty International researchers documented the impact of oil pollution on human rights and visited a number of oil pollution sites and met with communities in the Niger Delta region who have suffered from pollution. They also talked with the human rights defenders and environmental activists who have been working for years, for an end to oil industry bad practice in the region, who have been campaigning for justice for those affected by pollution (Amnesty International Report, 2009). Oil spills, waste dumping and gas flaring are undermined in the Niger Delta. This pollution, which has affected the area for decades, has damaged the soil, water, and air quality (Etim, 2003). Hundreds of thousands of people are affected particularly the poorest and those who rely on traditional livelihoods such as fishing and agriculture (Okaba, 2005). The human rights implications are serious, under-reported and have received little attention from the government of Nigeria or the oil companies. This is despite the fact that the communities themselves and local NGOs as well as the African Commission on Human and People's Rights and the United Nations Human Rights Committee have all expressed serious concern about pollution and called on the government of Nigeria to take urgent action to deal with the human rights impacts of oil industry pollution and environmental degradation.

### **Legal Analysis Of The Joint Military Task Force (Jtf) And The Use Of Force In Nigeria's Democratic Setting**

Nigeria embraced its third phase of democracy on 29<sup>th</sup> May, 1999, having been ruled by military regimes for several years. In view of the fact that the conflict in the region escalated from 1999 till date, the Nigerian government established the Joint Military Task Force (JTF) in which its personnel or officers were drawn from the Nigerian Army, Navy, Airforce, Police and security agencies to patrol the region without following the due process to enact any law or give it any legal backing. The legitimacy of the JTF is highly questionable. By the combined effect of Sections 217 and 218(1),(2) and (3) of the 1999 Constitution, the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria can determine the operational use of armed forces and can delegate such powers to any member of the armed forces to suppress insurrection or to restore order, in such a condition as may be prescribed by an Act of the National Assembly. It is over eight years since the JTF was established to police the region, no formal bill has been presented to the National Assembly and the National Assembly has not prescribed any condition to regulate and protect the presence of JTF in the region, thus violating the human rights of its citizenry in the region.

Political and economic repression is a negative approach to the problem of internal security and usually a product of the very forces it is intended to contain, by the establishment of JTF for some years now without

any legal backing. Such approach can lead to the militarization of the nine states in the region and also the institutional of authoritarianism. Nweke (1985:77) has noted that an isolationist posture which relies on instrumentalities of political, economic and military repression as a means of resolving the problem of internal security will exacerbate rather than eliminate the sources of tension and in doing so, impede development. To succeed in handling the problem of internal security in the process of development, an isolationist posture must adopt an objective approach. This approach calls for the construction of appropriate national policies for political socialization, civil defence, police, intelligence organizations and armed forces imbued with pan-African ethic. It must be remembered that the problem of internal security originates as much from domestic structure as from external intervention; so that the thrust of any policies formulated with a view to handling the problem must take account of the external forces and the means of containing them.

As there is no law establishing the JTF, no legal action or law suit can be brought against them in our courts as they are non-juristic personalities in the eye of the law. The JTF are usually armed and they apply the use of force to disarm the militants or communities in any conflicting area in the region. How can they (JTF) demarcate “reasonableness” from “unreasonableness” for their use of force? The act of the Nigerian government to use the JTF to quell conflicts in the region, in this twenty-first century, is a part of the stock of ideas bequeathed to the twentieth century by the nineteenth century. Claude Inis, Jnr (1971:287) observed that:

Disarmament theory is not always so rigorously simple-minded as this. It has, in fact, contributed its share to the body of thought concerning the causation of war. In its more sophisticated versions, it rests upon the assumption that national military resources do not merely make war physically possible but that they figure significantly among the factors which make war a political probability. It may be argued that the sheer possession of vast lethal power imposes an undue strain upon mere human beings. Men are not gods, and when they gather the power of the gods in their hands they come to behave like beasts. A nation that develops inordinate military strength can hardly avoid the ultimate loss of self-restraint the disposition to gain its ends by coercion, and the repudiation of the values of peaceful accommodation. The corrupting influence of power operates not only in dictatorships, where it stimulates the aggressive instincts of unchecked rulers, but also in democracies, where it debases popular standards of international morality and tends to promote the excessive influence of professional military men.

The exertion of military superiority or strength by the JTF over defenseless communities in the region, breed arrogance and ruthlessness, as they maim and kill with a view to disarm. Military rivalry also breeds mutual fear which is all too easily transformed into hatred and neurotic insecurity in the region. Thus, Claude Inis Jnr (1971:288) further observed that:-

“Tension produce armament; armament breeds counter-armament; competitive armament increases tensions. The self-propelling arms race is regarded as an inexorable march to the violent climax of war”.

We can observe that in spite of the several years the JTF have operated in the region and having regard the huge sums of money expended to fund their operations, the conflict continue to escalate in the region.

The country’s authoritarian leadership faced a legitimacy crisis, political intrigues, in an ethnically - differentiated polity, where ethnic competition for resources drove much of the pervasive corruption and profligacy. While the political gladiators constantly manipulated the people and the political processes to advance their own selfish agenda, the society remained pauperized, and the people wallowed in abject poverty. This invariably led to weak legitimacy, as the citizens lacked faith in their political leaders and by extension, the political system. Participation in government was low because citizens perceived it as irrelevant to their lives. In the absence of support from civil society, the effective power of government was eroded. Patron - client relationships took a prime role over the formal aspects of politics, such as the rule of law, well-functioning political parties, and a credible electoral system. In order to break this cycle and ensure good governance, accountability and transparency must be guaranteed.

### **Ways To Fight Corruption In Nigeria’s Oil And Gas Industry**

The establishment of the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC) as well as the Code of Conduct Bureau and its Tribunal is a laudable start on the war against corruption. Unfortunately, though some successes have been registered by these bodies, the general impression is that these bodies have gone after the tail of the monster of corruption rather than its head. It is not helpful that some politicians allege that these bodies are being used by

the Presidency as instruments of blackmail or vendetta against political opponents. There is therefore a need to expand the activities and range of instruments available to these bodies.

An effective war on corruption has to be fought on, at least, the three axes of (a) Prevention, (b) Detection, and (c) Sanctions and Restitutions. As at date, some efforts have been made in terms of the prevention (e.g. the Due Process Mechanism) and sanctions of corruption offenders, present efforts being made to detect corruption are at best half-hearted. It is no wonder that when some time ago the Nigerian media accused a former military head of state of embezzlement of public funds, Mr. President was to retort that he would take immediate action if he is provided with actual evidence of wrong-doing of this particular predecessor. Yet, the President himself announced that he has received the names of some naughty public officials who have been reported to him by Nigeria's western creditors as having siphoned and are still siphoning some huge resources abroad.

If corruption is to be given a short-shrift in Nigeria, then the social, business and bureaucratic environments must be corruption-hostile rather than friendly. This means that there must be well funded comprehensive public education and enlightenment programs on the nature of corruption as well as the negative effects of corruption in the Nigerian polity. This is a job that the National Orientation Agency (NOA) as well as the Federal and State Ministries of Information must undertake. This could take the form of well tested public enlightenment techniques such as the use of hand bills, public posters, print media adverts and Radio and Television jingles. At the same time, the citizenry must be made aware of the stiff penalties that await those to be engaged in corrupt practices. To this end, certain legal instruments must be put in place to enable unfettered corruption detection, arraignment and conviction to be facilitated. In this regard, appropriate legislation should be enacted along the following lines:-

- (1) A law compelling all banks to report to both the appropriate Federal and State Boards of Inland Revenue/Tax Authorities, as well as the law enforcement agencies any deposits, transfers or withdrawals of funds in excess of a specified amount (for example N5 million and above) by any individual. Such a law should provide for the automatic State confiscation if it turns out that the sources of such funds are proved in a court of law to be illegitimate or are connected with illicit money laundering.
- (2) A law requiring tax in the form of "capital gains tax" to be levied against people who appear to have come into large sums of money illegitimately or even legitimately, other than as a result of a legitimate business transaction (for example, accruals to registered businessmen who have declared taxable business profits), or otherwise sums received by a salaried person as part of an emolument package (for which normal income taxes would have been paid).
- (3) A law requiring the Federal and State Ministries responsible for Lands and Housing to make it a condition for the granting of Certificates of Occupancy, as well as for approval of building plans on registered plots of land, to require applicants to indicate legal sources of funds for the development or purchase of a landed property, as well as evidence of income taxes being paid that are commensurate with the acquisition or possession of such valued property in question.
- (4) A law enabling the Federal and State Tax Assessment and Collection Agencies as well as the Anti-Corruption Intelligence Agency and the Police to demand explanations for large acquisitions and expenditures (for any purpose including donations and pledges at "public launches" and other events) of large sums of money beyond the legitimate incomes whether of public servants or private entrepreneurs, and to impound same when sources for such funds cannot be justified in a court of law.
- (5) A law requiring the mandatory public declaration of the assets of the "immediate family" (meaning husband, wife and children) of all specified senior public officers on appointment or assumption of duty as well as after disengagement. In addition, such assets (which must be covered by the Freedom of Information Act) must be verified and monitored routinely by the Anti-Corruption Intelligence Agency and the EFCC. In this regard, it is relevant to observe that Nigerians can be very creative over asset declaration. Hence, an elected or appointed official who targets stealing 100 million naira during his/her term in office could, for example, declare 105 million naira upon assumption of office. Usually, the declaration is taken on its face value; no further attempt is made to ascertain that the official is actually worth the declared amount. He/She subsequently would steal 100 million and when he/she is about to leave office, he/she declares 100 million plus whatever little money he/she might have made legitimately. No one can query the loot because it was declared when the official came into office. Hence, what the government should do is to demand physical evidence of the declared assets and at the same time establish their legitimacy.
- (6) A law should be enacted, declaring all crimes of corruption "federal crimes" justiciable in federal courts or tribunals.
- (7) The Nigerian National Petroleum Corporation (NNPC) should be reorganized and enhanced for efficiency.

- (8) The Petroleum Act 1969 should be reviewed so that the discretionary powers vested to the Minister of Petroleum should be reformed to give room for transparency and best practices.
- (9) A review of Sections 217 and 218(1),(2) and (3) of the 1999 Constitution, to empower the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria to regulate and protect the presence of JTF in the region to avoid violating the human rights of citizens.
- (10) A review of Section 1 of the Land Use Act, Section 44(3) of 1999 Constitution and Section 1 of the Associated Gas Re-injection Act that **vested** ownership of land to the state, instead of the persons and communities oil or gas is found.
- (11) All Nigerians must learn to perform their duties efficiently and diligently in order to maintain public confidence in the integrity of his/her office.
- (12) All Nigerians must discharge professional responsibilities in a professional manner.
- (13) They must learn to carry out their duties in accordance with the rule of law and to respect the constitutional right and freedom of other people.
- (14) They must not use their office to improperly enrich themselves.
- (15) They must avoid conflict of interest and must not compromise Nigeria's Security interest.
- (16) They must not practice nepotism and favouritism.
- (17) Any one who fails to submit asset declaration or gives false declaration should be made to face the wrath of the law.
- (18) Recently, it has been observed that most Nigerian politicians, public officers and business men and women, no longer keep at home, large sums of Nigerian currency, but foreign currency (such as pounds sterling, dollars, euro and so on). A law must be enacted that abhor non-banks, public officers or private persons from keeping such huge sums of money in their homes.

## II. Conclusion

From the above study, it is obvious that there are adequate provisions in our laws, but that those in authority are only circumventing the law. A genuine monitoring of government policies and programmes will fight against corrupt practices. A failed, corrupt and inept leadership coupled with inclement domestic socio-political environment have plunged development performance in Nigeria into the abyss. Development is no longer what the people desire, but what the creditor nations and international financial institutions dictate. The domestic policy-making process is now imported from abroad, perhaps, to further the interest of the international hegemony in a desperate scramble, for the second time, of the "newly" found state known as "neocolonialism". This has to be resisted with an active participation of the civil society.

## References

- [1]. Amnesty International (AI) Report (7/27/2009), Nigeria: Petroleum, Pollution and Poverty in the Niger Delta (On line)
- [2]. Claude, Inis L. Jnr. (1998), Swords into Plowshares: The Problems and Progress of International Organization (New York: Random House)
- [3]. Constitution of the Federal Republic of Nigeria, 1999.
- [4]. Daily Times Newspaper, 18 June, 2009 (online), Nigeria: JTF Attack-U-S. Group Caution FG
- [5]. <http://allafrica.com/stories/20906180249.html>.(12/15/2009)
- [6]. Etim, W. (August 27, 2003), Oil Spillage devastate Bayelsa Communities. Posted on [Ijawnation@yahoo.com](mailto:Ijawnation@yahoo.com) by Titoe Miriki. 8/27/03
- [7]. Gas Re-Injection Act 1979 (as amended by the Act, 2008)
- [8]. Gidado, M.M., (1999), Petroleum Development Contracts with Multinational Oil Firms: The Nigerian Experience. Maiduguri: Ed-Linform services.
- [9]. Klan, K.I.P. (ed), 1987, Petroleum Resources and Development Economic, Legion and Policy Issues for Developing Countries, London: Belloven Press
- [10]. Nweke, Aforks G., (1985), Africa: its Security and the Nuclear option (Enugu: Fourth Dimension Publishing Ltd),
- [11]. Okaba, B.O. (2005), Petroleum Industry and the Paradox of Rural Poverty in the Niger Delta (Benin City: Ethiope Publishing Corporation).
- [12]. Petroleum Act, 1969
- [13]. Petroleum (Drilling and Production) Regulations, 1969
- [14]. Territorial Waters Act, 1967
- [15]. Territorial Waters (Amendment) Act, 1971
- [16]. The Land Use Act, 1978
- [17]. Tanzer, M. (1969), The Political Economy of International Oil and The Underdeveloped Countries, London Beacons Press
- [18]. Zakariya, H.S. (1976), "New Directions in the Search for and Development of Petroleum Resources in the Developing Countries", *Vanderbilt Journal of Transitional Law*, 9:556