

## **THE IMPACT OF INEFFICIENT COMPENSATION ON THE RISING INCIDENCE OF ILLEGAL OIL BUNKERING AND INSECURITY IN THE NIGER DELTA, NIGERIA\***

### **Abstract**

*This study analyzed the compensation for the people of the Niger Delta region of Nigeria for the effects of oil exploration and exploitation in the region. In the aftermath of oil bunkering and the insecurity that trails it, the recompense of victims became cumbersome and murky. Over the decades, Nigeria descended into one of the world's most insecure and petroleum-polluted countries. In her Niger Delta region, human and habitat destruction as well as illegal oil bunkering are some of the huge effects of the oil exploration and exploitation of her oil sector. These factors are cumulative and have functioned in concert with other environmental pressures to degrade ecosystems and jeopardize human livelihoods and health in this region of Nigeria. As a result of these unfortunate events, individuals and the host communities in the Niger Delta region, including landowners, pond owners, and other property owners keep demanding for appropriate compensation. Following the years that have gone by without any adequate compensatory response from the government, issues like illegal bunkering and militant group operations arose to harvest compensatory benefits from pipelines, carting away oil from lands within the oil producing region. Therefore, this study made efforts to determine the impacts of the government's neglect to meet the needs of the people in the Niger Delta region. Furthermore, it examined compensations that are proper in a political system that lacks legislative and administrative guidelines, and framework to effectively deal with the issue of petroleum compensations resulting from sabotage, bunkering, and even multinational oil company activities.*

**Keywords:** Compensation, Illegal Oil Bunkering, Insecurity, Niger Delta of Nigeria

### **1. Introduction**

In 1956, Nigeria made its first oil discovery and this eventually led to an explosion of its economy. In the past decades, Nigeria has maintained the position of the world's fifth-largest oil exporter. However, it is currently the thirteenth largest in the world due to several technical disasters that continue to disrupt its output, as well as a global drop in oil and gas expenses since 2014.<sup>1</sup> However, the government now has a greater problem since one of her most valuable natural resources (crude oil) is being stolen and sold by a self-proclaimed shareholder (the militant groups operating within the Niger Delta) and other criminal groups in the region. As Campbell records, when the losses from oil theft were calculated in monetary terms, the government was found to be losing \$1.7 billion every month.<sup>2</sup> The incidence of oil theft in the Niger Delta has resulted in escalating insecurities plaguing the struggles for a share in the nation's major economic sustenance. Before 2009, The Niger Delta which is Nigeria's oil and gas production power house was nearly uncontrollable: foreign oil employees were kidnapped, oil pipelines and other petroleum production infrastructure were sabotaged, and criminal activities were rampant. In the early 2000s, an abduction and pipeline bombing campaign erupted in response to pollution from oil exploration and exploitation and the region's persistent poverty. However, by 2009, these violent acts decreased and output increased as government sponsored an amnesty program in the region. As the years go by and power changed hands, oil theft began to be on the upswing once more. Oil theft and illicit bunkering have risen dramatically, with piracy appearing to be a major factor. On a daily basis, about 300,000 barrels of oil are stolen from Nigerian pipelines.<sup>3</sup> Despite the measures, however inadequate, which the government had taken to curb the menaces across this clime, the problems of insecurity and oil bunkering has remained unsolved. With regards to these problems, the typical method of compensating the enraged groups acting against the nation's interest through illegal oil bunkering and vandalization is the granting of compensation to put their rebellious minds at rest over the damages

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<sup>1</sup>O. Albert, D Amaratungaa and RP Haigh, An Investigation into Root Causes of Sabotage and Vandalism of Pipes: A Major Environmental Hazard in Niger Delta, Nigeria' (2009) *Capacity Building for Research and Innovation in Disaster Resilience 2019*.

<sup>2</sup>J. Campell, *A Primer on Nigeria's Oil Bunkering* (Council on Foreign Relations 2015). <<https://www.cfr.org/blog/primer-nigerias-oilbunkering>

<sup>3</sup>U. Akpan, 'Indigenous Operators Express Worry as Cost of Oil Theft hits N15.66n', *National Mirror*, 12 November 2013; B Olusola, 'When will Nigeria stop the Crude Oil Theft', *Business Day*, 17 October 2013

caused by oil explorations across the Niger Delta. According to Osimiri, insufficient or poor compensation for damage caused by oil spills is a major source of controversy in the oil industry.<sup>4</sup> Destruction of oil and gas installations, illegal bunkering, loss of money, loss of man hours, loss of peaceful cohabitation, and kidnapping of expatriates and local oil employees are some of the consequences. From the foregoing, it is clear that poor compensation is a key aggravating factor to the rising incidences of illegal oil bunkering and insecurity in the Niger Delta.

## 2. Objective of the Study

The Nigerian economy has almost strived singularly on crude oil commonly known as black gold. While Nigeria considers this resource as a blessing, the Niger Delta communities where this black gold is extracted from views it as a curse. Considering these contentions, this paper focuses on the issues of illegal bunkering and insecurities arising from it and seeks to attribute the growing instances of these problems to the inefficiencies in compensation by the Nigerian government to the people of the Niger Delta. The Niger Delta area consists of nine political states: Rivers, Imo, Abia, Akwa Ibom, Ondo, Edo, and Cross River. The states are Nigeria's oil-producing states.<sup>5</sup> The totality of this region is endowed with a plethora of natural resources, including a massive crude oil reserve. Thus, it has been Nigeria's principal crude oil production base. Despite its rich natural reserves, the area is one of Nigeria's poorest and least developed. Nigeria's Niger Delta area has been involved in oil-related warfare for over two decades, and worries about Nigeria's national security, economic stability, and global energy security have been raised, with the problem of adequate compensation posing a serious challenge in global discourse over the issue.

In conceptualizing the needs of the people in Niger Delta over the resources in their lands, Oviasuyi and Uwadiae pointed out sources of conflict in the payment of compensation in the Niger Delta regions.<sup>6</sup> These include oil prospecting businesses', refusal to pay fair compensation, the oil and gas prospecting firm's casual attitude, long litigation, the selfishness of certain community officials, and a lack of basic infrastructure in oil producing regions. Reiterating on the problems facing compensation in the Niger Delta area, Aghalino asserted that the intractable problem of compensation for oil spill damage in Nigeria can be traced back to the oil industry's colonial origins and a skewed template of laws that disregard the interests of victims of negative externalities from the oil industry; as well as compensation paid by the oil industry which does not reflect the market price and falls short of international standards.<sup>7</sup> These positions are true as inadequacies in the mode of compensation keeps falling short of the expectations while adding to the causes of the perpetration of illegal activities in the Niger Delta.

## 3. The Question of Compensation for Oil Activities in the Niger Delta

The conception of compensation, assessment and payment is spearheaded in large part by the oil and gas sectors and in a way by the Lagos Chamber of Commerce and Industry Oil Producers Trade Sector (OPTS).<sup>8</sup> Representing the interest of oil producers within Nigeria, OPTS has its own compensation recommendations, which are reflective of the interest of oil producers than that of the Federation of Nigeria as captured in the Land Use Act. However, the accredited oil producers' rate still does not take account of improving water quality, socioeconomics and losses due to secondary consequences on the environment. The compensation method taken by the oil producers, which assesses payment for the time and value of destroyed crops and fish in the short term, ignores the long-term environmental repercussions. These consequences require evaluation, cleaning, remediation, and restoration operations. In a similar manner, the government's strategy, which requires compensation for acquired property, devastation of subsurface, surface, and fishing rights, fails to take long-term consequences into account. As a result, the government's rate is deficient because compensation differs by community

<sup>4</sup> C. Osimiri, 'Arbitration as a Conflict Resolution Approach to oil Spill Compensation Payment in oil Producing Communities of Rivers State, Nigeria', *International Journal of Advanced Legal Studies and Governance*, vol. 2, no. 1, 2011, pp. 17-32

<sup>5</sup> G. Wilson, 'The Nigerian State and Oil Theft in the Niger Delta Region of Nigeria', *Journal of Sustainable Development in Africa*, vol. 16, no. 1, 2014, pp. 69-81.

<sup>6</sup> P. Oviasuyi and J. Uwadiae, 'The Dilemma of Niger-Delta Region as Oil Producing States of Nigeria', *Journal of Peace, Conflict and Development*, issue 16, 2010, pp. 110-126

<sup>7</sup> S. Aghalino, 'Issues and Trend in the Payment of Compensation in the Oil Industry in Nigeria, 1969-1997', *Akwa Ibom Journal of History and International Studies*, vol. 12, no. 1, 2005, pp. 186-208.

<sup>8</sup> T. Owolabi and E.C. Okonkwo, 'Compensation for Environmental Pollution and Justice Procurement in the Niger delta area of Nigeria: The Mass Media Role', *Journal of Sustainable Development in Africa*, Vol. 16, No. 7, 2014, pp. 1520.

and state. This is dependent on the legal processes that take place within and/or between the communities that have been scarred by the occurrences. For instance, where hired, a yam, cassava, fish farm, or potato field of the same hectares might earn various payments in various towns and states, depending on what the oil and gas sectors think suitable. In most situations, cash crops are evaluated in comparison to normal crops, rather than the future economic gain.<sup>9</sup> On other hand, the valuation concepts used in Nigeria, according to Mustapha and Ayodele, are insufficient and lack professional contributions from environmental specialists, soil scientists, microbiologists, and health and safety specialists.<sup>10</sup> The deficiencies include reliance on OPTS techniques, rules and regulations entrenched in the 1978 Land Use Act, and the comparable re-establishment cost technique utilized for intangible assets such as fishing rights, which is unproven and lacks acceptance since it relies on OPTS techniques.

There has been the argument that some laws regulating compensation for hazards occurring from oil exploration mentioned the use of the criteria “fair and adequate” in the measurement of compensation. However, these methods of determining compensation have remained questionable. According to Babawale, what constitutes universal, fair, and appropriate compensation is the reasonable restoration of the afflicted population's livelihood structure.<sup>11</sup> Due to the lack of a compensation code that should be applied for evaluation in all scenarios, Nigeria's present compensation system has failed to have any substantial impact. It is also claimed that compensations for environmental damages caused by the oil and gas sectors are slow, inequitable, unexpected, inconsistent, and at the same time contentious.<sup>12</sup> The procedure lacked openness, consistency, justice, and appropriateness, thereby resulting in environmental and socioeconomic disasters.

#### **4. The Impact of Inadequate Compensation: The Problem of Illegal Oil Bunkering**

As the Nigerian constitution provides, all the natural resources in the soil within the Nigerian territory belong to the Federal Government, and any type of oil extraction outside of an agreement with the Federal Government is ruled unlawful. As a result, anybody involved in the extraction of crude oil must be completely licensed. It is with regards to the foregoing that particular offences of damage to oil installations or siphoning of petroleum products have been enacted in our laws. As Boris defined it, illegal oil bunkering involves all diversion and smuggling of crude oil and including unauthorized loading of ships emanating from these acts.<sup>13</sup> In the Niger Delta, illegal oil bunkering has become a thriving business. Local militant groups in creeks, commodities dealers, military personnel, foreign businesses, and certain indigenous oil service companies are also involved.<sup>14</sup> As a result of the involvement of government officials (who are highly placed in the different tiers of government), the friendly connection between the operators of illicit oil bunkering has metamorphosed into stealth operations that go unabridged. Others who facilitate these illegal activities include oil firm employees (such as the Nigerian Petroleum Corporation, NNPC; Shell Petroleum Development Company, SPDC; and others), and powerful Nigerian and international business people.<sup>15</sup> The continuing operation of illicit oil bunkering has resulted in severe damage of the whole Niger Delta ecosystem due to its great profitability. A root factor that allows for the engagement in the perpetration of illegal oil bunkering in the Niger Delta is the poor compensation which the government releases to the people in this region. The aftermath of oil spillage leaves the native of these communities without lands to farm or rivers to fish. Hence, the poverty and unemployment keep skyrocketing. These

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<sup>9</sup>G. K. Babawale, ‘Emerging issues in compensation valuation for oil spillage in the Niger Delta area of Nigeria’, *Journal of Reviews on Global Economics*, vol. 2, 2013, pp. 31-45.

<sup>10</sup> B.O. Mustapha, and O.M. Ayodele, ‘Adequate Compensation as a Tool for Conflict Resolution in Oil-Polluted Wetlands of Niger Delta Region of Nigeria’, *Covenant University Journal of Politics and International Affairs*, vol. 4, no. 2, 2017.

<sup>11</sup> G. K. Babawale, ‘Emerging issues in compensation valuation for oil spillage in the Niger Delta area of Nigeria’, *Journal of Reviews on Global Economics*, vol. 2, 2013, pp. 31-45.

<sup>12</sup>T. Owolabi and E.C. Okonkwo, ‘Compensation for Environmental Pollution and Justice Procurement in the Niger delta area of Nigeria: the Mass Media Role’, *Journal of Sustainable Development in Africa*, Vol. 16, No. 7, 2014, pp. 1520; C. Osimiri, ‘Arbitration as a Conflict Resolution Approach to oil Spill Compensation Payment in oil Producing Communities of Rivers State, Nigeria’, *International Journal of Advanced Legal Studies and Governance*, vol. 2, no. 1, 2011, pp. 17-32

<sup>13</sup> O. H. Boris, ‘The Upsurge of Oil Theft and Illegal Bunkering in the Niger Delta Region of Nigeria: Is There a Way Out?’ *Mediterranean Journal of Social Sciences*, vol. 6, no. 3, 2005, pp. 563-573

<sup>14</sup> B Olateju, ‘Bamidele Upfront: Oil Theft, The Fleecing of Nigeria’, *Premium Times*, 8 October 2013.

<sup>15</sup> I. Izeze, ‘Crude Oil Theft: Now, That NNPC is Disputing Shell’s 700 Million Claim?’ *Sahara Reporters*, 19 August 2013.

circumstances have sparked grassroots protests — and provided opportunities for deliberate misconduct. Activists in the Niger Delta and governors of oil-producing states began to demand a larger share of the country's oil wealth in the early 2000s in response to these problems. The residents of the Niger Delta were mostly engaged in agricultural activities including crop production, animal breeding, and fishing. Farm products from the region, such as palm oil and cassava, were often shipped overseas, making the inhabitants immensely rich in the precolonial and postcolonial centuries. Following the mining of oil in this region, several oil spills, gas flaring, and forest fires have devastated potential farmlands for agricultural cultivation, natural forest for wild animal hunting, and rivers for fishing, resulting in barren lands, habitat loss, and dead rivers.<sup>16</sup> With no proper compensation for their lands and sources of livelihood, alternative ways of survival have become necessary. The lack of money and paucity of farmland without any type of work to rely on has become a reality for them. In order to survive, the only accessible and viable option is the tapping or breaking of the oil pipelines and stealing crude oil as a sustainable source of income.

### **5. The Impact of Inadequate Compensation: The Problem of Insecurity in the Niger Delta**

The problems of inefficient compensation of the people in the Niger Delta region has not only led to poverty and unemployment, but has plunged the youths into a life of crime flowing from illegal oil bunkering to kidnapping, robbery and ethnic clashes. With the ongoing proliferation of small arms and light weapons in the Niger Delta, the bloody altercation of several inter-ethnic disputes among the inhabitants has become prevalent throughout the region. Many of the weaponry in circulation in the Niger Delta, including a wide range of sophisticated firearms, were acquired with funds obtained either directly or indirectly from illicit bunkering. Insecurity in some sections of the nation stems in part from the easy availability of oil-purchased weapons, with illicit bunkering contributing significantly to Nigeria's violent crime, armed robbery, piracy, and abduction.<sup>17</sup> The implications of such insecurities include the loss of community economies, weapon proliferation, greater attractiveness to crime, greater incidence of school dropouts, and greater influx of migrant labor to service the illicit industry. All these negative aftermaths of inefficient compensation have long-term consequences that, if at all conceivable, will take centuries to undo. Oil theft, according to Katsouris and Sayne, has been a key source of violent conflict in the Niger Delta.<sup>18</sup> The majority of oil thieves swap crude oil for heavy weapons at sea, while some utilize the money to bring armaments into the region with the primary goal of utilizing the armaments to safeguard their unlawful activities. The arms are used in assaults and counter-attacks by various gang groups and security agents, since each organization has access to very dangerous weaponry and are expected to be ready for gunfights in order to stay in business. Thus, the region's insecurity makes it fertile for convenience in kidnappings of expatriates, oil employees, and key government officials for ransom.

The oil theft also benefits the sea pirates, leading to an increase in sea pirate activity in the waterways and a barrier to free movement of commodities and services in the sub-region. The pirates assault oil investors and their interests, while state security officers fight back, resulting in frequent bloodshed and assault throughout West African waterways. Oil theft perpetrators and sea pirates are affecting the peace and security of West African countries, particularly those along the coasts where oil boats pass through on their way to Europe, America, and Asia (Wilson).<sup>19</sup> Oil theft in the Niger Delta has led to piracy and criminal activities, resulting in instability and a breach of the peace which has the tendencies to disrupt the country's legitimate social and economic operations. These issues also send a highly negative message to the international community, indicating that Nigeria is not a safe and secure location, and so unsuitable for economic investment and operations. However it should be noted that if the government will look into the problems of poverty and unemployment in this region, and work towards

<sup>16</sup>B. G. Gimah and T Bodo, 'Creation of Awareness through Environmental Adult Education as a solution to the Problem of Habitat Loss in Ogoni, Rivers State, Nigeria', *International Journal of Advanced Research and Publications*, vol. 3, no. 1, 2019, pp. 22-28

<sup>17</sup> O. Onwuemenyi, 'Oil bunkering undermining Nigerian economy', *Vanguard*, 2 June 2012.

<sup>18</sup> C. Katsouris and A. Sayne, 'Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil', London: Chatham House, 2013.

<sup>19</sup> G. Wilson, 'The Nigerian State and Oil Theft in the Niger Delta Region of Nigeria', *Journal of Sustainable Development in Africa*, vol. 16, no. 1, 2014, pp. 69-81.

eradicating them through the medium of adequate compensation that will revive the industry and sustenance of the Niger Delta people, the menaces of insecurity will be cut from the root and discarded.

### **6. Combating Illegal Oil Bunkering and Insecurity Using Efficient Compensation**

The incidences of insecurity and illegal oil bunkering can be tackled from their root if the government of the Nigerian state can take up responsibility to ameliorate the despicable conditions occasioned by oil spillage on the lands of the Niger Delta people. Regarding this, the government should set up an oil pollution compensation program that will make provisions for the adequate compensation of victims of oil pollution resulting from activities of both oil companies and local oil thieves, saboteurs and criminals that vandalize pipelines. Furthermore, the government should also put into motion a legislative framework that will protect the host communities from environmental damage and provide in statutory form an adequate and fair compensation. The enactment of the Petroleum Industrial Bill (PIB) has been long delayed, and it is no surprise that it has been widely emphasized that people should not politicize the PIB because it provides hope for the future of Nigeria's oil sector and requires accountability from all stakeholders. In addition, relevant government ministries must develop administrative regulations to guarantee that victims of oil spills are reimbursed on time, equitably, and sufficiently. Following such a legislative enactment should be a strict enforcement of immediate necessary environmental recovery efforts on multinational oil companies after any oil spill. The multinational oil firm must make a concerted effort to compensate victims of an oil disaster. Compensation payments provide oil companies a chance to address and repair some of the environmental damages. Importantly, oil companies should also try to be as flexible as possible when deciding appropriate compensation amounts for claimants. To pacify victims, more opportunities for information and communication should be made available to natives. Where these compensatory measures are put in place, the struggles to eliminate illegal oil bunkering and insecurity will take a more successful shape.

### **7. Conclusion and Recommendations**

The problems of illegal oil bunkering and insecurity have been plaguing the region of Niger Delta for decades. Illegal oil bunkering has the potential to cripple Nigeria's economy over time, as it is glaring that the country's daily expenditures are entirely reliant on petroleum income. Already, these acts of illegality have heightened the insecurities in this part of the nation. The Nigerian government has the capability and willpower to eradicate all sorts of illegal oil bunkering in the oil business and to remove arms from the hands of the youths while engaging them in profitable ventures and it can do so by applying the recommendations that have been outlined in this study. The Federal Government should as matters of urgency establish the legal framework that should effectively tackle the problems of inefficient compensation objectively. Where the proper legal enactments are made, the need for compensation will acquire legal backing and this will improve the possibilities of remedying the problems of insecurity and illegal oil bunkering. The services of experts in the area of statistics and analysis should be engaged and their honest and objective reports and recommendations be properly utilized. Such experts from the affected areas who are indigenes should be preferable. The Federal Government needs to go beyond making rhetoric and policies that are never enforced and start putting in place structures to allay the residents mind against alleged marginalization, generate more jobs for the youth, and encourage them to help security agents in their efforts to combat the threats of insecurity. MNCs, for their part, must guarantee that their corporate social duties are met in order to ensure that impacted communities' human and economic growth. In addition to compensating the people of Niger Delta, criminals engaged in oil bunkering should be prosecuted as soon as possible by the federal government. There is a need for the government's political will to utilize all available legislation to apprehend and punish the major participants in the oil theft ring, whether they are local or foreign. This will act as a deterrent to others and will help to decrease oil theft. Environmental education of illiterate persons in the region will help these individuals take care of the environment and not facilitate the devastation of its form. Environmental education can help to solve the problem of illegal oil bunkering by raising awareness of the consequences of such actions, providing a comprehensive understanding of environmental knowledge, instilling positive attitudes, and developing the necessary skills for environmental sustainability. Environmental education empowers people to make decisions that benefit the environment. It encourages individuals to be environmentally conscious and to refrain from acting or engaging in activities that harm the environment.