

AN EXAMINATION OF THE LEGAL AND ENVIRONMENTAL IMPLICATIONS OF THE BURNING OF LADEN OIL VESSELS IN NIGERIA*

Abstract

The burning of laden oil vessels in Nigeria raises significant legal and environmental concerns. This practice violates international maritime laws and has devastating consequences for the marine ecosystem and coastal communities. This paper delves into the critical issue of the illegal burning of laden oil vessels in Nigeria, a practice that has severe environmental, economic, and legal implications. It adopts the doctrinal and analytical research method. It examines and analyses the regulatory framework governing the oil and gas industry, highlights the environmental consequences of vessel burning, and explores the legal implications of this illicit activity. This paper concludes that the practice of burning stolen laden oil vessels, either intentionally or due to accidents, releases significant amounts of greenhouse gases and other air pollutants, contributing to air pollution and exacerbating climate change and raises critical legal and environmental concerns that demand scrutiny under Nigerian maritime, environmental laws and regulations. It recommends amongst others that a robust legal and regulatory framework and a strong enforcement mechanism are pivotal in deterring and combating the burning of stolen oil-laden vessels in Nigeria and that effective enforcement requires a multifaceted approach that leverages advanced technology, builds capacity within law enforcement agencies, fosters interagency collaboration, and promotes international cooperation.

Keywords: Environment, Petroleum Pollution, Maritime Laws, Greenhouse Gases

1. Introduction

Oil remains a crucial global energy source despite the emergence of alternative energy sources such as hydroelectric power and nuclear power plants.¹ The bulk of energy is still generated by burning fossil fuels in power or electric generating plants. Oil is considered vital and critical for the survival of nations, playing a key role in international relations. The need for oil encourages diverse levels of interaction among states in several important ways that promote global interdependence. It creates markets, enhances financial exchange and prosperity,² though not without drawbacks. As such, scholars describe oil as both essential and strategic, while others consider it the lifeblood of the modern global economy.³ Nigeria, ranked as the world's 13th largest oil producer in 2021, faces a significant challenge with large-scale crude oil theft.⁴ The basic story involves thieves tapping into pipelines and other infrastructure in the Niger Delta, pumping the oil onto waiting barges and boats. Some of the stolen oil is refined locally, while larger vessels transport the rest abroad. Additionally, there have been allegations of oil vanishing from some of Nigeria's export terminals.⁵ Nigeria's oil sector provides a strong enabling environment for this large-scale crude oil theft. Corruption and fraud are rampant, and the dynamic, overcrowded political economy drives competition for looted resources. Poor governance has encouraged violent opportunism around oil, opening doors for organised crime.

Crude oil is being stolen on an industrial scale in Nigeria,⁶ with some of the stolen oil being exported. In Nigeria, politicians, military officers, militants, oil industry personnel, oil traders, communities, and organised criminal groups are all implicated from profiting from this trade,⁷ also supporting other transnational organized crime in the Gulf of Guinea. Nigeria's vast coastline and offshore oil and gas resources have made the country a significant player in the global energy market.⁸ However, the nation's oil and gas industry has been plagued by various challenges, including oil theft, pipeline vandalism, and the burning of laden oil vessels.⁹ These activities have far-

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¹ Irene Aigbe and Eric Enakireru, 'Efficacy of the Legal Framework on the Environmental Impact of Crude Oil Theft in Nigeria' *International Review of Law and Jurisprudence (IRLJ)* (2020)2 (3)122-129

² Nima Norouzi and Maryam Fani, 'Globalization and the Oil Market: An Overview on considering Petroleum as a Trade Commodity' *Journal of Energy Management and Technology (JEMT)* 2021 6 (1) <<http://dx.doi.org/10.22109/jemt.2021.276311.1285>> accessed 15 June 2024.

³ Pierre Hailes, *Oil: the Lifeblood of the Global Economy: Probable Reserves* (Independently Published, 2021).

⁴ Taleb Wafaa, 'The Niger Delta of Nigeria: The Curse of Oil' *Journal of Politic and Law* (2021) 13(2) 624

⁵ Christiana Katsouris and Aaron Sayne, Nigeria's Criminal Crude: International options to combat the Export of Stolen Oil <<https://www.chathamhouse.org/nigeriaoil> > accessed 13 June 2024

⁶ Kingsley Nwezeh and Adedayo Akinwale, 'Large Scale Oil Theft Posing Challenge to Nigeria's Oil Production' *This Day Newspaper* (Abuja 15 August)

⁷ Goddey Wilson, 'The Nigerian State and Oil Theft in the Niger Delta Region of Nigeria' *Journal of Sustainable Development in Africa* (2014) 16 (1) 69-81

⁸ Abubakar Hamisu, A Study of Nigeria's Blue Economy Potential with Particular reference to the Oil and Gas sector (M.Sc. Dissertation, World Maritime University, Malmö, Sweden 2019)

⁹ (n 6)

reaching consequences, undermining Nigeria's economic prospects, damaging its reputation, and contributing to environmental degradation. The burning of stolen oil-laden vessels as a means, among others, to curb oil theft has become a recurring and alarming issue in Nigeria's petroleum industry. This practice is an illegal activity that not only violates domestic and international laws but also poses severe threats to fragile marine ecosystems, human health, and the broader environment, raising concerns among environmental advocates, legal experts, and the international community. This paper aims to provide an in-depth analysis of the legal framework governing the oil and gas industry, the environmental impact of vessel burning, and the legal implications of this illicit practice. It also explores potential solutions and recommendations to address this pressing issue effectively.

2. Overview of the Oil and Gas Industry in Nigeria

The oil and gas sector in Nigeria is a major economic driver, crucial for national progress and a key player in global energy production. The nation's hydrocarbon resources are primarily concentrated in the Niger Delta region, a vast sedimentary basin, with an area of over 75, 000 square kilometers extending far along the Gulf of Guinea coastline.¹⁰ This region is home to some of the world's most prolific offshore oil and gas fields, with an estimated 37.1 billion barrels of proven crude oil reserves¹¹ and 193 trillion¹² cubic feet of natural gas reserves. These reserves are exploited through a complex network of offshore platforms, subsea infrastructure, pipelines, and terminals operated by major international oil companies, such as Shell, ExxonMobil, Chevron, and Total, as well as the Nigerian National Petroleum Corporation (NNPC).¹³ Nigeria's offshore oil production accounts for a substantial portion of the country's total crude oil output, currently averaging around 1.9 million barrels per day. The offshore fields, located in the shallow and deep waters of the Gulf of Guinea, contribute approximately 65% of Nigeria's total oil production.¹⁴ These offshore operations involve a range of activities, including seismic exploration, drilling, production, and transportation, carried out by a fleet of specialized vessels, including seismic survey ships, drilling rigs, production platforms, tankers, and supply vessels. The oil and gas industry is a vital component of Nigeria's economy, generating significant revenue from exports and contributing to the country's gross domestic product (GDP). In addition to its economic significance, the industry supports a thriving maritime sector, providing employment opportunities and driving the development of related industries, such as shipbuilding, repair, and logistics.

However, the industry's operations are frequently challenged by security threats, including oil theft, piracy, militant activities and illegal bunkering, a term used to describe the illegal siphoning and trade of crude oil.¹⁵ These criminal enterprises have developed sophisticated methods to tap into pipelines, hijack vessels, and siphon off substantial quantities of crude oil, resulting in significant revenue losses for the Nigerian government and oil companies. Furthermore, the oil and gas industry has been at the center of environmental concerns, particularly in the Niger Delta region.¹⁶ Oil spills, gas flaring, and other operational activities have caused extensive damage to the fragile ecosystems, polluting the air, water, and soil, and contributing to the degradation of the marine environment and the livelihoods of coastal communities. Addressing the legal, security, and environmental challenges surrounding the industry is crucial for ensuring the sustainable development of this vital economic sector and protecting the maritime environment and coastal communities in Nigeria. Efforts to combat illegal activities, implement stricter regulations, and adopt environmentally responsible practices are essential for the long-term viability and responsible stewardship of Nigeria's hydrocarbon resources. Thus, the burning of laden oil vessels is a particularly concerning practice, as it involves the hijacking of vessels transporting illegally obtained crude oil or petroleum products. Once the cargo is intercepted, the vessels are often set on fire, resulting in catastrophic environmental consequences and significant economic losses for the oil companies and the Nigerian government.

¹⁰ Azunna Ekejiuba, 'Cumulative Potential Petroleum Deposit in the Provincial Geology of Nigeria' *Inter- World Journal of Science and Technology* (2021) 4 (2) 150-176

¹¹ Dipo Oladehinde & Abubakar Ibrahim, 'Nigeria on Voicemail as Investors Answer Angola's Call with \$50bn' *Business Newspaper* (Lagos 20 July) <<https://www.google.com/amp/s/businessday.ng/energy/article/nigeria-on-voicemail-as-investors-answers-angolas-call-with-50bn/%3famp>>

¹² Muhktar Habib, Lamido Inuwa and Abukakar Tanko, 'Assessing the Prospectivity of the Ajoukuta Kaduna- Kano Natural Gas Pipeline' *International Journal of Modelling & Applied Science Research* (2023) 9(1) 187-214

¹³ Uwafiokun Idemudia, 'The Quest for the Effective use of Natural Resource Revenue in Africa: Beyond Transparency and the Need for Compatible Cultural Democracy in Nigeria' *Africa Today* (2009) 56(2) 3-24 <https://www.researchgate.net/figure/Major-Oil-Multinational-Corporations-in-Nigeria_tbl2_236798724> accessed on 10 June 2024

¹⁴ J Germain, J and C Armengol, 'Gulf of Guinea: A Deep offshore Opportunity' *The Journal of Energy and Development* (1999) 25 (1) 87-95 <<https://www.jstor.org/stable/24808726>> accessed on June 10 2024

¹⁵ AA Dominic, 'Impact of illegal Oil Business and Nigeria Economy: The Experience of Crude Oil Theft, Bunkering and Pipeline Vandalism in the 21st Century' *International Journal of Advanced Academic Research* (2016) 2 (8) 1-10.

¹⁶ Sylvester Okotie, Ogarode Nelson and Bibora Ikporo, 'The Oil and Gas Industry and the Nigerian Environment' in Prince Emeka Ndimele, *The political ecology of oil and gas activities in the Nigerian aquatic ecosystem* (Academic Press, 2017) <<https://www.doi.org/10.1016/B978-0-12-809399-3.00004-5>> accessed on 10 June 2024

3. The Legal Framework

The practice of burning laden oil vessels in Nigeria raises legal and environmental concerns that have far-reaching impact on the country's natural resources, public health, and sustainable development. Nigeria, as a signatory to various international conventions and domestic legislation, is obligated to adhere to stringent environmental protection standards and regulations.¹⁷ The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), which Nigeria has ratified, strictly prohibits the burning of oil-laden vessels.¹⁸ This convention aims to prevent pollution of the marine environment by ships, and the burning of such vessels would release significant amounts of oil, chemicals, and other pollutants into the air and water, causing severe environmental damage.¹⁹ Furthermore, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, to which Nigeria is a party, regulates the movement and disposal of hazardous wastes across international borders.²⁰ The burning of laden oil vessels could potentially be considered a form of illegal transboundary movement and disposal of hazardous waste, violating the principles of this convention.

Environmental and Maritime Protection Laws in Nigeria

Domestically, Nigeria has enacted several laws and regulations to protect the environment and regulate activities that could cause harm. The Environmental Impact Assessment (EIA) Act of 1992 mandates that all major development projects, including those involving oil and gas activities, undergo an environmental impact assessment before implementation.²¹ The burning of oil vessels would undoubtedly have a significant environmental impact, and such an activity would likely require a comprehensive EIA to assess its potential consequences. The National Environmental Standards and Regulations Enforcement Agency (NESREA) Act of 2007 prohibits the release of hazardous substances into the environment without proper treatment and disposal methods.²² The burning of oil-laden vessels would release various hazardous substances, including hydrocarbons, heavy metals, and other toxic compounds, into the air, water, and soil, violating this regulation. Additionally, the Harmful Waste (Special Criminal Provisions) Act of 1988 criminalizes the purchase, sale, transit, deposit, and dump of harmful waste on any land, territorial waters, or matters relating to such activities.²³ The burning of oil vessels could be considered a form of harmful waste dumping, attracting penalties under this Act. Also, the burning of oil-laden vessels in Nigerian waters falls under a complex web of national and international legal frameworks. These activities are considered illegal and subject to various laws and regulations aimed at maintaining maritime security, preventing pollution, and ensuring the safe operation of vessels in Nigerian territorial waters and the country's Exclusive Economic Zone (EEZ). The Nigerian Maritime Administration and Safety Agency (NIMASA) Act of 2007 establishes NIMASA as the principal regulatory authority responsible for maritime safety, security, and environmental protection in Nigerian waters. NIMASA has the mandate to enforce various international conventions and protocols ratified by Nigeria, including the International Convention for the Prevention of Pollution from Ships (MARPOL) and the International Convention for the Safety of Life at Sea (SOLAS).

Furthermore, the Environmental Impact Assessment (EIA) Act of 1992 requires all projects, including maritime operations, to undergo an environmental impact assessment before commencement. This Act aims to ensure that potential environmental risks are identified and mitigated, further strengthening the legal framework against activities that may harm the marine environment, such as the burning of laden oil vessels. On the international front, Nigeria is a signatory to several conventions and protocols that directly address the issue of illegal ship-to-ship operations and the prevention of marine pollution.²⁴ Notable among these are the United Nations Convention on the Law of the Sea (UNCLOS), which establishes a comprehensive legal framework for the use and protection of the world's oceans and seas, and the International Convention for the Prevention of Pollution from Ships (MARPOL), which specifically targets the prevention of pollution by ships through operational and accidental

¹⁷ AE Ite, and others, 'Petroleum industry in Nigeria: Environmental Issues, National Environmental Legislation and Implementation of International Environmental Law' *American Journal of Environmental Protection* (2016) 4(1) 21-37.

¹⁸ Rafiq Anammah, Linda Osuagwu and Sinmiloluwa Lala, 'MARPOL and the State-Sanctioned Destruction of Crude Oil-Carrying Vessels on Nigerian Waters' < https://www.aalex.com/marpol-and-the-state-sanctioned-destruction-of-crude-oil-carrying-vessels-on-nigerian-waters/#_ftn21 > accessed on 10 June 2024

¹⁹ Ikpi Akpama, *An examination of the effectiveness of implementation of the MARPOL 73/78 Convention in Nigeria* (M.Sc. Dissertation, World Maritime University, Sweden 2017)

²⁰ O Olayinka Abiodun, O Abdulrahamon Abiodun, O Emmanuel Olalekan, O Tolulope Opeodu, and A Ademola, 'Investigation of Efforts and Problems in Implementing the Basel Convention on the Control of Transboundary Movements of Wastes and their Disposal in Nigeria' *Asian Journal of Geographical Research* (2024) 7(1) 69-84.

²¹ Chukwunweike Anyadiegwu, 'Overview of Environmental Impact Assessment of Oil and Gas Projects in Nigeria' *An International Journal of Science and Technology* (2014) 1(3) 66-80.

²² National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007 <<https://www.lawsofnigeria.placng.org/laws/nesrea.pdf>> accessed on 10 June 2024

²³ Harmful Waste (Special Criminal Provisions) Act, Decree No. 42, 1988.

²⁴ Erinma Orié and King Nkum, 'An Examination of International Legal Framework for Maritime Safety and Security with Specific Reference to Challenges and Impediments to their Enforcement: Nigeria in Perspective' *Cavendish University Law Journal* (2023) 1 (3) 1-27

causes. Nigeria's commitment to these international legal instruments accentuates the country's recognition of the gravity of the issue, and the need for a robust legal framework to combat the burning of oil vessels and other maritime offenses. Effective implementation and enforcement of these laws and regulations remain crucial in addressing this longstanding challenge and safeguarding Nigeria's maritime domain and natural resources. More so, as a major oil-producing nation, Nigeria has a robust maritime industry centered on the exploration, production, and transportation of crude oil and related products. The country's coastline along the Gulf of Guinea, coupled with its inland waterways, forms crucial channels for the movement of both domestic and international oil vessels. However, the practice of burning laden oil vessels, either intentionally or due to accidents, raises critical legal and environmental concerns that demand scrutiny under Nigerian maritime laws and regulations.

Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Constitution of the Federal Republic of Nigeria²⁵ is the supreme law of the land. While it does not directly address the burning of laden oil vessels, it provides a legal framework for the protection of the environment and natural resources. Section 20 of the Constitution²⁶ states that the State shall protect and improve the environment and safeguard the water, air, and land, forest, and wildlife of Nigeria. The Constitution is the supreme law of a nation, which establishes the fundamental principles and framework for governance. It defines the structure of government, its powers, and the rights and responsibilities of citizens. In Nigeria, the current Constitution was enacted in 1999 after the country's transition from military rule to a democratic system of government.

Nigerian Maritime Administration and Safety Agency (NIMASA) Act

The NIMASA Act establishes²⁷ the Nigerian Maritime Administration and Safety Agency (NIMASA) as the principal regulatory agency for maritime safety, security, and shipping in Nigeria. The Act²⁸ empowers NIMASA to make regulations for the prevention and control of marine pollution, including pollution caused by oil spills. NIMASA has the authority to enforce regulations and impose sanctions on vessels that engage in activities that can lead to pollution. NIMASA is responsible for promoting maritime safety and security, environmental protection, and the development of the Nigerian shipping industry.

International Maritime Laws and Conventions

There are several International Maritime Conventions used globally that serve as the foundational legal frameworks governing various aspects of maritime operations, safety, environmental protection, and standards for seafarers. These conventions are highly relevant to the Nigerian maritime industry being a party to several key maritime conventions, including SOLAS, MARPOL, and UNCLOS.

International Convention for the Safety of Life at Sea (SOLAS)

Since its establishment, the International Maritime Organization (IMO)²⁹ has been committed to mitigating sea risks by adopting measures through dedicated legal instruments. The foremost of these is the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS). The International Convention for the Safety of Life at Sea (SOLAS) is an international maritime treaty that sets minimum safety standards for the construction, equipment, and operation of merchant ships. Adopted in 1974 by the International Maritime Organization (IMO), SOLAS has been ratified by 162 countries, representing approximately 99% of the world's merchant shipping tonnage.³⁰ The primary objective of SOLAS is to ensure the safety of life at sea by establishing comprehensive regulations for the design, construction, and equipment of ships, as well as operational procedures and safety management systems.³¹ The Convention covers various aspects, including:

Ship Construction: SOLAS sets standards for the structural integrity of ships, including requirements for watertight compartments, stability, and fire protection measures.

Life-Saving Appliances: The convention mandates the provision of life jackets, lifeboats, and other life-saving equipment on board ships, as well as guidelines for their maintenance and accessibility.

Navigation Safety: SOLAS outlines requirements for navigational equipment, such as radar, electronic chart display and information systems (ECDIS), and automatic identification systems (AIS).

Radio-communications: The convention establishes regulations for radio equipment and procedures for distress communications and search and rescue operations.

Carriage of Cargoes: SOLAS addresses the safe loading, stowage, and unloading of various types of cargoes, including dangerous goods and solid bulk cargoes.

²⁵ Constitution of the Federal Republic of Nigeria 1999 as amended

²⁶ *ibid*

²⁷ Section 2 (a) of the Nigerian Maritime Administration and Safety Agency Act 2007, CAP 224 LFN

²⁸ Section 22 of the Nigerian Maritime Administration and Safety Agency Act 2007, CAP 224 LFN

²⁹ IMO came into force on March 17, 1958. <<https://www.britannica.com/topic/international-Maritime-organization>>

³⁰ <<https://www.gmdstesters.com/radio-survey/general/solas-convention.html> >accessed 11 June 2024

³¹ <<https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-> > accessed 11 June 2024

Safety Management Systems: The convention requires ships to implement safety management systems to ensure the safe operation of ships and pollution prevention.

SOLAS is regularly updated and amended to address new developments in maritime technology, emerging safety concerns, and lessons learned from maritime incidents. These amendments are adopted through a well-established process involving IMO member states, ensuring that the convention remains relevant and effective in promoting maritime safety. Compliance with SOLAS is mandatory for all ships engaged in international voyages, and port state control inspections are conducted to verify that ships meet the required standards. SOLAS enhances maritime safety by setting a comprehensive range of safety regulations, thus protecting human life and minimizing the risk of maritime accidents and environmental pollution.

International Convention for the Prevention of Pollution from Ships (MARPOL)

Designed to protect the marine environment from vessel-based pollution, the International Convention for the Prevention of Pollution from Ships (MARPOL) is a comprehensive international treaty that aims to prevent and mitigate the release of pollutants from ships.³² Adopted by the International Maritime Organization (IMO) in 1973 and subsequently modified by the 1978 Protocol, MARPOL has been ratified by 156 countries, representing over 99% of the world's shipping tonnage.³³ MARPOL is divided into six annexes, each addressing a specific type of pollution:

Annex I: Regulations for the Prevention of Pollution by Oil

This annex covers the prevention of pollution by oil from operational measures as well as accidental discharges. It establishes requirements for the construction and equipment of ships to prevent oil leaks and spills.

Annex II: Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk

This annex regulates the discharge of noxious liquid substances carried in bulk, such as chemicals and petrochemicals. It provides discharge criteria and measures for the control of pollution by these substances.

Annex III: Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form

This annex addresses the prevention of pollution by harmful substances, such as chemicals and pesticides, transported in packaged form. It includes standards for packaging, labeling, and stowage.

Annex IV: Prevention of Pollution by Sewage from Ships

This annex establishes regulations for the discharge of sewage from ships into the marine environment. It specifies the requirements for sewage treatment plants on board and the conditions under which sewage can be discharged.

Annex V: Prevention of Pollution by Garbage from Ships

This annex prohibits the discharge of certain types of garbage into the sea and requires ships to have waste management plans and facilities to store and dispose of garbage properly.

Annex VI: Prevention of Air Pollution from Ships

Addressing air pollution from ships, this annex includes regulations for the control of emissions from ship exhaust gases, such as sulfur oxides (SO_x), nitrogen oxides (NO_x), and particulate matter. It also includes energy efficiency measures for ships.

The convention also encourages the development of reception facilities at ports for the proper disposal of ship-generated waste and residues, reducing the temptation for illegal discharges at sea. The International Convention for the Prevention of Pollution from Ships (MARPOL) sets comprehensive standards to prevent and minimize vessel-source pollution, protecting marine ecosystems and promoting sustainable shipping. Compliance is mandatory for internationally operating ships, and the convention is regularly updated to address emerging environmental issues and technological advancements.

United Nations Convention on the Law of the Sea (UNCLOS)

Providing a robust framework for the protection and preservation of the marine environment, UNCLOS is a key international agreement that establishes a comprehensive legal framework for the governance and management of the world's oceans and seas.³⁴ Adopted in 1982 and effective from 1994, it has been ratified by 168 countries. UNCLOS is renowned for its extensive provisions covering various maritime aspects, with a significant focus on the protection and preservation of the marine environment. The establishment of international entities like the International Seabed Authority (ISA) and the International Tribunal for the Law of the Sea (ITLOS) under UNCLOS ensures regulation and oversight of ocean governance, particularly marine pollution control.³⁵ These institutions maintain environmental protection standards, offering frameworks for resolving pollution-related

³² < [https://www.imo.org/en/about/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-\(MARPOL\).aspx](https://www.imo.org/en/about/Conventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-(MARPOL).aspx) > accessed 11 June 2024

³³ < <https://www.doi.org/10.1051/shsconf/20185801004> > accessed 11 June 2024

³⁴ United Nations Convention on the Law of the Sea (UNCLOS): Living Resources Provisions < <https://www.crsreports.congress.gov/product/pdf/R/R47744> > accessed on 10 June 2024

³⁵ Lee Kimball, 'Preparatory commission for the international seabed authority (ISA) / International Tribunal on the Law of the Sea (ITLOS): Geneva, Switzerland, 12 Aug.–4 Sep. 1985' *Marine Policy* (1986) 10(1) 60-62 < [https://www.doi.org/10.1016/0308-597X\(86\)90034-5](https://www.doi.org/10.1016/0308-597X(86)90034-5) > accessed on 9 June 2024

disputes and environmental degradation issues. Furthermore, UNCLOS obliges states to adopt laws and regulations to prevent, reduce, and control pollution of the marine environment from various sources, including land-based sources, seabed activities, and dumping. It also requires states to cooperate on a regional and global scale to address pollution issues and protect vulnerable marine ecosystems. Overall, UNCLOS serves as a cornerstone of international maritime law, balancing the interests of coastal states and maritime nations while significantly contributing to the cooperative management, preservation, and prevention of pollution in the world's water bodies, including oceans, seas, and other marine environments.

4. Overview of Incidents Involving Laden Oil Vessel Burning

In recent years, Nigeria has witnessed a significant escalation in the destruction of vessels laden with stolen crude oil by security agencies. This alarming trend has raised concerns among various stakeholders, particularly regarding the legal and environmental implications of such actions. One of the most striking incidents is the case of the "MT Tura 11" vessel, which was intercepted and set ablaze in July 2023 by the Joint Task Force, Operation Delta Safe, in collaboration with Tantita Security Services Nigeria Limited. According to reports, this vessel had a staggering capacity of 800 metric tonnes and was allegedly carrying approximately 150 metric tonnes of stolen crude oil when it was apprehended in the Escravos area of Delta State³⁶. Similarly, in October 2022, another vessel, "MT DEIMA," purportedly laden with a substantial 1500 metric tonnes of stolen crude oil, was also arrested and subsequently set ablaze in the Warri Escravos River by security operatives.³⁷ These incidents highlight the audacious nature of the illicit activities surrounding crude oil theft and the determination of the authorities to crack down on such practices. Between October 2022 and August 2023, a total of four oil vessels suspected of carrying proceeds from stolen crude oil were intercepted by the Nigerian Navy, Tantita Security Services Limited, and personnel of the Joint Task Force of Operation Delta Safe³⁸. Remarkably, these vessels were subsequently blown off hours after their detection, underscoring the resolute stance taken by the authorities in dealing with such cases.

The justification provided by Captain Warri Enisuoh, the Director of Operations and Technical Unit at Tantita Security, for the destruction of intercepted vessels has raised eyebrows.³⁹ While he cited adherence to the rules of engagement, the extended duration of court proceedings, which can purportedly span up to a decade before a final verdict is reached, and the potential for ship leaks into the waters as the rationale behind this approach, his claims appear to be contradicted by a recent case. Notably, the case concerning the hijack of the FV Hai Lu Feng II vessel was successfully concluded in 2021, merely a year after the suspects were arraigned in 2020. This swift resolution casts doubt on the assertions made regarding the prolonged legal processes, raising questions about the transparency and accountability surrounding the decision to destroy the intercepted vessels suspected of carrying stolen crude oil. The divergence between the stated justifications and the precedent set by the FV Hai Lu Feng II case underscores the need for greater scrutiny and open dialogue to ensure that the actions taken by security agencies align with the principles of due process and environmental stewardship.

5. Environmental Impact Assessment

Severe and long-term environmental consequences are inevitable if oil vessels are burned in Nigeria. The release of oil and other pollutants into the marine environment can have devastating effects on aquatic life, including fish, marine mammals, and birds. Oil spills can also contaminate coastal areas, affecting sensitive ecosystems such as mangrove forests and wetlands, which serve as nurseries for marine life and provide numerous ecological services. Furthermore, the burning of oil vessels would release significant amounts of greenhouse gases and other air pollutants, contributing to air pollution and exacerbating climate change. The release of particulate matter, sulfur dioxide, nitrogen oxides, and other toxic substances into the air can pose serious health risks to nearby communities, including respiratory problems, cardiovascular diseases, and cancer. The potential environmental impacts of burning laden oil vessels in Nigeria would likely be widespread and long-lasting, affecting both marine and terrestrial ecosystems, as well as human health and livelihoods. Comprehensive environmental impact assessments and strict adherence to environmental laws and regulations are crucial to mitigate these risks and protect Nigeria's natural resources.

³⁶ (N15)

³⁷ Dirisu Yakubu, 'Stop Burning Vessels with Stolen Crude Oil, Lawmakers Warn Security Agencies' *Punch Newspaper* (Lagos 19 July 2023) < <https://www.punchng.com/stop-burning-vessels-with-stolen-crude-oil-lawmakers-warn-security-agencies/> >

³⁸ Funmilayo Babatunde 'Burning Laden Oil Vessels: Legal and Environmental Concerns about the Military's Actions' *Dataphyte* (Lagos 22 September, 2023) <<https://www.dataphyte.com/latest-reports/burning-laden-oil-vessels-legal-and-environmental-concerns-about-the-militarys-actions> > accessed on 8 June 2024

³⁹ Samuel-Ugwuezi, 'Burning the Ship with Stolen Oil was Better than Keeping it as Evidence' *Arise News* (Abuja, 13 July 2024) <https://www.arise.tv/warredi-enisuoh-burning-the-ship-with-stolen-oil-was-better-than-keeping-it-as-evidence> > accessed on June 8 2024

6. Conclusion and Recommendations

The burning of laden oil vessels in Nigeria could have significant socio-economic implications. The Nigerian economy relies heavily on the oil and gas industry, and any activity that threatens the sustainability of this sector could have far-reaching economic consequences. The contamination of coastal areas and marine ecosystems could severely impact communities and other industries that depend on healthy marine environments for their livelihoods and economic activities. The fishing industry could suffer severe setbacks as a result of the potential contamination of fishing grounds and the depletion of fish stocks, leading to job losses, reduced incomes, and food insecurity for communities that rely on fishing as a primary source of sustenance and income. The tourism sector, which is a significant contributor to the Nigerian economy, could be adversely affected by the environmental degradation caused by the oil vessel fires. Coastal areas and beaches that are impacted by oil spills or pollution may become unsuitable for recreational activities, leading to a decline in tourist arrivals and a subsequent economic downturn for businesses and communities that depend on tourism revenue. Furthermore, the potential health impacts of air pollution and environmental degradation resulting from the vessel fires could result in increased healthcare costs and a reduced quality of life for affected communities. Exposure to toxic pollutants can lead to respiratory illnesses, cancers, and other health issues, placing additional strain on healthcare systems and increasing the financial burden on individuals, families, and communities, tourism, and other industries that depend on healthy marine environments. Furthermore, the potential health impacts of air pollution and environmental degradation could result in increased healthcare costs and a reduced quality of life for affected communities.

Addressing the pressing issue of stolen oil-laden vessel burning in Nigeria requires a comprehensive approach that encompasses strengthening the legal and regulatory framework. Tackling this multifaceted challenge demands a robust legal foundation that aligns with international standards and effectively deters and penalizes such illicit activities. The recommendations are discussed seriatim:

Strengthening the Legal and Regulatory Framework

It is crucial for Nigeria to ratify and domesticate relevant international conventions and protocols related to maritime safety, environmental protection, and the prevention of illegal activities in the maritime sector. By incorporating the principles and guidelines outlined in instruments such as the International Convention for the Prevention of Pollution from Ships (MARPOL), the International Convention for the Safety of Life at Sea (SOLAS), and the United Nations Convention on the Law of the Sea (UNCLOS), Nigeria can harmonize its domestic legislation with globally recognized norms and best practices. In addition to aligning with international frameworks, Nigeria should enact specific laws and regulations that directly address the burning of stolen oil-laden vessels. These laws should clearly define the offenses, prescribe severe penalties for offenders commensurate with the gravity of the crimes, and outline procedures for thorough investigation, effective prosecution, and rigorous enforcement. Furthermore, these laws should incorporate provisions for environmental remediation, ensuring that those responsible for the damage are held accountable and required to compensate affected communities. Provisions for the confiscation of assets derived from these illegal activities can also serve as a deterrent and disrupt the financial incentives driving these crimes. Moreover, the legal and regulatory framework should be subject to periodic review and amendment to ensure it remains responsive to emerging challenges, technological advancements, and evolving international standards. This process should involve stakeholder consultation, including representatives from the oil and gas industry, environmental organizations, and affected communities, to ensure a comprehensive and inclusive approach to addressing the problem.

Enhancing Enforcement Mechanisms

Complementing a robust legal and regulatory framework, robust enforcement mechanisms are pivotal in deterring and combating the burning of stolen oil-laden vessels in Nigerian waters. Effective enforcement requires a multifaceted approach that leverages advanced technology, builds capacity within law enforcement agencies, fosters interagency collaboration, and promotes international cooperation. At the forefront of enforcement efforts is the need to strengthen maritime security and surveillance capabilities. Investing in advanced surveillance technologies, such as satellite monitoring, radar systems, and unmanned aerial vehicles, can significantly enhance maritime domain awareness and enable the timely detection of illegal activities in Nigerian waters. Additionally, increasing the presence of maritime security assets, including patrol vessels and aircraft, is essential for prompt response to incidents and deterring potential offenders. Parallel to technological enhancements, capacity building for law enforcement agencies tasked with maritime security and environmental protection is crucial. Specialized training programs should be implemented to equip personnel with the necessary skills in investigation techniques, evidence collection, and prosecution of maritime offenses. Providing adequate equipment and resources to these agencies will further bolster their operational effectiveness. Effective enforcement also hinges on seamless inter-agency collaboration and information sharing. Establishing formal mechanisms that facilitate coordinated operations, intelligence gathering, and efficient information exchange among relevant agencies, including maritime authorities, security agencies, environmental agencies, and the judiciary, is paramount. This collaborative approach ensures a comprehensive and unified response to the burning of stolen oil-laden vessels.

Moreover, community engagement and robust whistle blower protection mechanisms are instrumental in empowering local stakeholders to contribute to enforcement efforts. Encouraging community involvement in reporting suspicious activities and providing robust legal safeguards for whistle blowers can incentivize the reporting of illegal activities, thereby strengthening enforcement efforts and deterring potential offenders. By implementing these comprehensive enforcement measures, Nigeria can effectively tackle the burning of stolen oil-laden vessels, disrupt criminal networks, and safeguard its maritime industry, marine ecosystems, and broader environmental interests.

Promoting Sustainable Practices

Addressing the burning of stolen oil-laden vessels in Nigeria requires a multi-pronged approach that extends beyond legal and enforcement mechanisms. Promoting sustainable practices within the oil and gas industry is vital to tackle the root causes of this issue and foster a more responsible and environmentally conscious energy sector. A critical component of this effort is encouraging industry transparency and accountability. By requiring companies to adhere to strict reporting and disclosure requirements, implement robust environmental management systems, and engage in regular audits and inspections, the Nigerian government can incentivize more responsible behavior and hold industry players accountable for their actions. Transparency and accountability measures not only promote sustainable practices but also help build public trust and confidence in the industry's commitment to environmental stewardship. In parallel with industry reforms, promoting alternative livelihoods for communities affected by the illegal oil trade is essential. Developing and implementing programs that provide viable economic opportunities in sectors such as agriculture, aquaculture, eco-tourism, and renewable energy can help address the socio-economic drivers that contribute to the illegal oil trade. By providing alternative sources of income and employment, these initiatives can reduce the incentives for engaging in illicit activities and foster more sustainable and resilient communities. Fostering collaboration between oil and gas companies, government agencies, and local communities is another critical aspect of promoting sustainable practices. Initiatives such as Community Development Agreements (CDAs), local content policies, and corporate social responsibility programs can facilitate stakeholder engagement and promote sustainable development in affected regions. By working together to address socio-economic challenges and invest in community well-being, these collaborative efforts can help build trust, mitigate conflicts, and create a more conducive environment for responsible business practices.