



## Oil pipeline vandalisation and its socio-legal effects in Nigeria

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### Abstract

Oil is a major source of revenue in Nigeria which serves as a National form of internally generated revenue and a source of employment in Nigeria. However, several people vandalise Oil Pipelines in order to steal Oil produce. Pipeline vandalism is not unique to Nigeria. The issue of oil pipeline vandalism has defied the solution for years now since it started occurring in Nigeria. The Government at the Federal level in Nigeria has adopted methods in order to curb the menace of Oil Pipeline Vandalisation. Are those effects of any good, how far has oil pipeline vandalism affected Nigeria as a Country? Are there any socio legal effects to Oil Pipeline Vandalism in Nigeria? What are the reasons behind the non-ending Oil Pipeline Vandalism in Nigeria? This paper seeks to address these issues and as well as recommending the way out from the menace of oil pipeline vandalisation in Nigeria.

**Keywords:** oil pipeline, vandalisation, socio-legal effects

### Introduction

Vandalism is a type of criminal activity that involves the deliberate destruction of private or public property <sup>[2]</sup>.

Oil pipeline vandalism is the destruction of government or private property to commit criminal or political acts of misappropriation of petroleum products, disruption of petroleum production or to secure political appeasement by either international companies, the Nigerian government or both <sup>[3]</sup>. Oil pipeline vandalism is an illegal act that is perpetuated to get the attention of stakeholders and policymakers for they to feel the plight of the communities where oil production activities take place. It is an activity that seeks to foil the oil production activities of international oil companies that have a presence in the host community. The act of oil pipeline vandalism can best be described as “cutting your nose to spite your face” eventually, those that suffer the effects of the vandalism are not only the operators of the pipelines but also the communities.

This article seeks to understand the reason for oil pipeline vandalism, and the effect it has had on society and also analyzes the various measures put in place by the government to check the situation. The Nigerian National Petroleum Corporation reported that “product theft and vandalism have continued to destroy value and put the NNPC at a disadvantaged competitive position.”

Nigeria has lost millions of dollars due to oil pipeline vandalism. It was reported that between January and September 2021, Nigeria lost about N898.93 billion to crude oil losses and repairs of vandalized pipelines among others. The act of pipeline vandalism is not only illegal but can be appropriately described as an act of sabotage against the country.

### History of pipeline vandalism in Nigeria

Nigeria is richly endowed with oil and gas deposits. It has been put forth as the foremost country in Africa concerning the volume of oil and gas reserves. Additionally, it is the 7<sup>th</sup> country with the most oil and gas deposits in the world.

Since the discovery of oil and gas in Nigeria, it has become the main feature in the country's economy, making up about 97% of the country's foreign reserves.

Therefore, oil and gas are highly valued and Nigeria places a premium on the industry. Any attempt to do acts that will affect the oil and gas industry will potentially have grave effects and impacts on Nigeria and its economy. The importance of the oil and gas industry cannot then be over-emphasized.

The issue of securing pipelines was not a concern for Nigeria until the late 1990s. Besides from pipelines becoming ruptured through natural occurrences, the need to actively secure pipelines did not exist.

The pipeline system came about as a solution and improvement to the existing means of oil transportation. Where oil is found is not usually where it is processed so, there needed to be an effective way of transporting the crude to various depots. Crude oil used to be transported by trains, barges and trucks. Subsequently, the pipeline system proved to be more effective as it was an easier and faster means of crude oil transportation. It had no downside except when it ruptured and equipment failed.

These pipelines then became “hotspots” of attraction to people who wanted to do acts that will garner the attention of the government.

The rise of militancy in the Niger Delta area made pipeline vandalism more prevalent in Nigeria. Militants and other groups are agitators who choose violence as a means to make their case to the government of the day to accede to their demands. Usually, their case is the government has not invested enough into their growth and development despite their community hosting most of the oil deposits found in Nigeria.

Over the years, various environmental issues have been encountered during the production of oil and gas in the Niger Delta region.

These environmental issues have negatively affected the Niger Delta's self-sustaining ecosystem, which provides

essentials such as shelter, food, clothing, and safe drinking water. It also contributes to the overall quality of life of its inhabitants.

The activities in the region have severely damaged the environment, and it is regarded as an underdeveloped area in Nigeria and the world <sup>[4]</sup>. These activities in the region that have severely affected the environment were described by an author as ecological warfare <sup>[5]</sup>.

The development and exploration of oil and gas fields in the Niger Delta have been considered to be the primary cause of environmental degradation. This issue has been exacerbated by the various incidents that have occurred in the region, such as oil-well blowouts and gas flaring. Since the 1990s, the region has been experiencing increasing social unrest as a result of these environmental degradations.

In response to the issues of environmental degradation, civil society groups have been organizing various activities in the region to address the issues that have plagued the region. Some of these groups include the Movement for the Survival of the Ogoni People (MASOP), the Conference of Traditional Rulers of the Oil Producing States and the Delta Oil Producing Communities Association etc <sup>[6]</sup>.

Despite the various activities of the civil society groups, including stakeholder-government dialogues, it was the actions of some of them that contributed to the increase of pipeline vandalism in the region.

### Reasons for pipeline vandalism

Poverty, unemployment, mismanagement of the oil industry and illegal refineries have all been called out and cited as contributing to the Niger Delta's economic crisis. Vandalism suggests that the increasing number of attacks on these pipelines is due to the lack of proper investment in the region. The present state of the Niger Delta region is a contributing factor to the current high rate of pipeline vandalism <sup>[7]</sup>.

a. Poverty is a common condition in the Niger Delta region, and it is a major factor that motivates militant groups to carry out untoward activities in the area. Poverty is "a general condition of deprivation of need, social inferiority, isolation, physical weakness, vulnerability, powerlessness and economic inequality in the state, and these are prevalent in the Niger Delta region" <sup>[8]</sup>.

Since the region is home to most of Nigeria's oil and gas reserves, it is also prone to experiencing acts of vandalism. Due to the environmental deterioration in some parts of the region, people are not able to practice their traditional farming and fishing activities that would normally sustain them and give them a means of livelihood.

To earn money for themselves, some communities in the region regularly perform acts of vandalism on the oil pipelines. Oil pipeline vandalism led to the deaths of over 250 individuals in 1999 in Jesse Town in Delta State <sup>[9]</sup> when a vandalized oil pipeline exploded. According to an account, the victims were scooping up petrol in buckets when the blast occurred. During that period, over 480 acts of pipeline vandalism were carried out <sup>[10]</sup>.

It has been suggested that the main reason for the high number of pipeline vandalism incidents in the Niger Delta area is due to the lack of legal protection for the

pipelines, even though these pipelines run through slums and informal settlements in growing cities.

There is also a constant increase in the demand for refined petroleum products and as such acts of vandalism are carried out almost daily in the region to meet that demand. Even in the face of danger, the destruction of pipeline and the eventual removal of oil is never turned down by the perpetrators. Owing to the desperation of the people in the region, they sometimes resort to violent means to achieve their goals. Such means include attacks on oil and gas installations, which allows them to access the crude oil at their will. These perpetrators claim that the primary objective of their illegal activities is to raise funds to alleviate poverty in the community. This brings us full circle to the earlier points made about poverty.

It then goes without saying that if adequate investments are not made with the view to improving the plight of the people in the Niger Delta area, we may continue to experience the ugly incidence of pipeline vandalism.

### b. Unemployment

The rising number of pipeline vandalism cases is attributed to the current economic situation of unemployment. This cause is not too far from the previous cause discussed above. Many people in the Niger Delta area have resorted to oil pipeline vandalism to make ends meet. This includes stealing oil and pipeline vandalism.

Although the national unemployment rate in Nigeria is high, it is believed that the situation in the Niger Delta is unique due to how it accounts for the bulk of the country's foreign exchange revenue. Most people believe that the region is the hub and source of economic oil production activities, and the unemployment rate ought to be minimal when compared to the other regions in Nigeria.

One of the factors that have contributed to the high unemployment rate in the region is the fact that many oil companies in the area hire workers from outside the country. This practice often leads to the disengagement of local employees, which further increases the number of unemployed individuals.

Although it is not yet clear how this phenomenon takes place, it is believed that the individuals disengaged from employment by the international oil companies, having the technical knowledge of the workings of the industry, might resort to stealing oil as a means of livelihood <sup>[11]</sup>. After all, they know where the pipelines are located.

### c. The ownership of petroleum dilemma

Another factor that has contributed to the high number of pipeline vandalism cases is the issue of ownership, that is ownership of petroleum. The issue of ownership has decidedly been settled by the constitution of the Federal Republic of Nigeria and the Petroleum Industry Act 2021.

However, although a moot topic, it is believed that the reason for agitation in the Niger Delta can be linked to the issue of who owns the petrol. Technically, as long as the petroleum is found within the territory of Nigeria and its Exclusive Economic Zones, it belongs to the Federal Government irrespective of who owns the land

where the petroleum is found. Indigenous ownership claims have since emerged in the Niger Delta giving validity to their right over the oil, hence the pipeline vandalism.

The increasing number of indigenous ownership claims in the country's oil industry has started to affect the region's development. Although the ownership of natural resources in Nigeria started before the country's 1999 Constitution was adopted, the UK's preference for state ownership of the country's natural resources has led to the country's "retentionist" style of ownership<sup>[12]</sup>. In 1948, the Oil Mineral Ordinance of 1948 provided that the entire mineral and oil properties in the country were vested in the Crown. This means that the government has the right to grant exploration and production licenses only to British subjects. The 1999 Constitution of Nigeria provides that the country's natural resources are vested in the government. This means that the government can make laws that will govern the industry in line with the overall interest of the country. The Petroleum Industry Act also provides that the government has the ownership of similar mineral oil and natural gas properties in the country. This means that the entire ownership of these natural resources is vested in the government, covering all lands, including those that are covered by water, in Nigeria. These lands are also included in the country's exclusive economic zone or are part of the continental shelf.

Attempts by the littoral states in Nigeria to challenge the federal government's ownership of natural gas and crude oil properties were unsuccessful. The Supreme Court of Nigeria ruled in the case of Attorney General of the Federation v Attorney General of Abia State that the provisions of the Petroleum Act<sup>[13]</sup> and the constitution, which provide for the government's ownership of natural resources, were constitutionally and statutorily protected.

Some believe that the country's regime of resource management and ownership during the post-colonial era is similar to what was obtainable during colonialism and this has been referred to as neo-colonialism. It is also believed that the government could have done better by addressing the issues affecting the people of the Niger Delta region, especially with the recent enactment of the Petroleum Industry Act, of 2021.

Militant groups such as the Niger Delta Peoples Volunteer Force (NDVPF), the Movement for the Emancipation of the Niger Delta (MEND), and the recent Niger Delta Avengers (NDA) have been known to carry out attacks on pipelines. They perpetrate such acts as a means to mark and enforce their ownership of petroleum found within their region.

Despite the various laws and regulations that provide for the government's ownership of natural resources, the debate regarding the ownership of these resources continues to be a contemporary issue in the country.

Besides the attacks on pipelines, third parties such as those operating in the Niger Delta have also been known to sabotage the country's oil and gas infrastructure. It is noted that the corrosion of the pipelines can lead to the rupturing of the production facilities, and the lack of regular maintenance and inspection can cause spills, but the majority of spillage cases are usually linked to vandalism.

Some of the most common attacks that have caused concern are the so-called bunkering and attacks on oil platforms and vessels. These activities have hurt the environment of the region. The lack of effective deterrent measures, such as the reported prosecution of those involved in these activities, has also exacerbated the problem.

### **The Socio-legal effects of oil pipeline vandalisation in Nigeria**

There are various effects and impacts of pipeline vandalism. Oil pipeline vandalism can have adverse effects on the price of crude oil, the country's global position, the environment, human lives, and the economy. Loss of lives and livestock, as well as security, are some of the effects that have been attributed to the incidents of pipeline vandalism. Some of the effects will be treated below.

#### **a. Economic Loss**

The importance of the oil and gas sector cannot be over-emphasized. The country's continuous reliance on these resources has led to the country becoming a mono-cultural economy. This has also caused the country to suffer from the Dutch disease.

Pipeline vandalism is estimated to have caused a loss of about \$10.9 billion to the country's treasury. This figure is computed by taking into account the various factors that affect the pipeline's value, such as the cost of repairs and the declaration of force majeure. From 2009 to 2012, records indicate that the country suffered a loss of about 165 billion dollars.

During the first quarter of 2013, the country suffered a drop in its available revenue due to the continuous decline in the production of crude oil. This was caused by the vandalism of pipelines in the Niger Delta.

In 2009, the country's daily crude oil production was estimated to be around 100,000 barrels per day. In 2012, it was estimated that the country's daily crude oil production was about 200,000 to 300,000 barrels. This figure has since risen to 400,000 barrels per day in 2013. This is about 20% to 25% of the country's total daily production capacity of approximately 2 to 2.5 million barrels of crude oil. The continuous decline in the country's daily crude oil production has caused a loss of about \$14 billion annually, which is almost half of the country's annual budget. During the period, the daily decline in the production of crude oil was estimated to have ranged from 2.1 to 2.3 million barrels per day.

In the first quarter of 2013, Nigeria's actual production and forecast were not met. This resulted in a drop in the country's available revenue. The revenue loss has also affected the country's export of crude oil. Owing to the above, Nigeria has not met its international sales obligations. These issues have affected the country's domestic debt profile.

#### **b. Environmental degradation and pollution**

During the 1990s, the activities of oil companies in the Niger Delta increased the threat of environmental pollution. Besides the economic loss caused by the failure of the government to meet its revenue targets, the activities of oil companies in the region have also increased the threat of environmental pollution. This is due to the breaking and tapping of oil from oil installations. This process led to the

destruction of pipelines, which left a trail of environmental degradation which has adversely affected vegetation, soil composition and marine life. The activities of oil companies have also increased the threat of environmental pollution. In addition to the pipeline breaking and the theft of crude oil products, there have been instances of damage to oil facilities.

When petroleum hydrocarbons are introduced into the environment, they are harmful to the various ecological components of the region. These include the soil, water, and vegetation <sup>[14]</sup>. Consequently, further checks are needed on the production of oil and gas in the region.

### c. Loss of life

Another issue that has been identified as a result of pipeline vandalism is the threat to human security. The increasing number of pipeline vandalism incidents in Nigeria has been identified as the worst issue that has affected the country's oil industry. Although it has been reported that over 2,500 people have died due to the explosions caused by the fires caused by the vandalized pipelines, it is important to note that the exact number of casualties caused by these incidents was not known <sup>[15]</sup>. Since the incident involving the Jesse pipeline in Delta State in 1998 <sup>[16]</sup>, the number of pipeline explosions that resulted in the deaths of people has reportedly increased significantly. These incidents are more frequent in the oil-producing states of the country, such as Bayelsa, Delta, Lagos, and Rivers. In addition to these, the increasing number of pipeline vandalism attacks has also led to death threats being made against government officials and security agents.

The sophistication of the vandals has allowed them to carry out their criminal activities with ease <sup>[17]</sup>. They have also carried out attacks that have led to the deaths of civilians and police officers in an attempt to maintain a safe environment.

In 2013, five workers of the Petroleum Products Marketing Company of Nigeria were killed when they were attacked while they were trying to fix a vandalized pipeline. The group responsible for the pipeline vandalism attacked the pipeline because they wanted to steal the oil products from the company for financial gain.

### d. Loss of employment

In addition to addressing the issue of pipeline vandalism, it is also important that the authorities address the issue of oil misappropriation and illegal activities in the country. These activities have contributed to the divestment policies of some international oil companies operating in Nigeria. According to a report released by the Shell Petroleum Development Company of Nigeria <sup>[18]</sup>, the company decided to stop operating in the country's onshore oil sector due to the various security issues and oil spills that it experienced. This resulted in a reduction in the company's production activities and a loss of jobs. It has also been reported that the number of job cuts in the oil sector in the country and other countries has increased.

Pipeline vandalism is not unique to Nigeria, as there are also countries that have instances of large-scale misappropriation of public funds. Governments in other countries have taken measures to address these issues. For instance, there are similarities between Nigeria's illegal refineries and China's illegal mines.

Although the Chinese government has been implementing effective measures to address illegal activities in the country, it is believed that the country's laws and regulations have not yet discouraged people from carrying out pipeline vandalism.

The law is very important for a society as it serves as a standard of conduct that all citizens should follow. It also provides for the establishment of proper guidelines and regulations to ensure that the government can function properly. Without the proper laws, it would be very difficult for a society to maintain its stability.

### The Solutions to the Menace Oil Pipelines Vandalism

Following the numerous pipeline vandalism incidents in Nigeria, the federal government has enacted various legislative measures and policies aimed at addressing the causes of these attacks. Two of these are the Petroleum Production and Distribution (Anti-Sabotage) Act and the Miscellaneous Offences Act.

The legislation provides that those who carry out acts of vandalism or tampering with pipelines or production facilities of petroleum products in Nigeria are guilty of committing an act of sabotage. They can be punished with a fine of N500,000 or up to 10 years in prison. Additionally, any person who deliberately obstructs or prevents the transportation of petroleum products in the country is also guilty of committing an act of sabotage. If the person deliberately prevents the use of a public highway or vehicle for the transportation of petroleum products, then he or she is guilty of committing an act of sabotage.

Furthermore, anyone who aids, incites, or procures another person to carry out acts of sabotage is also guilty of committing an act of sabotage. This offence, which carries a maximum sentence of death, is punishable by up to 21 years imprisonment.

The other legislation, the Miscellaneous Offences Act, provides that those who deliberately break, damage, or otherwise interfere with pipelines or other facilities used for the transportation of petroleum products are guilty of committing an act of sabotage. They can be punished with a fine of N500,000 or up to 10 years in prison.

The laws enacted by the federal government in response to the numerous pipeline vandalism incidents have shown that they intend to put an end to these attacks.

The question of whether the death penalty or life in prison should be used as a deterrent to those involved in pipeline vandalism is a controversial issue that has been discussed in various countries. Although this argument is still being debated in different countries, such as the United States, the author believes that the threat of the penalty and imprisonment have not dissuaded the commission of this crime.

One of the ways that the federal government has tried to address the various issues that affect the Niger Delta region is through the establishment of intervention agencies. Unfortunately, despite the existence of these agencies, the number of pipeline vandalism incidents has not decreased.

According to research, disputes that were established through these institutions have not always been resolved in their objectives <sup>[19]</sup>.

We would suggest that the government should consider individual ownership of resources or at least enable the states and host communities to actively participate in the oil production process. One of the most important factors that

the federal government should consider when it comes to addressing the various issues that affect the Niger Delta region is the recognition of two sets of rights or estates. These are the mineral and surface estate, which are both recognized by the Texas Supreme Court. This allows the individual or community in the region to own both the oil and gas properties that are located on their land. In the United States, for instance, individuals can own the minerals that are located on their lands <sup>[20]</sup>. In other states, such as Arkansas, Texas, and Pennsylvania, the rights of individuals to own natural gas and crude oil are also recognized.

Although the federal government is authorized to collect taxes from the activities of the oil and gas companies in the country, the individual's right to ownership of the natural resources in their lands is also guaranteed. This will help reduce the incidence of pipeline vandalism and other issues in the region.

The revenue generated from the production of natural gas and crude oil should be returned to the region instead of going to other parts of the country and the international bank accounts. The exploitation of the country's petroleum resources should be carried out in the country's national interest. This will ensure that the country's citizens are protected from the harmful effects of exploitation.

The welfare of the people in the Niger Delta region is still not guaranteed, and acts of pipeline vandalism will still be carried out. There is a consensus that the federal government's ownership of the country's mineral resources has been detrimental to the people living in the oil-producing regions of the country. This is why the government of Nigeria must consider the issue of community or individual ownership of the natural gas and crude oil properties in the country. This position has been supported by the provisions of the African charter on human and people rights <sup>[21]</sup>. The Charter states that everyone should be free to dispose of their natural resources and wealth.

Going beyond the current statutory and constitutional provisions regarding the ownership of natural gas and crude oil in Nigeria, the joint ownership of these resources by the federal and state governments could help reduce the incidence of pipeline vandalism. This system of ownership could help solve the environmental and development issues that have been affecting the oil-producing communities in the Niger Delta <sup>[22]</sup>.

### 1.1. Conclusion

The vandalism of pipelines and other oil facilities has revealed that the security of these national assets has become a major concern. This is because a significant portion of the country's revenue comes from the oil and gas sector, which is why the authorities must take adequate measures to ensure that these pipelines are secure. Another important factor is that Nigeria's power sector relies on the petroleum sector for the generation of power. In February 2016, the bombing of the Forcados Export Terminal and the vandalism of the Lagos Escravos Pipeline led to a power shortage in the country.

The increasing number of pipeline vandalism incidents in Nigeria has seriously hindered the country's efforts to achieve sustainable environmental and economic governance in its oil and gas industry.

The activities of those involved in pipeline vandalism have become a career choice for many young unemployed and

impoverished individuals. The impact of their activities on the environment and the economy has been negatively affected.

The response of the federal government to the pipeline vandalism issue has not been satisfactory. Despite the various interventions and programs that the government has put in place, such as the Amnesty programme, the acts of pipeline vandalism have continued to defy legal solutions. It will be good to consider that ownership of natural gas and crude oil in Nigeria be shared by both the state and private sectors.

Although the proposed measures are yet to be tested, it is believed that they will be the appropriate response to the increasing number of pipeline vandalism incidents in Nigeria. Owners will not allow their activities to destroy what is theirs.

It is worthy of note that as part of the reforms introduced by the Petroleum Industry Act 2021, Host communities have been given the responsibility to secure pipelines and petroleum facilities found in their region. Penalties were also included. Any Host Community where it is found that a facility has been vandalized would bear the cost of repairs and will not be entitled to payment from the Host Communities Development Trust Fund.

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