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UPSTREAM PETROLEUM SECTOR CORRUPTION: IS THERE ANY NEED FOR RE-ASSESSMENT AND ENHANCEMENT OF NIGERIA'S ANTI-CORRUPTION LAWS?

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Abstract

Corruption is a spasmodic menace in Nigeria's upstream petroleum sector. This study investigates why anti-corruption statutes are not efficient in Nigeria's upstream petroleum industry. Rent-seeking, public choice and extractive theories of corruption are appraised owing to their influences in fighting corruption. The study is a doctrinal legal research that embraces a point-by-point comparative methodology with library research technique. The research reveals that corruption strives on feeble implementation of anti-corruption legal regime and absence of political will in offering efficient regulatory intervention. Finally, the study finds that anti-corruption organisations in Nigeria are not efficient due to non-existence of the Federal Government's political will to fight corruption, insufficient funds and absence of stringent implementation of anti-corruption legal regime in the country. The study recommends among other reforms, soft law technique and stringent execution of anti-corruption statutes. The study recommends increment in financial appropriation to Nigeria's anti-corruption institutions taking into consideration the finding that meagre budget is a drawback.

Key Words: Upstream Petroleum Industry, Transparency, Corruption, Soft Law Approach

1.0 Introduction

Crude oil being the major fount of Nigeria's economy is beset with intrinsic and pervasive problem of corruption. This has hampered the economic development of Nigeria. In spite of the present global development concerning the utilisation of alternate energy and the need to downplay on crude oil, the government delve into numerous alternatives to efficiently solve this challenge via anti-corruption laws. It is anticipated that the Federal Government makes the best use of her oil revenues while it lasts, for a significant growth in Nigeria by combating corruption from the oil industry.

Corruption is not particular to Nigeria, it is an international phenomenon. Corruption has significantly decreased the revenues of the Federal Government of Nigeria from oil. As a result, majority of Nigerians are living in penury, with the least human development index.[2] Nigeria is the eighth leading producer of crude oil globally and is the fifth largest in the Organization of Petroleum Exporting Member States.[3] Corruption and misappropriation of crude oil revenues have been made worst by the international deterioration of crude oil prices. The declining affect the request for Nigeria's crude oil on the global

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[2]World Bank, 'World Development Report 2017: Governance and the Law' (2017), <www.worldbank.org/en/publication/wdr2017> accessed 2 August, 2020, p. 5.

[3]Omorogbe, Y., 'Law and Investor Protection in the Nigerian Natural Gas Industry' (1996), 14(2), Journal of Energy and Natural Resources Law, p. 179.

market is causing exhaustive operational expenditures owing to archaic and derelict petroleum substructure or assets in the industry.

Besides, corruption in Nigeria's upstream petroleum industry is also beset with a number of other challenges: pipeline damage and crude oil theft by insurgents in the Niger Delta Areas, this triggering the petroleum productions to drop from 2.3million barrels per day to one million barrels per day (bpd) at the inception of 2016[4]

This drop in crude oil production has occasioned incorporation of *force majeure*[5] section in petroleum contracts by energy firms in Nigeria. Corruption is predominant in the country notwithstanding the plethora of anti-corruption statutes and regulations in the country. Though, these are overall anti-corruption statute not explicitly enacted for the upstream industry. Corruption continues to be the greatest challenge in the upstream petroleum industry.

Consequently, most eminent researchers from the different fields have done several scholarly works on corruption, its indicators, and how to fight it[6]. But, it seems none of these work have offered lasting panaceas to the problem occasioned by corruption in Nigeria's upstream industry. This existing study aims to offer preferences for fighting corruption efficiently in the industry via soft law method. This approach embraces among other things matters for instance: anti-corruption self-reporting tool, severe implementation and incentivisation of obedience to anti-corruption statutes.

Fighting corruption in the upstream petroleum industry is essential for the country socio-economic growth and poverty obliteration. To be successful, the execution of these anti-corruption statutes must be done with genuine dedication supported by sturdy political will. The government in offering efficient statutory intervention by offering the required supports to anti-corruption agencies. It will also necessitate sensitization of the citizens on harmful effects of corruption in the industry.

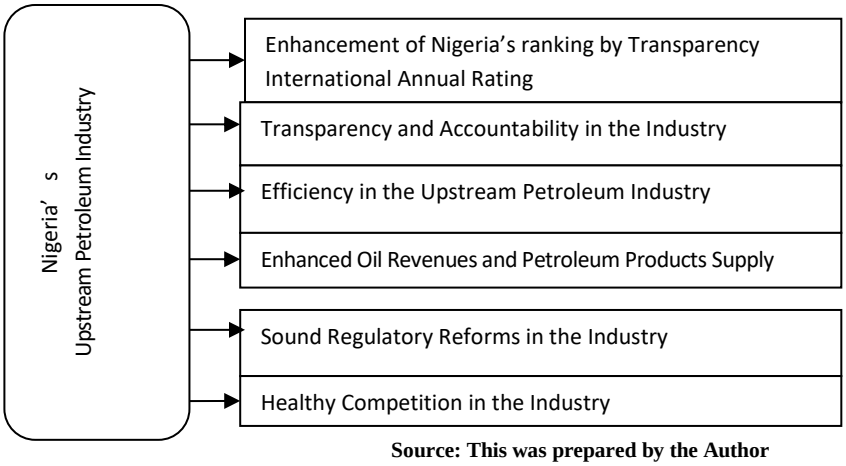
Corruption in the oil industry is not a new conception. A number of of such instances have been recorded. For instance the suspected $12.2 billion misappropriated during the oil windfalls in 1991 revealed by the Pius Okigbo Panel in General Ibrahim Babangida's regime. The alleged sum is yet to be reclaimed.[7] The amount could have been utilised on infrastructural improvement in Nigeria. Also, in 1998 and 1999, Chevron Nigeria Limited was indicted for tax circumvention and deception.[8] The firm was suspected to have eluded approximately US$2.7 billion tax in addition to the accrued fines of

[4]Olujobi O. J., and Olujobi, O.M., 'Theories of Corruption 'Public Choice-Extractive Theory' As Alternative For Combating Corruption', (2020), 11(2), International Journal of Environmental Sustainability and Green Technologies, p. 8.
[5]*Black's Law Dictionary Eighth Edition 2004 defines Force majeure* as a clause that permits oil firms to halt operations or shipments without any infringement on the contracts.
[6]Abdullahi, U. M.I., *et al.*, 'Evidence of Petroleum Resources on Nigerian Economic Development 2000–2009' (2015), 6,(2), Business and Economics Journal, p. 1.
[7]Okojie, P., and Momoh, A., 'Corruption and the Crisis of Development in Nigeria' (Paper Presented at the Conference on 'Redesigning the State? Political Corruption in Development Policy and Practice' held at Manchester Metropolitan University, November 25, 2005), p. 3.
[8]Otusanya, O.J., 'The Role of Multinational Companies in Tax Evasion and Tax Avoidance: The Case of Nigeria' (2011), 22(3), Journal of Critical Perspectives on Accounting, p. 317.

$8,100,000[9] in collusion with some tax officials. The purpose was to reprocess the sum of tax owed to the Federal Government by $76 million,[10] thus divesting the Government of its legal revenues for growth-related tasks in Nigeria. This fraud was ascribed to the feeble execution of its anti-corruption and transparency legal regime in the sector.

Figure: 1 Advantages of Transparent Petroleum Industry

Transparency in the petroleum industry will enriched Transparency International Corruption Perspection Index yearly ranking of Nigeria, encourages evolution, effectiveness, accountability and comprehensive statutory framework and healthy rivalry in the industry.



Source: This was prepared by the Author

2.0 Methodology

This study is a library-based doctrinal legal research. It is buttressed by a contextual legal assessment, comprising reference to internet sources, a broad appraisal of academic literature, assessment of case studies and evaluation of pertinent judicial and statutory provisions. The assessment x-rays the weaknesses in Nigeria's anti-corruption statutes. The objective is to transform Nigeria's upstream petroleum industry anti-corruption statutes.

The research utilises periodicals, textbooks and the internet sources as secondary sources. Primary sources, for instance case laws, judicial precedent, significant international anti-corruption conventions for attainment of valuable insight to recommend the transformation of Nigeria's anti-corruption legislations to enhance transparency and accountability in the industry.

3.0 Statement of Research Problem

The perceptions of legal researchers have been attracted to the feeble regulatory governance in Nigeria's petroleum industry. The weak legal regime has damaging consequence on the economic

[9]Anele, K., 'Multinationals Are Notorious For Tax Evasion. Do You Agree?' (2015), http://documentslide.com/documents/multinationals-are-notorious-for-tax-evasion2.html, accessed 1 March, 2020, p. 1.
[10]O.J, Otusanya, 'The Role of Professionals in Anti-Social Financial Practices: The Case of Nigeria' (2011), *Journal* Accountancy Business and the Public Interest, <http://visar.csustan.edu/aaba/otusanya2011.pdf > accessed 6 August, 2020, p. 80.

growth of Nigeria.[11] Corruption upsurges operation expenditures in the industry, thus damaging the sensible and appropriate administration of energy resources for the growth of Nigeria.

In 2011, the Royal Dutch Shell Petroleum Company and ENI were suspected to have fleeced the Federal Government by $1.1 billion. The two firms did this by awarding oil block OPL 245 to Malabu Oil and Gas Limited.[12] The firm was purportedly held by the erstwhile Nigerian petroleum Minister, Dan Etete. Mr. Etete who granted the oil block to the firm while in office in violation of Corporate Governance's Code and Code of Conduct Bureau and Tribunal Act[13] as provided under the Fifth Schedule of the 1999 Constitution of the Federal Republic of Nigeria (As amended). An interesting twist to the Malabu corruption saga is the fact that those who were accused of bribery overseas in regard of this contract have been sentenced, while those accused in Nigeria have not been charged nor arraigned owing to the feeble execution procedures in the anti-corruption statutes.[14] But lately, the United Kingdom's court struck out the $1.1billion Nigerian corruption charge against Shell, Eni for lack of jurisdiction in regard of the disagreement over the award of OPL 245 oil field amount made as inducement to acquire the grant but the firms are standing prosecution in an Italian court.[15]

The 2012 report of the Petroleum Revenue Special Task Force also uncovered additional form of corruption to the extent that oil block tenders from 2005–2007 were portray by corruption and compulsory amalgamations. It was also revealed in the report that partisan preferences were granted to specific oil firms devoid of their practical knowledge or economic proficiency before the award.[16] This task force was inaugurated by the former Minister for Energy Resources, Diezani Allison Madueke, on behalf of the Federal Government and was chaired by Mallam Nuhu Ribadu. The report further uncovered that seven discretionary licences value at over $183 million in signature bonuses were not remitted to the Federation Account from 2005-2011. These gaps were due to the faulty execution of the Petroleum Profit Tax Act by the Federal Inland Revenue Service which has triggered forfeiture of oil revenues to the Federal Government.

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[11]Takon, N., 'The State-Backed Oil Company in Nigeria's Petroleum Economy: Evolution, Dilemmas and Paradoxes' (2014), 3(3), International Journal of Development and Sustainability, In Global Witness, 'The Scramble for Africa Oil, Gas and Minerals',<: https://www.globalwitness.org/.../rigged%20the%20scramble%20for%20africa's%...> accessed 2 August, 2020, 2, also In E., Okpanachi, and A., Nathan, 'Preventing the Oil "Resource Curse In Ghana: Lessons from Nigeria' (2012), 68(6), the Journal of New Paradigm Research, p. 430.

[12]Carvalho, R., 'SPTEC Advisory - 2016 Country Review' (2017), <www.sptec-advisory.com/sptec_advisory-nigeria_2016_news_review.pdf> accessed 2 August, 2020, p. 60.

[13]Cap. C15, Laws of the Federation of Nigeria, 2004.

[14]Global Witness, 'Landmark Prosecution as Nigerian Authorities Charge Shell and Eni Over Shady $1.1 Billion OPL 245 Deal' (2017), <https://www.globalwitness.org/en/press-releases/landmark-prosecution-nigerian-authorities-charge-shell-and-eni-over-shady-11-billion-opl-245-deal/ > accessed 2 August, 2020.

[15]Olisah C., 'United Kingdom Court Dismisses $1.1billion Nigerian Corruption Lawsuit against Shell, Eni' (2020), <https://nairametrics.com/2020/05/23/uk-court-dismisses-1-1billion-nigerian-corruption-lawsuit-against-shell-eni/> accessed 2 August, 2020.

[16]Ribadu, M.N., 'Report of the Petroleum Revenue Special Task Force' (2012), <www.premiumtimesng.com/docs_download/report_of_the_ribadu_led_petroleum%20revenue%20special%20task%20force%202012.pdf > accessed 3 August, 2020, p. 107.

There appears to be a severe challenge in the management of signature bonus in Nigeria. For instance, there was over US$566 million in outstanding signature bonuses and statutory payments that some oil firms ought to have disbursed ahead of time to the Federation Account. Opaque modus operandi of handling signature bonuses and poor documentation systems in the Department of Petroleum Resources were also uncovered. The Petroleum Profit Tax fees made by the oil firms were entrenched on unsubstantiated self-evaluation. This was acknowledged devoid of additional validation by the Federal Inland Revenue Service which also triggered forfeiture of oil revenues due to the Federal Government owing to feeble execution of its anti-corruption legal regime[17]. The submissions of the Committee for the incorporation of transparency in its operations have not been implemented.

Equally, there is the Halliburton bribery infamy, where the sum of $180,000,000.00 million US dollars was purportedly presented as bribe to procure the contract for the development of the Bonny Island Liquefied Natural Gas scheme between 1995 and 2004.[18] Halliburton's subsidiary Kellogg, Brown and Root (KBR) was accused of the infringements of Foreign Corrupt Practices Act. The United States' Government penalized Halliburton $579 million and its Chief Executive Officer was sentenced to 7 years' incarceration.[19]

Corruption has continuously been a problem in the upstream industry, predominantly in the NNPC. The Federal Government has made some regulatory and legal attempts to enhance transparency in the industry by inaugurating the Nigeria Extractive Industry Transparency Initiative[20] and the Sovereign Wealth Funds to administer the surplus incomes from crude oil.[21] The Niger Delta Development Commission (NDDC)[22] was also inaugurated to promote instantaneous and sustainable development of the Niger Delta oil Producing areas. The Federal Government also introduced the Amnesty Programme to sustain harmony and growth in the Niger Delta Area through the provision of occupational skills and training of rehabilitated revolutionaries. The Federal Government also inaugurated the Presidential Advisory Committee Against Corruption (PACAC) in August 2015.[23] The Presidential Committee on Assets Recovery to recover stolen wealth and assets on November 18, 2016, and the National Prosecution Coordination Committee to advice on corruption cases May 27, 2016.[24] But the Committee was later dissolved. The government also annulled the Infrastructure Protection Contracts with the former revolutionaries owing to predominance of crude oil theft and corruption in

[17]*Ibid.*
[18]Barbara, C.G., and Kathleen, A.L., 'Investigation of Halliburton Co./TSKJ's Nigerian Business Practices: Model for Analysis of The Current Anti-Corruption Environment on Foreign Corrupt Practices Act Enforcement' (2006),96(2) Journal of Criminal Law and Criminology, p. 505.
[19]Ajuzie, G.C., 'Bureaucratic Corruption in Public Administration: Its Effects on the Nigerian Economy' (2010), <http://globalacademicgroup.com/journals/academic%20scholarship/bureaucratic%20corruption%20in%20public.pdf> accessed 5 August, 2020, p,130.
[20]Nigeria Extractive Industries Transparency Initiative (NEITI) Act, 2007.
[21]Nigeria Sovereign Investment Authority (Establishment) Act 2011, Cap N.166, Laws of the Federation of Nigeria 2004.
[22]Niger-Delta Development Commission (Establishment) Act, 2000 Act, No. 6, Laws of the Federation of Nigeria.
[23]The Presidency, 'Presidential Advisory Committee Against Corruption Report August 2015-July 2016' (2016), <http://pacac.gov.ng/pac/wp-content/uploads/august_2015-july_2016.pdf> accessed 2 August, 2020, p, 9.
[24]Recovery of Public Property (Special Provisions), Act Cap R. 4, Laws of the Federation of Nigeria, 2004.

the oil industry. The recent forensic audit of the NDDC by the House of Representative on the accusation of ₦40billion[25]misappropriated by its Interim Management Board it is a constitutional obligation of the lawmakers to uphold transparency, accountability, swift and viable growth of the region.

Conversely, as international interest is changing from fossil fuels to renewable energy, there is rejuvenated uproar among Nigerians for the diversification of the economy. This has been mainly due to the international oil price crash, little request for Nigeria's crude oil on the global market, and the prevalent corruption in the oil industry. Oil costs have plunged extensively from $110 a barrel in 2010 to $48 per barrel in 2014 and $31 per barrel in 2016[26] but augmented to $54.15 per barrel in 2017, $72.8 in 2018 and $65.06 in 2019[27] and currently in August 2020 $45.08 a barrel[28]. This has declined the revenues of the Federal Government from crude oil in Nigeria.

These occurrences prompted the various anti-corruption probes, such as the reports of the Nigeria Extractive Industries Transparency Initiative (NEITI) 1999–2004, 2005, 2006–2008. The reports of the audit of the importation of fuel commission by the NNPC in 2008, and in 2009–2011 with the report of the audit of the NNPC by KPMG Professional Services submitted to the Presidency on November 22, 2010, which exposed corruption in the sector. The 2012 Report of the Mallam Nuhu Ribadu Petroleum Revenue Special Task Force set up by the Federal Government too uncovered different corrupt practices in the sector.

The above anti-corruption audit reports brought to the fore lack of transparency, which promotes corruption and retards development in the sector. These occurred due to the absence of political will on the part of the Federal Government to combat corruption. These corruption cases have been perennial features of the sector. Therefore, there is the need for a proactive approach to combat corruption in the oil sector. Transparency in the sector is critical to national development, since the sector accounts for over 95% of Nigeria's foreign exchange earnings.

As a result of large scale corruption in the sector, many international oil companies are now divesting their interests and this has also resulted in extensive poverty and infrastructural deficit in Nigeria, despite being endowed with abundant petroleum resources. Nigeria is said to have lost up to 40% of its oil revenues to corruption,[29] even though international anti-corruption conventions and national anti-corruption laws have been passed.

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[25]Ayado, Solomon, 'Again, Senate Insists on Probe of N40bn in NDDC', Business Day Newspaper (Nigeria, 9 June 2020), <https://businessday.ng/news/article/again-senate-insists-on-probe-of-n40bn-in-nddc/> accessed 1 July, 2020.

[26]Bello, A.T., 'Oil and Gas Problems in Nigeria: The Impending Problems and the Preferable Solutions' (2017), <SSRN: https://ssrn.com/abstract=3072236 or http://dx.doi.org/10.2139/ssrn.3072236> accessed 11 April, 2020, p. 2.

[27]Nigerian National Petroleum Corporation (NNPC), 'Crude Oil Price' <https://www.nnpcgroup.com/pages/oil-prices.aspx > accessed 6 April, 2020.

[28]Organization of the Petroleum Exporting Countries,(2020), OPEC daily basket price stood at $45.08 a barrel Wednesday, 12 August 2020, https://www.$45.08 a barre > accessed 14 August, 2020.

[29]Thomson Reuters, 'Corruption Costs Nigeria 40 Percent of Oil Wealth, Official Says 100, 000 Barrels Said to be Stolen Each Day' (2004), < http://www.boston.com/new/world/africa/articles/2004/12/17corruption> accessed 7 June , 2020.

4.0 Literature Review

One of the problems that give room for corruption in the oil industry is the dearth of a political will to fight corruption by the Federal Government. This gap has occasioned opaque and absence good governance notwithstanding the numerous anti-corruption investigation reports that have exposed corruption in the industry. The absence of steadfastness to fight malfeasance and other corrupt practices has occasioned disinclination of certain transnational anti-corruption organizations from offering their maximum assistances on repatriation of proceeds of corruption to Nigeria. These anti-corruption investigation reports have not been utilised to acquire valuable insights to reform the industry. Meanwhile, certain government representatives are purportedly profiting from the fraudulent practices thus defying and sabotaging all transparency mechanisms. This has caused loss of oil revenues to the Federal Government from the industry.

The ultimate conundrums with the anti-corruption legal framework are weak execution and the equivocality of the laws. Equivocal laws make it problematic to comprehend its aims, occasioned loss of corruption lawsuits in court of law.[30] This is apparent in section 404(1) (a) of the Criminal Code that proscribes the demand of property. Equally, plethora of anti-corruption legislations fails to simultaneously combat corruption in both the private and public sectors. Many of the upstream petroleum firms are private firms thus dwindle the execution of anti-corruption legislations and emboldening corrupt practices in the industry.

Meanwhile, the legislation relating to bribing of public officials involves the offering, promising, giving and acknowledgement of bribes. Though, the implementation of the legislation is ineffectual. Feeble implementations of anti-corruption legislations by anti-corruption organisations due to corruption and bribery have caused loss of oil revenues to the government. Such oil revenues could have been utilised for infrastructural enhancement in the country, if there was conformity with the anti-corruption legislations. There would also be constant supervision and assessment of compliance by the anti-corruption organisations, upstream petroleum regulatory body and other participants in the industry.

As a result, in 2004, Nigeria instituted an Investigation Panel to probe the claim of corruption in the industry but the former Attorney General of the Federation (AGF) and Minister of Justice Mr. Michael Aondoaaka utilised insignificant administrative reprieve rather than criminal prosecution of Halliburton suspects.[31] This was an infringement of the basis for sections 174(1)(c) and 211 of the 1999

[30]Bello Akeem Olajide, 'Redefining the Mental Element of Bribery in Nigeria' (Unpublished PhD Thesis, Faculty of Law, Department of Public Law, University of Lagos, Nigeria), p. 3.

[31]Igbinedion Solomon, 'Culpability of Attorney General of the Federation in Multinational Companies' Corporate Liability' The Guardian (Nigeria 23 August, 2011), <http://www.guardiannewsngr.com/index.php?option=com_content&view=article&id=58689:culpability-of-agf-in-multinational-companies-corporate-liability&catid=42:law&itemid=600> accessed 14 August , 2020.

Constitution (as amended) that authorized the AGF to initiate, withdraw and continue criminal trials against any person before any court of law in Nigeria with conditions of considering public concerns, fairness and due process before the use of such authorities. This misuse of power of *nolle prosequi* by the former AGF triggered forfeiture of oil revenues by the Federal Government via recurrent unprosecuted pervasiveness of corruption in the oil industry.

The inelegant prosecution of corruption lawsuits exhibits that the Federal Government lacks the political will to fight corruption in the industry. As nobody has been fruitfully arraigned for the Halliburton corruption incident in Nigeria, while the other perpetrators have been sentenced in the United States and Germany, this has caused mockery to the nation on the global outlook. The deterioration in oil revenues and financings in the industry as it appears that the government has determined not to arraign the recipients of Halliburton bribery incidents.[32] A robust political will is prerequisite for efficient implementation of anti-corruption legislations to promote transparency and accountability in the oil industry in Nigeria.

Without any doubt, Nigeria's mono economic position and over reliance on crude oil for national revenues[33] have caused the industry to susceptible to corrupt practices and other oil- associated corruptions, thus occasioned oil price instabilities and deteriorated oil revenues. This seems to be a risk to the global energy resources market due to challenge of development and growth triggered by predominance of corruption in the industry. The country's economy has been volatile owing to the rising hostility in the industry. The desertion of other non-oil sectors, for instance agriculture and solid minerals and others that would have made engendered more revenues for the Federal Government of Nigeria is a flaw to the country.

Also, the absence of transparent and distinct metering apparatus for quantifying crude oil transactions or churn out which has created opportunities for corruption, malfeasances and loss of oil revenues by the government for socio-economic growth in Nigeria is a drawback. NNPC's reports on crude oil engendered and traded are full of inconsistencies owing to clandestineness in their undertakings. Likewise, the dearth of severe legal regime on updated record preservation and non-existence of legal provisions in the Act for promptly publication of its comprehensive financial reports to the public. This has encumbered transparency and emboldened predominance of corruption in the upstream oil industry's revenues.

Furthermore, the Nigeria Extractive Industries Transparency Initiative's (NEITI) audit report shown that the contemporary Port Harcourt refinery do not have the metering paraphernalia for computing crude oil transmission via pipelines to depots throughout 1999–2004 owing to non-existence of law on obligatory and translucent use of metering apparatus for computing crude oil transactions or

[32]Ogbonna-Nwaogu, I., 'Contradictory Positions of Government and Its Anti-Graft Agencies: An Analysis of the Halliburton Case from Media Reports' (2010), 2(2), Journal of Alternative Perspectives in the Social Sciences, p.663.
[33]Nwanolue, B.O.G., and Osegbue, C., 'The Nigerian State and Crude Oil Bunkering in Niger Delta: Examining the Environmental Vulnerability' (2013), 3(1), African Journal of Social Sciences, p. 41.

engender. This offered opportunity for dishonesty, dearth of accountability and loss of oil incomes by the government from the industry.[34] The suspected missing 20 billion US dollars oil revenues from the Nigerian National Petroleum Corporation as claimed by the former Governor of the Central Bank of Nigeria, Lamido Sanusi, via domestic crude oil transactions still remains unresolved[35] owing to weak enforcement of transparency legislations. The flaw of the regulatory and anti-corruption agencies in the sector triggered decline in national oil revenues for modernisation schemes in the country.

Further, the 2009 and 2011 NEITI's reports uncovered that certain oil and gas firms connived with certain tax executives to evade tax overheads of about $8.3 billion. The sums which they ought to have credited the Federal Government's account[36] but owing to weak application of the provisions of the Petroleum Profit Tax Act. All of these have created opportunities for corruption and decline oil revenues deposited to the Federal Government.

Similarly, the task of restructuring in Nigerian National Petroleum Corporation (NNPC) due to corruption and incessant shortage of oil revenues as the present structure of the corporation negates global standard and procedure for sustainable, translucent viable legal entity which is autonomous with self-accounting system on revenues. This will ensure transparency comparable to Statoil in Norway which functions like other profit-making oil firms devoid of any distinctive status of statutory conglomerate where the governments only act as supervisory body and charge corporate taxes, this has improved transparency in their upstream petroleum industry. Overhauling of Nigerian National Petroleum Corporation Act[37] to obliterate the Minister of Petroleum and Energy Resources as the Chairman of the NNPC's Board will boost transparency via check and balance and comprehensive scrutinization of NNPC's oil transactions in the industry. Section 7 of the Act provides that the Corporation shall keep appropriate books and accurate records in relation thereto a procedure which shall correspond to the best business-related standards. The corporation has not been keeping appropriate registers and books that can boost transparency and accountability in all its contracts in the industry. All its business undertakings and processes are embodied with opaqueness and clandestine. Section 7(4)(a)(b) of the Act infringes section 162 of the 1999 Constitution by permitting the corporation to retain fund to finance its undertakings. The corporation has relied on the misperception established by section 7 of the Act to maintain certain sum out of the standard public financial management controls. The author opined that, there is necessity to enact an apt law on how the Nigerian National Petroleum Corporation should fund its businesses or undertakings and to maintain appropriate registers of its

[34]Nwokeji, G.U., 'The Nigerian National Petroleum Corporation and the Development of the Nigerian Oil and Gas Industry: History, Strategies and Current Directions' (2007), <https://www.bakerinstitute.org/media/files/page/9b067dc6/noc_nnpc_ugo.pdf> accessed 2 August, 2020, p. 49.
[35]Akinola, Adeoye Ologuntoye, 'Globalization, Sustainable Democracy and Deregulation in Nigeria: A Case Study of the Downstream Oil Sector' (Unpublished PhD Thesis, University of KwaZulu-Natal 2015), p. 143.
[36]Nigeria Extractive Industry Transparency Initiative, 'Nigeria: Recovering Missing Payments' (NEITI Progress Report 2014), < http://progrep.eiti.org/2014/country-focus/nigeria> accessed 10 August, 2020.
[37]Nigerian National Petroleum Corporation (NNPC) Act, Cap N123, LFN, 2004.

dealings. Tolerating NNPC's businesses to be done in clandestineness will encourage corruption and inefficiency and it would cost Nigeria colossal loss predominantly at this period of international deterioration in oil values. Alteration of the Act is desirable to explain in simple terms how NNPC'S in-house cost control mechanisms should be boosted via constant audit and appropriate maintenance of accounting records of all transactions in the industry. The Act if executed professionally should fight corruption and entrenched transparency in the industry after the lacunae pinpointed have been remedied.

Besides, there were over 566 million US dollars unpaid signature bonuses and regulatory fees that some upstream petroleum firms ought to have paid beforehand to the Federation Account. This sum triggered deficit in oil revenues of the government. Opaque systems of managing signature bonuses and inelegant record keeping practices in the Department of Petroleum Resources were also revealed by Nuhu Ribadu's report in 2012. The Petroleum Profit Tax tariffs made by certain petroleum firms were based on unsubstantiated self-assessments. These fees were acknowledged devoid of further confirmation by the Federal Internal Revenue Service to enhance transparency in the industry. The suggestions of Nuhu Ribadu's Committee for strengthen transparency in the activities of the industry have not been implemented to combat corruption in the industry.

Furthermore, in 2013, the audit report of the Nigeria Extractive Industries Transparency Initiative (NEITI) claimed that NNPC has not transmitted dividends aggregating to $14.34 billion of the Nigeria Liquefied Natural Gas (NLNG) Project with an interest and credit reimbursement to the total of $12.92 billion to the Federation Account.[38] This is due to the non-existence of legislation obliging it to transmit the money directly to the Federation Account. Besides, this has created opportunity for corruption and shortfall in oil revenues accumulating to the Federal Government for the improvement of the country's infrastructures.

The non-disbursement of oil remunerations by Nigerian National Petroleum Corporation and some of its firms to the Federation Account that could have been spent on infrastructural improvement in the country, but owing to the shortcomings in sections 80, 162(1) of the 1999 Constitution (as amended) that neglected to specify explicitly the time frame for the payment of oil revenues to the Federation Account and refusal to curtail discretionary expenditure by NNPC which has created opportunity for corruption in the industry.

The lack of transparent financing model legislation and the variance between the country's Constitution and section 7 of the NNPC Act on oil revenues expenditure thus opening opportunity for corruption in the corporation by withholding oil revenues accruing to the Federal Government as operational costs in the sector.

[38]Nigeria Extractive Industries Transparency Initiative (NEITI), 'Financial, Physical and Process Audit: An Independent Report Assessing and Reconciling Physical and Financial Flows within Nigeria's Oil and Gas Industry' (2013), <https://www.proshareng.com/admin/upload/reports/2013oilgasreport.pdf> accessed 13 August, 2020, p. 86.

For instance, in 2014, the report of the NEITI audit on oil and gas industries revealed non-remittance of oil revenues of over ₦2.23 trillion by the NNPC to the Federation Account.[39] This was a flagrant infringement of the Constitution and Fiscal Responsibility Act, 2007. NEITI's 2015 audits and reports uncovered the refusal of Nigerian National Petroleum Corporation (NNPC), Nigerian Petroleum Development Company (NPDC) and other oil firms to pay the aggregate of ₦3.78 billion to the Federation Account.[40] NEITI'S Annual Progress Report, 2016, also uncovered that unremitted dividends of the NLNG project worth $15.823 billion on loans and interests from year 2000 to year 2014 were paid to NNPC but were not paid to the Federation Account,[41] thus providing opportunity for corruption and deficit in oil revenues accumulating to the government from the industry.

Further, in 2014, the assessment report of the Nigeria Extractive Industries Transparency Initiatives on oil and gas industries uncovered non-remittance of oil revenues aggregate ₦2.23 trillion by the NNPC to the Federation Account.[42] In addition, the laws regulating Nigeria's upstream petroleum industry are outdated. They do not signify the existing legal improvements and foreseen legal impediments in the industry. Nigerian Extractive Industries Transparency Initiative (NEITI) uncovered that the Federal Government lost the aggregate of ₦1.74 trillion in oil revenues in 2013 due to non-passage of Petroleum Industry and Governance Bill (PIGB) and other essential petroleum legislations to transform the industry.[43] There is then the need for a complete amendment of the laws to fight corruption and to embolden transparency in the industry.

Moreover, the forensic audit report performed by Price waterhouse Coopers for the Federal Government on the businesses or undertakings of the NNPC on the non-payment of crude oil revenues in 2012 and 2013 have not been utilised. This would have offered some innovations to bridge the gaps pinpointed in our anti-corruption laws.

The report advocated, among others, reforms of the NNPC as the present arrangement of the corporation negates viable lucrative legal entities in the industry. But, in the United Kingdom and the United States, the governments only act as regulators and charge corporate taxes devoid of any national oil firms.[44] This method enriches transparency in their oil industries different from Nigeria where the

[39]Nigeria Extractive Industries Transparency Initiative, 'Nigeria Extractive Industries Transparency Initiative Oil and Gas Report 2014' (2014), <http://cislacnigeria.net/wp-content/uploads/2017/01/neiti-oilgas-report-2014-exec-summary-301216pdf> accessed 10 August, 2020.

[40]Nigeria Extractive Industries Transparency Initiative Policy Brief, 'Unremitted Funds, Economic Recovery, and Oil Sector Reform' (2017), 3, < http://www.neiti.gov.ng/phocadownload/neiti-pb3-280317.pdf > accessed 2 August, 2020.

[41]Nigeria Extractive Industries Transparency Initiative (NEITI), 'NEITI 2016 Annual Progress Report' <http://www.neiti.gov.ng/index.php/resources/internal-resources/workplans-reports/annual-neiti-eiti-reports > accessed 2 August, 2020, p. 37.

[42]Nigeria Extractive Industries Transparency Initiative, 'Nigeria Extractive Industries Transparency Initiative Oil and Gas Report 2014' (2014), <http://cislacnigeria.net/wp-content/uploads/2017/01/neiti-oilgas-report-2014-exec-summary-301216.pdf > accessed 10 August, 2020.

[43]Moghalu, K., 'Obsolete Legislation and the Challenges of National Development: Nigeria's Petroleum Industry Experience' (2018), <http://www.financialnigeria.com/obsolete-legislation-and-the-challenges-of-national-development-nigeria-s-petroleum-industry-experience-interview-98.html> accessed 5 August, 2020.

[44]Carlyle, R., 'Why Does the United States Do not have a National Oil Company?' <https://www.quora.com/why-does-the-us-does-not-have-a-national-oil-company> accessed 2 August, 2020.

NNPC executes both the regulatory and commercial functions. Such roles open doors for corruption and misuse of discretionary authorities owing to the dearth of legislation that separate its regulatory and commercial tasks in the industry.

In the same way, the 2016 Nigeria Extractive Industry Transparency International's Annual Progress Report uncovered unremitted dividends[45]of the NLNG project worth $15.823 billion US dollars on credit and interests from 2000 to 2014 were paid to NNPC. The sums were also not paid to the Federation Account[46]. This infringes on sections 80, 162(1) of the 1999 Constitution (as amended) that states that all funds that are paid to the Federal Government must be remitted to the Federation Account thus aided corruption in the industry.

Corruption and misappropriation of oil revenues are alleged to be committed by government's officials. These officials were alleged to have connived with conglomerate upstream petroleum firms, who are said to have given significant sums to government's executives in the industry to procure illicit oil contracts. This caused loss of oil revenues to the government due to absence of detailed due diligence mechanisms in the industry to evaluate oil contracts.

The Shell Petroleum Development Company (SPDC), ChevronTexaco, ExxonMobil Corporation, Agip Oil Company, and Total Oil Company are the leading oil firms in Nigeria. Some petroleum firms are suspected to be beneficiaries of corruption to the disadvantage of the Nigerian State and its populaces. If this is not tackled, it may continuously impede economic development and transparency in Nigeria's petroleum industry.[47]

It is unarguable that, had the Federal Government fought corruption in the upstream industry and utilised the revenues prudently throughout the oil boom, the country would have registered exceptional infrastructural growth in all sectors. Though presently, oil prices have declined drastically from $110 a barrel in 2010 to $48 per a barrel in 2014 and as little as $31 per barrel in 2016.[48] In 2017 it was $44.5 per barrel while in 2018 it was $57 per barrel and in the first quarter of 2019 it was $63.17 per barrel.[49] Though, it is expected that Nigeria will expand its economy to other non-oil sector like agriculture and solid minerals to terminate its mono-economy position to stimulate economic steadiness and growth in Nigeria.

The NNPC, as the principal statutory corporation regulating the industry, it may be considered as indecipherable national oil corporation since its operations have been purportedly branded with

[45]Onya, R.M., and Elemanya, A.V., 'Analysis of President Buhari's Anti-Corruption Policy: A Reality or An Illusion?' (2016), 2(11), International Journal of Advanced Academic Research Social and Management Sciences, p. 82.
[46]Nigeria Extractive Industries Transparency Initiative (NEITI), 'NEITI 2016 Annual Progress Report' <http://www.neiti.gov.ng/index.php/resources/internal-resources/workplans-reports/annual-neiti-eiti-reports> accessed 16 August, 2020, p. 37.
[47]US Energy Information Administration, 'Nigeria Overview' (2015), <https://www.connaissancedesenergies.org/sites/default/files/pdf-pt-vue/nigeria.pdf > accessed 28 March, 2020, p. 7.
[48]Bello, A.T., 'Oil and Gas Problems in Nigeria: The Impending Problems and the Preferable Solutions' (2017), < https://ssrn.com/abstract=3072236 or http://dx.doi.org/10.2139/ssrn.3072236 > accessed 11 August, 2020, p. 2.
[49]Central Bank of Nigeria, 'Daily Crude Oil Price' (2019),< https://www.cbn.gov.ng/rates/dailycrude.asp> accessed August 16, 2020.

corruption and clandestine. The system of awarding oil pioneer status to petroleum firms that have been thriving for years divests the government of its statutory oil revenues in the industry owing to archaic legal regime governing Nigeria's petroleum industry which opened to corruption.

Transparency in the incomes of the upstream petroleum industry is a necessity to eliminate corruption. Ayoade, in his work "Nigerian National Petroleum Corporation and Prospects for Transparency in the Petroleum Industry Bill",[50] promoted the necessity for transparency in the oil industry, as it has established that it is almost impossible to get precise records on oil production in the country over the years, with the Central Bank of Nigeria, Ministry of Finance, Department of Petroleum Resources, and International oil firms offering inconsistent statistics. Deficient statistics or records accessibility and non-record-keeping culture are features of the persistent corruption in the industry. It is the writer's opinion that the article botched to highlight on the implementation of the recommended penalties, and currently, the Bill has been overtaken by the Petroleum Industry Governance and Institutional Framework Bill, 2017 which is still pending at the National Assembly.

Also, in underlining the dearth of transparency in the industry, Oyewunmi and Olujobi in their article "Transparency in Nigeria's Oil and Gas Industry: Is Policy Re-Engineering the Way Out?",[51] argued that clandestineness in the method of awards of petroleum contracts, licences, leases, and other transactions in the industry by the NNPC is owing to lack of provisions in the NNPC Act[52] on transparency and record keeping. It is the author's perspective that public announcement of financial transactions or operations of NNPC and National Petroleum Investment Management Services should not contravene business contracts' confidentiality clauses in the industry. It is opined that transparency legislations should incorporate voluntary reporting techniques to discourage corruption, but the paper being deliberated also botched to discuss the implementation problems of anti-corruption legislations.

Furthermore, Eigen, in his work "Fighting Corruption in a Global Economy: Transparency Initiative in the Oil and Gas Industry",[53] summarised the EITI's purpose to stimulate transparency by demanding firms to divulge all revenues disbursed to the government besides the declaration of revenues collected by the government from extractive businesses, with an independent auditor endorsing the correctness of the amounts disclosed for public scrutinization of how oil revenues are expended. He neglected to concede how dearth of stringent penalties for nonconformity with its provisions affects the efficiency of the agency.

Also, the *lacunae* in the literature that this paper intends to fill are absence of several distinct anti-corruption legislation in Nigeria's anti-corruption legal regime. For instance, incentivised Whistle-

[50]Ayoade, M.A., 'Nigerian National Petroleum Corporation and Prospects for Transparency in the Petroleum Industry Bill' (2011), 5, Knust Law Journal, p. 89.
[51]Oyewunmi, O.A., and Olujobi, O.J., 'Transparency in Nigeria's Oil and Gas Industry: Is Policy Re-Engineering the Way Out?' (2016), 7(3), International Journal of Energy Economics and Policy, p. 630.
[52]1969 (as amended).
[53]Eigen, P., 'Fighting Corruption in a Global Economy: Transparency Initiative in the Oil and Gas Industry' (2007), 29(2), Houston Journal of International Law, p. 327.

blowers Protection Act and Civil Forfeiture of Proceeds of Corruption Act, absence of legal templates or frameworks for the domestication of international anti-corruption conventions in the industry and the rebuttal to incorporate and implement stringent enforcement of both the hard and soft law methods in fighting corruption in the industry in coincidence with international assistance hindered the efficiency of the current national anti-corruption laws in Nigeria's upstream petroleum industry as proposed by this paper. Though, Section 5 of the Act positioned the duty of employing National Stakeholders Working Group members on the President devoid of any legislative authorisation by the National Assembly. This is a fundamental flaw of the Act. This requires modification to enhancing the transparency in the industry. In addition, in his article "A Critique of the Enforcement of Nigeria Extractive Industries Transparency Initiative (NEITI) Act 2007 in Nigerian Oil and Gas Sector",[54] Okeke debates that section 16 of the Act stipulated penalty of ₦5–30 million or incarceration for a period of two years as the tentative sanctions for oil firms, their directors and government's officials who present false data or neglect to offer any evidence when necessary. The punishments seem to be inadequate, seeing the billions of dollars that are engendered from the industry. Two years of incarceration does not have stringent deterrence value, seeing the prevalent of corruption in the industry.

5.0 Theoretical Framework on Corruption in Nigeria's Upstream Petroleum Industry

Plethora theories have been explained by legal researchers accentuating the basis of corruption and how it can be tackled. An appreciation of these theories can give acumen into these conundrums and, in the context of this research, can aid in tackling corruption predominant in Nigeria's upstream petroleum industry.

The research seeks the execution of the current anti-corruption legislations in combination with the amendment of the numerous drawbacks pinpointed in the process and the enactment of fundamental anti-corruption legislations that are deficient in the Nigeria's anti-corruption legal regime. Three basic theories are indispensable to this study they are: Rent-Seeking Theory of Corruption, Extractive Theory of Corruption and Public Choice Theory of Corruption. They are painstaking valuable in the evaluation of the study.

5.1 Rent-Seeking Theory of Corruption in the Upstream Petroleum Industry

The doctrines of this theory were described by Gordon Tullock in 1967. Though, the theory has been drawn from the study of Anne Kruger in 1974.[55] The model assist the study by describing rent seeking theory of corruption as the processes of disbursing resources that generate no social advantages with the purpose of swaying public policies outcomes and accordingly public resources expended are

[54]Okeke, V.O.S., 'A Critique of the Enforcement of Nigeria Extractive Industries Transparency Initiative (NEITI) Act 2007 in Nigerian Oil and Gas Sector' (2013), 14(II), British Journal of Arts and Social Sciences, p. 107.
[55]Henderson, D.R., 'Rent Seeking' < https://www.econlib.org/library/enc/rentseeking.html > accessed 4 August, 2020, p. 1.

socially squandered. Agreeing to this theory, rent-seeking is the distribution of resources and vitalities in generating or transmitting rents.[56]

The rationalisation for the concept is that it lessens administrative rent-seeking undertakings and bottlenecks in Nigeria's upstream petroleum industry, and it encourages transparency and due processes in the industry. According to this model, corruption occurs in circumstances where artificial hurdles to entry are designed as channels for inducements or other detrimental conduct, for instance lobbying. The theory centres on the cooperation between the State and other participants in the industry with the emphasis that the State has the authority to allocate exclusive rights on oil transactions via licensing, rules, taxes, and by awarding oil transactions.

But, the theory helps the research by arguing that artificial hurdles are designed by government officials in the industry via bureaucracy and administrative bottlenecks. Government officials along with other participants in the industry sway the State to make these to aid their egotism and to manipulate oil firms in the industry. Corruption does not only arise in cases where oil firms offer inducements, so that artificial hurdles to entry are eliminated and so that they could function, it causes arguments over rent and triggers petroleum firms to contest for special attention, which contravenes due process.

In this case, there is the necessity to distinguish between corruption and lobbying. Lobbying varies from corruption because it is legitimate while corruption is illegal. Corruption is the financial benefit or other advantages transferred between a bribe-giver and a bribe-taker, while lobbying is a bid to sway another person devoid of any payments. In the same vein, corruption varies from other rent-seeking undertakings or actions owing to the diverging echelons of transparency.

The model recommends lessening of artificial hurdles by the State. The researcher of this paper (hereafter, the researcher) argues that specific hurdles to entry may be socially efficient; such as, bureaucracy constituted to enter Nigeria's upstream petroleum industries by foisting the prerequisite of licence. This perceptible hurdle may thwart persons with fraudulent aims from securing access to the industry. The drawback of the theory is defining rules that caused artificial barriers and those that do not.

The theory also has flaws concerning designing of incentives and management of moral conduct. To combat corruption in the industry, finding panaceas to these drawbacks are *sine qua non*. The researcher maintains that corruption is an impediment to economic growth; thus, competitive lobbying is desirable to corruption.

5.2 Extractive Theory of Corruption in the Upstream Petroleum Industry

Extractive theory of corruption is the affairs between state, its intermediary and the general public. Here the states' agent utilises the incomes of the state for the advantages of their leaders. The

[56]Mushtaq, H.K., Rent-Seeking as Process (New York: Cambridge University Press, 2000), p. 5 <https://core.ac.uk/download/files/103/2792081pdf > accessed 14 August, 2020,

fact that the state is a sturdier party in the relationship who benefits most from corruption they are the main investors in the petroleum firms the state is perceived as a docile player. As quoted by Iyanda 1999,[57]Amundsen opines,[58] in his article "Corruption: Definitions, Theories and Concepts", that extractive theory is founded on the concept of authoritarianism – the utilisation of force and misuse of a State's incomes by leaders or their agents. Adebisi[59] further exposed that the concept is centred on the notions of totalitarian government and neo-patrimonial States. Harmonizing the anxieties concerning corruption, Amundsen,[60] in his work "Political Corruption: An Introduction to the Issues", maintains that some government officials benefit from corruption by using the State's mechanism to extort resources for the advantages of the ruling government.

The theory buttresses this work by deterring despotic rules and government's officials who utilises authorities and assets of the State (oil revenues) to safeguard their individual interests at the disadvantage of the country's economy and growth. The model emphasises a well-known hypothesis that power has the tendency to pervert, and unlimited power causes absolute corruption. In other words, where extreme power is concerted completely in the hands of a few individuals for instance the Minister of Petroleum and Energy Resources' discretionary power in the petroleum industry, give room for prospective corruption, misapplication of power, quest for wealth and extraction of wealth for private advantage.

5.3 Public Choice Theory of Corruption in the Upstream Petroleum Industry

This theory was advocated between 1950 -1960. The main advocates of the theory are James Buchanan, Gordon Tullock and Mancur Olson, Public Choice theory focuses on individuals' welfares and favourites which model ones' conduct in taking coherent decision. This often turns out pre-determined objectives for such personalities via optimal utilisation of every value. The theory is often valuable for combating enhanced corruption. It permits one to envisage penalties of corruption as most anti-corruption laws are legislated with penalties for non-conformity.

The theory aids this study by underlining that individual is accountable for both his activities and the penalties of his actions. In the petroleum industry perspective, the theory is bothered about corrupt government's officials who made effort to utilise most of their utility in the industry via corruption. Graaf, in his article "Causes of Corruption: Towards a Contextual Theory of Corruption" argues that government's officials are sensible calculating personalities who only decide to become

[57]Amundsen, L., 'Political Corruption: An Introduction to the Issues' (1999), <https://www.cmi.no/publications/file/1040-political-corruption.pdf > accessed 17 August, 2020, p. 5.
[58]Iyanda, D.O., 'Corruption: Definitions, Theories and Concepts' (2012), 2(4), Arabian Journal of Business and Management Review, p. 40.
[59]Adebisi, M.A., 'The Political Economy of Oil Price Deregulation and the Subsidy Fraud Crisis: A Study of Systematic Bureaucratic Corruption in Nigeria' (2015), 5(9), Journal of Energy Technologies and Policy, p. 36.
[60]Amundsen, I., 'Political Corruption: An Introduction to the Issues' Chr. Michelsen Institute Development Studies and Human Rights, < https://www.cmi.no/publications/file/1040-political-corruption.pdf> (accessed 17 August, 2020), p. 7.

corrupt when the gains of corruption outweigh the demerits, which refers to the mixture of anticipated penalties and the possibility of being accused for corruption.

The theory elucidates the detrimental effects of corruption in the industry as follows: when one is corrupt, one is harming growths in the country. Langseth, in his work "Prevention: An Effective Tool to Reduce Corruption" opines that to make sanctions efficient in deterring corruption, it is essential to connect the expenses of anti-corruption organisations with the proceeds of corruption re-claimed from the industry. Anechiarico and Jacobs, 1996 in their article "The Pursuit of Absolute Integrity", argue that tougher punishments with severe precautionary measures may increase the probabilities of being apprehended for corruption and may upsurge the cost of corruption via comprehensive deterrent anti-corruption devices, which is centred on uncompromised implementation of anti-corruption legislations and penalties in the industry.

6.0 **International Anti-Corruption Conventions in the Upstream Petroleum Industry**

The United Nations Convention Against Corruption[61] is aim to thwart corrupt practices, illegal funds transfer, called money laundering, and private sector corruption, and to inaugurate a comprehensive monitoring regime for financial organisations to remove financial crimes. The researcher argues that the provisions of the convention can be used to retrieve proceeds of corruption for infrastructural growth in the country. Smith and Pieth, in their work "The Recovery of Stolen Assets: A Fundamental Principle of the United Nations Convention Against Corruption",[62] underlined the significance of the treaty by avowing that it provides legal backing and technical aid to revert the proceeds of corruption.

Nliam, in his paper "Assessing the Adequacy of International and Regional Legal Framework Against Corruption in the Public Sector",[63] claims that the United Nations Convention Against Corruption and the African Union Convention presents the legal backing for averting and tackling corruption via domestic anti-corruption legislations but neglects to tackle issues of asset confiscation and to emphasise on the enactment of legislations governing sentence and non-sentence-based confiscation. The stipulations of the treaty on cross-border cash transfer of corruption proceeds specifically from upstream industry have not been domesticated in Nigeria's anti-corruption legislations.

Similarly, member States are under the legal duty to inaugurate organisations to oversee assets seizure and to enact legislations to legalising prison term and non-sentence-based seizure. Nigeria has

[61]United Nations Convention Against Corruption General Assembly Resolution 58/4 of 31 October 2003.
[62]Smith, J., and Pieth, M., 'The Recovery of Stolen Assets: A Fundamental Principle of the United Nation Convention Against Corruption' (2007), 2 U4 Brief 1, <http://www.u4.no/publications/the-recovery-of-stolen-assets-a-fundamental-principle-of-the-un-convention-against-corruption/ > (accessed 17, August 2020), p. 4.
[63]Nliam, O., 'Assessing the Adequacy of International and Regional Legal Framework Against Corruption in the Public Sector' In M.A., Ayoade, S.A., Igbinedion *(*eds.) *Legal Perspectives to Corruption, Money Laundering and Assets Recovery in Nigeria* (Lagos: Department of Jurisprudence and International Law, Faculty of Law, University of Lagos, 2015), p. 29.

not initiated any agency to oversee asset confiscation and proceeds from corruption.[64]These tasks are currently undertaken by the various anti-corruption agencies devoid of accountability, transparency unified governing regulations on the management of such proceeds due to incessant allegations of misappropriation of such proceeds by the agencies.

Further, Nigeria has not enacted legislations governing non-sentence-based confiscation as stipulated under the convention; Member States are necessitated to integrate processes and procedure into their national legislations to safeguard whistle blowers in compliance with their laws.[65] This also has not been effected in Nigeria. The Whistle Blowers Protection Policy in existence; it is not law and cannot be adequate to protect the exposures of whistle blowers or eyewitnesses who appear in court of law to testify against corrupt government's executives. In the case of the *Federal Military Government v. Sani* [1990] *7 SC (Pt. II) 89 3909* the Court held that a policy of any government which has not been legislated into law cannot stand as a basis for punitive measure. This *lacuna* has been indicated as a stern deficiency to anti-corruption undertakings in the industry.

Guzman,[66] writing on "Compliance Based Theory of International Law", opines that the fundamental drawback in the convention is the non-existence of legal measures to reprimand erring States members' for non-observance of the terms of the convention. Lucinda asserts that failure to criticise the usage of discretionary terminologies in the convention devoid of any mandatory terms seems the convention is "a toothless legal instrument".[67]

It is the analysis of the researcher that weaknesses in the convention, for instance, failure to outlaw non-cash forms of bribery, for instance allotment of shares, hospitality tickets, and failure to declare illegal funding of alien political parties, in the convention should be modified. Confirming the impacts of the convention, Davis,[68] in his work "Does the Globalization of Anti-Corruption Law Help Developing Countries?" advocates that despite these weaknesses, the convention has recorded significant inputs in the global anti-corruption fight. The researcher opines that implementation has been a significant flaw of the convention in fighting corruption.

Substantiating the successes of the convention, Padideh studied the case of Mabey and Johnson who were reprimanded for offering bribes to government's officials in Ghana, Angola, Madagascar, and Jamaica to obtain business gains as commendable in "Controlling Corruption in International Business:

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[64]Article 51, United Nations Convention Against Corruption, 2003.
[65]Organization for Economic Cooperation and Development (OECD), 'G20 Anti-Corruption Action Plan – Protection of Whistleblowers' (2011), Study on Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation, <https://www.oecd.org/g20/topics/anti-corruption/48972967.pdf> accessed 17 August, 2020.
[66]Guzman, A.T., 'A Compliance Based Theory of International Law, <https://www.law.berkeley.edu/files/guzmanComplianceandIL.doc > accessed 17 August, 2020).
[67]Lucinda, A.L., 'The United Nations Convention Against Corruption: The Globalization of Anti-corruption Standards' Conference of the International Bar Association International Chamber of Commerce Organization for Economic Cooperation and Development, <Steptoe, http://www.steptoe.com/assets/attachments/2599.pdf > (accessed 17 August, 2020).
[68]Davis, K.E., 'Does the Globalization of Anti-Corruption Law Help Developing Countries?'(2009), <https://nyudri.files.wordpress.com/2011/10/driwp61.pdf > accessed 17 August, 2020.

The International Legal Framework".[69] The researcher thinks that implementation has been the main drawback of the convention, which the article did not examine comprehensively.

Despite the fact that Nigeria's government assented to some of these conventions, they are yet obligatory owing to section 12 of the 1999 Constitution (as amended), which requires the National Assembly to domesticate convention or treaties by legislating on it as national laws. The researcher submits that the numerous *lacunae* in the conventions should be modified for efficiency in combating corruption in the upstream petroleum industry.

7.0 Corruption in Nigeria's Upstream Petroleum Industry

Transparency in the incomes of the upstream petroleum industry is the prerequisite to exterminate corruption. Ayoade, in his article "Nigerian National Petroleum Corporation and Prospects for Transparency in the Petroleum Industry Bill",[70] promoted the necessity for transparency in the petroleum industry, as it has been established to be difficult to obtain precise statistics on oil production in Nigeria in recent years, with the Central Bank of Nigeria, Ministry of Finance, Department of Petroleum Resources, and multinational oil firms offering inconsistent data. Poor information accessibility, poor documentation and preservation culture are features of prevalent corruption in the industry. It is the researcher's perspective that the article neglected to accentuate on the weak implementation of the specified sanctions, and currently, the Bill has been exceeded by the proposed Petroleum Industry Governance and Institutional Framework Bill, 2017 which is current pending at the 9th National Assembly for review and for possible assent by the President.

As part of the evaluation on transparency, Nweke, in his article "Corporate Social Responsibility and Transparency in the Development of Energy and Mining Projects in Emerging Markets: Is Soft Law the Answer?"[71] Opined that the tactic of the government to transparency has been on the issue of hard laws and recommended the utilisation of soft laws and voluntary reportage instrument as substitute governing measures to inspire oil firms to offer data concerning their businesses or undertakings. But, the shortcoming in this method is the non-existence of sanctions for non-conformity, which may serve as setback to the justification for this tactic.

Furthermore, in underpinning the non-existence of transparency in the industry, Oyewunmi and Olujobi in the article "Transparency in Nigeria's Oil and Gas Industry: Is Policy Re-Engineering the

[69]Padideh, A., 'Controlling Corruption in International Business: The International Legal Framework', <http://www.eolss.net/sample-chapters/c13/e6-67-03-07.pdf > accessed 16 March, 2020. UNODC Organisation, https://www.unodc.org/documents/treaties/organized_crime/cop6/ctoc_cop_2012_crp/ctoc_cop_2012_crp4.pdf. (accessed 17 August, 2020.

[70]Ayoade, M.A., 'Nigerian National Petroleum Corporation and Prospects for Transparency in the Petroleum Industry Bill' (2011),(5), Knust Law Journal, p.89.

[71]Nweke, B., 'Corporate Social Responsibility and Transparency in the Development of Energy and Mining Projects in Emerging Markets: Is Soft Law the Answer' (2007), 8,(04), *German Law Journal,* p. 315.

Way Out?",[72] argued that clandestineness in the *modus operadi* of grants of oil contracts, permits, leases, and other businesses by the NNPC is owing to the dearth of severe stipulations in the NNPC Act[73] concerning transparency and record keeping on oil transactions. It is the researcher's perspective that publication to the public of the financial statements and business contracts made by the NNPC and National Petroleum Investment Management Services will not repudiate commercial agreements' confidentiality clauses in the industry. It is submitted that transparency legislations should incorporate voluntary reporting measures to discourage corruption, but the article being considered failed to allusion to the implementation problems of anti-corruption laws by the anti-corruption agenies.

Besides, Eigen, in his article, "Fighting Corruption in a Global Economy: Transparency Initiative in the Oil and Gas Industry",[74] outlined that the Extractive Industry Transparent Initiative's goal is to enhance transparency by demanding of firms to divulge all revenues paid to the government in addition to the publication of incomes receipts by government from oil firms, with an autonomous auditor authenticating the correctness of the information revealed for the general populace scrutiny of how oil revenues are expended. He neglected to explain how dearth of stringent penalties for non-conformity with its stipulations influences the efficiency of the agency.

Though, section 5 of the Act assigned the duty of selecting the National Stakeholders Working Group members on the President devoid of any legislative endorsement by the National Assembly. This is a fundamental defect of the Act. This necessitates modification to enhancing the component of transparency. Furthermore, in his article, "A Critique of the Enforcement of Nigeria Extractive Industries Transparency Initiative (NEITI) Act 2007 in Nigerian Oil and Gas Sector",[75] Okeke contended that section 16 of the Act approved the penalty of ₦5-30 million or incarceration for a period of 2 years as sanctions for oil firms, their managements and government's officials who offer fictitious data or neglect to make available any information when necessary. The punishments seem deficient, bearing in mind the billions of dollars that are engendered from the industry. Two years of incarceration does not have a rigorous dissuasion consequence, seeing the prevalent of corruption in the industry.

Moreover, no petroleum firm has been stated to be reprimanded for non-conformity with the NEITI Act, notwithstanding major infringements of the Act. The researcher concedes that inadequacy of sanctions under the Act may encourage non-compliance. In the same vein, there is a necessity for the Act to be revised to authorise the NEITI to prosecute offenders and a necessity for reciprocal assistance between investigators and prosecutors for the effective trial of corruption cases and for

[72]Oyewunmi, O.A., and Olujobi, O.J., 'Transparency in Nigeria's Oil and Gas Industry: Is Policy Re-engineering the Way Out?' (2016), 7(3), International Journal of Energy Economics and Policy, p. 630.
[73]1969 (as amended).
[74]Eigen, P., 'Fighting Corruption in a Global Economy: Transparency Initiative in the Oil and Gas Industry' (2007), 29(2), Houston Journal of International Law, p. 327.
[75]Okeke, V.O.S., 'A Critique of the Enforcement of Nigeria Extractive Industries Transparency Initiative Act 2007 in Nigerian Oil and Gas Sector' (2013), 14(II), British Journal of Arts and Social Sciences, p. 107.

integrating transparency to the industry. Also, there is need for severe execution of anti-corruption penalties against corruption offenders.

The fundamental challenge of the agency is that ascertained corruption in the numerous audit reports were not arraigned timely by the anti-corruption agencies, and this was not appropriately stressed by the paper. There is the necessity for a rigorous law that requires accountability of upstream petroleum industry's cash flows of the NNPC with the purpose of remittance of oil revenues to the Federation Account with obligatory reporting procedures. The penalty of two or more years of incarceration and/or a fine of up to US$151,000 do not hold satisfactory discouragement values to fight corruption. Thus, there is the necessity to overhaul the Act.

With regard to the Nigerian Extractive Industries Transparency Initiative Act, the fundamental challenge of the agency is statutory; as it has no legal power to coerce the NNPC to pay outstanding oil revenues to the Federation Account.[76] The Act should be modified to confer on it the authority to arraign erring oil firms and to compel the payment of outstanding oil payments from the NNPC to the Federation Account. There is consequently the necessity to widen the scope of its transparency horizon to the Petroleum Technology Development Fund, Niger Delta Development Commission as well as other oil producing communities with the aim of incorporating transparency in the industry as well as to assist in performance of its obligations in the industry.

Also, the Public Procurement Act[77] was passed to eradicate corruption in Nigeria's procurement scheme and to embed transparency in the industry. It prevents conflicts of interest and encompasses penalties, for instance suspension and debarment of firms declared culpable of deception and infringement of contract.[78] The Act is not applicable to procurement by national defence or national security, but where the President specifically authorises it.[79] There is a need to exercise restraint concerning these exemptions, because that too can give rise to corruption. The Act neglects to offer distinct differences on categories of procurement; it contains only two approaches of tendering special and restricted approaches of procurement and favours only open competitive tendering. Additionally, it fails to provide the mechanisms for disputes resolution.

Further, with respect to the Code of Conduct Bureau and Tribunal Act,[80] Chene and Transparency International's article on "Foreign Exchange Controls and Assets Declarations for Politicians and Public Officials"[81] articulated his worry that the bureau has not performed as expected due to the paucity of funds and human resources to scrutinise the entire public service in Nigeria. It was

[76]Nigerian Extractive Industries Transparency Initiative 2014 Annual Activity Report.
[77]Laws of the Federation of Nigeria (LFN), 2004.
[78]GAN Business Anti-corruption Portal, 'USA Corruption Report' (2015), <http://www.business-anti-corruption.com/country-profiles/usa > accessed 17 August, 2020.
[79]*Ibid*, s.15(2).
[80]Laws of the Federation of Nigeria (LFN), Cap. C. 15, 2004.
[81]Chene and Transparency International, 'Foreign Exchange Controls and Assets Declarations for Politicians and Public Officials' (2011), <www.u4.no/publications/foreign-exchange-controls-and-assets-declarations-for-politic> (accessed 18 August, 2020).

obligatory to check the truthfulness of the affirmations made by government officials in the industry.[82] Idowu,[83] in his article "An Appraisal of the Code of Conduct for Public Officers in Nigeria", emphasised the necessity for integrity to supersede the privacy of any government's executives in the industry. The Code is not applicable to the informal sector where numerous upstream petroleum operators are located.

The punishments for the contravention of the Act are vacation of office irrespective of being voted or selected, ineligibility from holding any public office whether by voting or not for a duration not beyond ten years, and forfeiture of any assets obtained through misuse of office to the government.[84] It is imperative to state that the penalties stipulated by the Act are clearly insufficient. A period of incarceration will have additional discouragement value than forfeiture or other non-custodial approaches of chastisement.

The Proposed Petroleum Industry Governance Bill (PIGB)[85] is expected to unbundle the NNPC into sustainable profit-making petroleum legal entities, but no comprehensive stipulations on fiscal provisions, for instance host communities, taxes, and royalties are not inexistence yet. The transformation may be deficient of privatisation, as the possession of these profit-making legal entities are conferred on the government, which infringes section 18 of the repealed Companies and Allied Matters Act,[86] which prohibits the formation of a company with less than two persons but is in conformity with section 18(2) of the newly assented Companies Allied Matters Act, 2020 but the Act should be modified with severe anti-corruption sections before the Bill is assented by the President.

The Bill[87] has enormous prospect for combating corruption in the industry. If passed into law and enforced religiously, it is anticipated that it will present a clear separation between policy, regulatory and commercial functions of the NNPC, integrate transparency and good governance along with sound regulatory framework for Nigeria's petroleum industry.

Also, sections 2(1), (2) and 3 of the Bill offer the Minister's right of pre-emption; this is an amendment in conformity with the existing financial realities and projected future challenges in the industry. Under the proposed Bill, the punishment for non-conformity with its provisions has been snowballed to ten million Naira (₦10,000,000.00) and/or incarceration for six (6) months.[88] For impediment, there is a fine of five million Naira (₦5,000,000.00) and/or incarceration for (6) six months.[89] The Minister of Petroleum and Energy Resources is also authorised to make guidelines to

[82]*Ibid,* Schedule 5, s. 11 (1–3).
[83]Idowu, A.A., 'An Appraisal of the Code of Conduct for Public Officers in Nigeria' (2000), XLIV (1–2), Philippine Journal of Public Administration, p.100.
[84]*Ibid, ss.*20–22 (1) (2), Cap. C. 15 Laws of the Federation of Nigeria, 2004.
[85]2015.
[86]2004.
[87]Ighodalo, W., 'Review of the Petroleum Industry Governance and Institutional Framework Bill', <http://www.banwo-ighodalo.com/assets/resources/16f9efca630ad479ab019af7b736e809.pdf> accessed 17 August, 2020.
[88]S. 3(3) Petroleum Industry Governance and Institutional Framework Bill, 2017.
[89]*Ibid,* s.3(4).

upsurge the monetary fines under the Bill, and the unencumbered power to award licenses and leases[90] can only be implemented now with approval from the Nigerian Petroleum Regulatory Commission different the preceding law.[91]

It is the opinion of the researcher that the Bill is an improvement on the existing legal regime in the petroleum industry and on the old Petroleum Industry Bill, whereby the Chief Executive Officer of the Petroleum Inspectorate was nominated by the Petroleum Minister and Energy Resources with the endorsement from the National Council of Ministers, the Department of Petroleum Resources, as well as its Director General.

The authority to enact regulations is conferred on the Minister, under section 9 of the Petroleum Act and preserved by the Petroleum Industry Bill has been obliterated. It has been bestowed on the planned Nigerian Petroleum Regulatory Commission, which is to be the regulatory agency for the industry as specified in section 8(1)(2) of the Bill. The planned equity in the proposed firm should be given to Niger Delta communities and their State Governments to increase ownership of oil, tackle the challenge of dissatisfaction among the host communities and present a indistinct separation between the regulators and the regulated in the industry. This will end corruption and the long predominant practice of non-payment of oil revenues to the Federation Account.

8.0 Petroleum Industry Governance Bill 2017 and the Outlook of the Upstream Industry

The Petroleum Industry Governance Bill 2017 is to regulate the oil sector and to rescind all the existing laws in the industry. The Bill initiates novel clauses and endorses some existing organisations to entrench good governance and accountability in the industry. Under Bill, the Minister of Petroleum Resources is assigned the overall governance, policy and strategy of the industry. He has pre-emptive rights to entirely oil products in the occasion of National tragedy but does not have the power to grant, renew, amend, increase or cancel any lease or permit awarded under the Act and he cannot inaugurates new entities. The National Petroleum Regulatory Commission (NPRC) is to replaces the current Department of Petroleum Resources. The body is to govern the industry. It is to be independent from the Minister of Petroleum but to be overseen by a Governing Board selected by the President with the endorsement of the Senate. There are some germane problems that require to be tackled before the Bill is assented to by the President. There are: The Bill requires the establishment of Boards for the proposed commercial legal entities. The arrangement of these Boards may not specify the appropriate balance of controls to ensure efficient Board management to eliminate the risk of executive foist their decisions on members and to entrench autonomy of the board to combat unnecessary government interference so,

[90]The Petroleum (Drilling and Production) Regulations No: 9, 2006 and applications are to be made to the Minister for licence and lease applications would now be required to be made to Nigerian Petroleum Regulatory Commission.
[91]Odujinrin, A., 'Discretionary Powers of Minister of Petroleum: An Analysis of the Petroleum Industry Governance Bill 2016 – Powers of the Minister' < http://www.petroleumindustrybill.com/tag/discretionary-powers-minister-of-petroleum/#.wfubdy9sxdg> accessed 17 August, 2020.

there is the necessity for increase in the aggregate of non-executive directors to executive directors with comprehensive conditions of service to ensure independence of the directors. While the Bill offers detailed tenures of Non-executive directors but neglected to make provision for steady tenures for the Executive Directors to safeguard them from parochial politics. The implementation of distinct contracts of the Executive Directors may combat this problem.

The newly proposed commercial legal entities are to be controlled by the provisions of the new Code of Corporate Governance originated from the Securities and Exchange Commission but the Bill does not contain stringent measures to prevent or combat possible divergences that may arise between its stipulations and those of the Security and Exchange Commission (SEC) Code to forestall prospective obscurity by highlighting on the preeminence of the Bill over those of the SEC Code, where conflicts arise.

The broad powers given to National Petroleum Company (NPRC) may be abused consequently; there is the necessity for appropriate reformation of the Board for efficient implementation of its obligation. Setting of oil products prices via legislations for a fair market value of petroleum merchandises and tariffs for gas processing and transportation is a sign that the Federal Government is not enthusiastic to completely liberalize the downstream sector of the industry. The Bill offers divestment of at least 40% of the shares in the NPC within ten years of registration but investors may be disinclined to invest in a firm which will be largely owned and run by the government. Also, this sole ownership by government is in conformity with the provisions of section 18(2) of the Companies Allied Matters Act 2020 as against the provisions of the repealed Act.

Equally, the creation of a sole regulator for the industry may give colossal authority to the NPRC which may be misused and caused ineffectiveness and superfluous bureaucracy. The bill has prospective to substantially enhance the oil industry but its success rest on on the political will of the Federal Government to ensure it is approved and to guarantee that its stipulations are appropriately implemented to boost transparency and accountability in the industry. However, since the Bill is a work in progress, there is the need to harmonies all apprehensions and concerns for instance integration of anti-corruption clauses before it is assented to by the President to attain its goal of remodeling the industry for the general good of all its citizens.

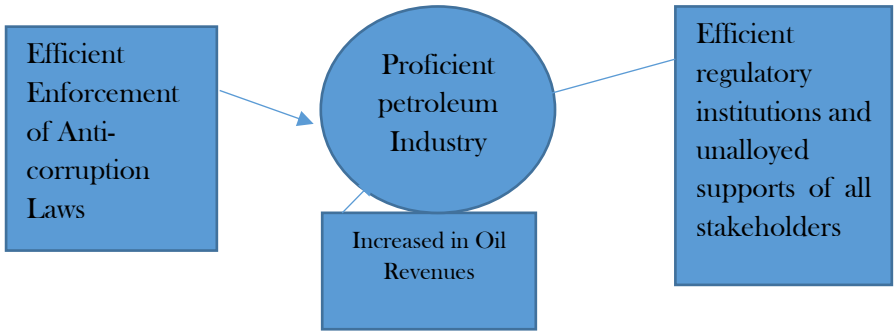
9.0 Discussion of Findings or Results

- The study observes that there is a need for comprehensive reform in Nigeria's anti-corruption legislations with a mixture of legal and non-legal panaceas to combat corruption. The solution lies in the stringent enforcement of existing anti-corruption and transparency laws and the reform of the various defects pinpointed in the legislations in order to embed transparency in the industry. For an efficient soft law approach, there is the need for the current anti-corruption legal

framework to be supplemented with the Whistle Blowers Protection Bill, Civil Forfeiture of Proceeds of Corruption Bill and Witness Protection Bill. Non-existence of these distinct anti-corruption laws indicates that Nigeria's anti-corruption legal framework is deficient.

- There is a necessity not to depend solely on laws for transparency in the industry.
- A high-tech anti-corruption technique may be indispensable; therefore there is the need for adoption an incorporation of soft and hard laws, to combat corruption in the industry. The method depends basically on civil legislation instead of the conventional criminal justice system for fighting corruption, which is very time-consuming. The justification for this method is the option for compensations, properties seizure, payments, and other pecuniary reliefs. Also, when anti-corruption organisations neglect or refuse to sue for corruption, private populaces can commence civil suits. The standard of proof is a balance of probabilities, which is which can easily be proved than proof beyond reasonable doubt as required under the administration criminal justice system.
- There are weaknesses in Nigeria's national anti-corruption legal regime. This hampers the efficient execution of anti-corruption legislations and there is non-utilisation of soft law method to combat corruption in the industry.

Figure 2: Benefits of Stringent Anti-Corruption Legal Framework



Source: This was prepared by the Author

10.0 Recommendations

Novel methods that can be applied to exterminate corruption such as the enactment and incentivisation of the Whistle Blowers Protection Act and Civil Forfeiture of Proceeds of Corruption Act as well as the execution of populace sensitisation schemes on the damaging magnitudes of corruption in the industry. The Whistle Blowers Protection Act, which provides fortification to any clandestine informant and inspires citizens to uncover corruption devoid of the apprehension of counterattack,[92] has not been passed into law by the law makers. The Civil Forfeiture of Proceeds of Corruption Act, if legislated upon, will deprived dishonest government's officials the right to possessions accrued via corruption, as practiced in Norway, the United States and the United Kingdom where anti-corruption laws are rigorously implemented.

[92]Article 9, Council of Europe Convention Against Corruption.

There is the necessity to modify the NNPC Act, 1977, to spell explicitly what funds the Corporation can maintain and how they can be utilised as alternative to the current provision, which is not clear enough. The modification of section 7 of the Act must indicate how the Corporation should maintain and fund its businesses, its tax arrangement and disbursements of dividends to encourage transparency, instead of the current position that infringes section 80, 162 of the 1999 Constitution, which necessitates payments of entirely oil revenues into the Federation Account.[93] The regulatory functions of the NNPC should be detached from its commercial responsibilities, like in Norway, where the National Oil Company (Statoil) functions like other commercial oil firms devoid of any distinct status.

Anti-corruption legislations, however well designed, will be elucidated by the court of law, and this has often led to the emergence of difficulties where laws are not appropriately interpreted. Consequently, the judiciary needs to be strengthened to eliminate the protracted prosecutions of corruption cases and the alleged corruption at the Nigerian bench.

The government has lost not less than 150,000 barrels of crude oil estimated at $6 billion yearly to crude oil theft,[94] and this has diminished the national revenue, which ought to have accumulated to the Federation Account. This is a result of the unproven collusion of the Federal Government's officials in the industry. The non-existence of detailed legislations on oil and gas that proscribes crude oil theft is the reason for this offence. Section 3(e), (f), (iv) of the Nigeria Security and Civil Defence Corps Act[95] only provides for pipeline protection as one of the tasks of the Corps, devoid of defining clearly the punishments to be meted out to the perpetrators. There is the need for detailed sections in the Petroleum Industries Governance Bill, proscribing crude oil theft and other corruption-related undertakings in the industry.

The utilisation of crude oil tracking scheme to monitor production and movements of crude oil in Nigeria via contemporary technologies with DNA fingerprint on crude oil barrels to assign a status of legitimacy to crude oil gotten and vended by the NNPC may be essential to fight oil theft and enhance transparency in the industry. If these technologies are appropriately systematised, it can be a veritable anti-corruption instrument to distinguish stolen crude oil from the country. Due diligence in the undertakings or activities of the refineries this is also one anti-corruption instrument for fighting oil theft and corruption in the designated case study nations.

Nigeria should imitate this in our anti-corruption legislations. Oil firms functioning in the industry should implement comprehensive assessment of their processes[96] and corruption exposures[97] via all-inclusive due diligence like Norway, where petroleum firms are oblige to inaugurate whistle blower hotlines for employees and independent contractors who desire to alert the firm or anti-corruption organisations of corruption via mobile phones, nameless e-mail addresses, or by utilising outdoor whistleblowing hotlines under the supervision of an autonomous service providers to report corrupt undertakings or contracts. Debarment of oil firms' directors,

[93]Sayne, A., and Gillies, A., 'Inside NNPC Oil Sales: A Case for Reform in Nigeria' (2015),< https://resourcegovernance.org/sites/default/files/nrgi_insidennpcoilsales_completereport.pdf > accessed 19 August , 2020.
[94]Anyio, S.F., 'Illegal Oil Bunkering and Oil Theft in Nigeria: Impact on the National Economy and the Way Forward' (2015), 1(1), Ilimi Journal of Arts and Social Sciences, p. 53.
[95]No.6, 2007, (Amendment Act).
[96]The United Nation Global Compact, 'A Guide for Anti-Corruption Risk Assessment' (2013), <http://www.spainsif.es/sites/default/files/upload/publicaciones/riskassessmentguide.pdf > accessed 18 August, 2020.
[97]Navigant Consulting Inc., 'The United Kingdom Bribery Act 2010: What Does it Mean for Multinationals' (2010), <www.navigantconsulting.com > accessed 18 August, 2020.

exclusion of firms guilty of corruption from participating in public procurement/tenders and non-prosecution and deferred prosecution agreements are also among the modules Nigeria can absorb from the designated case study nations.

11.0 Conclusions

The research underlining the necessity to enhance the current anti-corruption legislations to embed transparency, accountability and efficiency in the industry and finalise that anti-corruption agencies in Nigeria are not effective because of absence of the political will of the Federal Governments to combat corruption with adequate or satisfactory budgets and the stringent enforcement of anti-corruption laws. The Federal Government has made efforts to alleviate the effects of corruption and enhance durable infrastructure in the country by enacting a plethora of anti-corruption legislations proscribing corruption, but these seem lacking due to feeble execution.

The study recommends the utilisation of procurement disentitlement system as instrument to discourage corruption and to enhance veracity in public procurement system. It impedes firms and individuals from partaking in government's contracts for a specified duration if established guilty of corruption or contravention of contract. It was uncovered that a analogous provision under section 58(1)(6)(a) of the Nigerian Public Procurement Act offers for debarment or blacklisting; but, this provision is inelegant implemented to fight corruption in the industry unlike in other jurisdictions where they are executed stringently.

The study revealed that the inputs of oil producing communities in the grant or licensing procedure will give them a consciousness of ownership. The effect of petroleum firms' undertakings on oil churning out communities should be a fundamental prerequisite for consideration before the grant of petroleum permits or contracts in the industry while participatory ownership is still a non-existent under the Nigerian legal framework. The inputs of oil producing areas in the award process of oil blocks or licences in the industry by regulatory organisations will offer them a sense of belonging and may decrease the endless tensions for resources management by the oil producing areas, pipeline vandalisation to zero level and minimise corruption also. The study also recommended regulatory instruments that can eliminate corruption for instance the enactment and incentivisation of conformity with the Whistle-blowers Protection Act and the Civil Forfeiture of Proceeds of Corruption Act in addition to populace sensitisation on the damaging effects of corruption on the country with the necessity to encourage transparency and accountability in the petroleum industry and in the country as whole.

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