



**FRAMING PETROLEUM REVENUE
MANAGEMENT LAW FOR ENERGY SECTOR
REFORM IN NIGERIA**

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ABSTRACT

This article considers the introduction and conceptual frameworks for petroleum revenue management law with a view to applying it in Nigeria. It examines the sources of petroleum revenue to enhance assessment and collection. The article examines the structure of the legislation and institutions regulating the petroleum sector by categorizing and highlighting the subset of petroleum revenue management for efficient application. It further argues that prudent management of petroleum revenue is measured through the indicators of transparency and accountability, sustainable development, sovereign wealth fund, low corruption level, socio-economic well-being, good health and sustainable environment. This article is imperative in that it streamlines the legislation and institutions, block revenue leakages and guarantee sustainable development. It will further ensure that revenue generated from petroleum

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resources is properly utilized for socio-economic growth of the nation. It urges the National Assembly to enact a law that will harmonize the diverse legislation and institutions and cause them to operate strictly in accordance with the principles of good governance, transparency and accountability.

Keywords: Oil and Gas, Revenue, Law, Institutional Framework.

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1. INTRODUCTION

Nigeria's petroleum revenue is distributed among the three tiers of government on a monthly basis; without prudent use and management. This has led to slower economic growth and poverty, strife and war, environmental degradation, income inequality among citizens, jostle for political power, unemployment and breakdown of institutions. The challenges are associated with weak institutions, lack of structured and ineffective legal framework, lack of political will, and corruption. Successive governments made frantic efforts in the past to tackle corruption and mismanagement of petroleum revenue through policy formulation and legislation. This has not yielded results due to the absence of a guidepost on the constituents of legal and institutional frameworks on petroleum revenue management. Capacity of institutions is essential for prudent resource revenue management. Mismanagement is caused by three main institutional challenges: corruption, resource-related conflict, and petroleum revenue waste. Petroleum revenue can be wasted simply due to ineffective laws, weak institutions and lack of the effective mechanism in managing and spending the revenue.

This article attempts to structure the legal and institutional framework with a view to obliterating corruption and identify international best practices to reform petroleum revenue management and enhance transparency and accountability, thereby guaranteeing sustainable development. Petroleum revenue is the money received from the sale of crude oil and natural gas from export and domestic markets, receipts from petroleum taxes, royalties, signature bonuses, rent, gas flare penalties, licenses, leases and miscellaneous payments. It argues that prudent management of the huge accruing revenue can be measured through the indicators of transparency and accountability, sustainable development, sovereign wealth fund, corruption level, socio-economic

well-being of citizens, good health and sustainable environment. The study structures petroleum revenue management legislation using four pillars of legislation, namely, for assessment and collection, distribution, expenditure, and combating corruption.

Petroleum revenue management law contains the legislation and institutions for assessment and collection, distribution, expenditure and combating corruption, it opines that petroleum companies and government institutions participate in the assessment and collection of petroleum revenue. Federal, State and Local Governments are the beneficiaries of the distribution and expenditure of oil money. The aims of petroleum revenue management are to increase revenue, obliterate corruption, enhance assessment and collection, promote transparency and accountability in its distribution and expenditure, and combat corruption in accordance with the rule of law.

This article adopts a qualitative approach to demonstrate that some fiscal incentives provided by law for petroleum companies decrease petroleum revenue and are irrelevant. It stresses that well-managed petroleum revenue should reflect transparency and accountability, sustainable development, robust sovereign wealth fund, low corruption level, socio-economic well-being, good health and sustainable environment. Ultimately, the legislation for combating corruption traverses petroleum revenue management.

This article is divided into eight sections. After this introduction, section 2 discusses the linkages between effective petroleum revenue management law and sustainable development goals. Section 3 examines the legislation regulating the petroleum sector. Section 4 discusses petroleum revenue management legislation. Section 5 discusses the institutions for petroleum revenue management. While section 6 highlights the desirable reform for the implementation of petroleum revenue management law, section 7 outlines the benefits of petroleum revenue management law. Section 8 contains recommendation and conclusion.

2. PETROLEUM REVENUE MANAGEMENT AND THE SDGS

Effective public financial management (PFM) is a “cornerstone of good governance”. PFM, or the ability of governments to efficiently collect revenue and spend it in an accountable and transparent manner, is instrumental for nations seeking to expand their economic growth and increase available resources to pursue national objectives, including those

relating to the United Nations' Sustainable Development Goals (SDGs).¹

Increase in petroleum revenue is associated with more savings, trade and investment as well as providing an enabling environment for more petroleum exploration. These engender employment, raise standard of living and increase infrastructural development. Poor petroleum revenue management and its effects on employment and the ability to pay wages when due, mean that poverty cannot end in all its forms everywhere.² In order to end hunger, achieve food security and improved nutrition, and promote sustainable agriculture,³ there should be more money to purchase farm implements and equipment to encourage the engagement in agriculture, which will engender more food. Where there is low food production, the achievement of food security would end in slogan. Lack of money to purchase agricultural inputs will result in stunted growth of crops and the production of non-nutritious crops. Furthermore, where there is no money to import food after local food production has failed, the result will be hunger.

To enhance the health of people of all ages,⁴ requires an increase in revenue for sustainable investment and improvement in the health care system, which should aim at promoting the lives of citizens of all ages. The converse holds where there is mismanagement or reduction in petroleum revenue; the resultant lack of attention in the healthcare facilities affects the well-being of people of all ages. For government to ensure inclusive and equitable quality education and promote life-long learning opportunities for all,⁵ prudent management of petroleum revenue is necessary. For instance, this will help improve educational facilities in nursery, primary, secondary and tertiary education. Revenue is needed to provide facilities for a conducive teaching and learning environment – such as, electricity for power generation in the day and night and alternative power supply from national grid or private arrangements such as inverters, solar panels, fuels for generators and so forth.

1 Berkeley Hirsch "How Critical Is PFM in Achieving The Sustainable Development Goals?" (2017)⁴ < <https://chemonics.com/critical-pfm-achieving-sustainable-development> > accessed 27 June 2018.

2 Markus Gehring "Sustainable Development Goals and the Law" (2015) www.dfg.de accessed 10 December 2018.

3 Op. cit Goal 2.

4 Op. cit Goal 3.

5 Op. cit Goal 4.

Gender equality and empowerment of all women and girls⁶ can benefit from increases in petroleum revenue. This can be improved as girls are sent to school or trained in different skills or when women become engaged in different fields and get their wages on time. Revenue available to provide every household with electricity and modern kitchen facilities, such as gas or electric cooker, pipe borne water, etc., removes the burden of fetching water and firewood on women and girls, enabling them compete favourably with their male counterparts in school and the workplace. Without electricity, women and girls have to spend hours fetching water.⁷ The engagement of women can contribute to the upkeep of the family, giving them a sense of belonging like men. Availability of jobs will create employment and afford them the opportunity of holding positions of responsibility in both private and public sector.

Prudent management of petroleum revenue increases the government budget for the provision of pipe-borne water. Water can be made available for every citizen, and adequate funding can improve its maintenance and sustainability. However, where there is reduction in revenue, government will not be able to provide infrastructure such as potable water and sanitation for all.⁸ Hence, the problem of water shortage will continue to affect large segments of the population.

Money is required to provide affordable, modern and abundant energy,⁹ which can improve the living standards of the masses, especially in the petroleum-revenue-dependent countries. This will not be realized where there is mismanagement of petroleum revenue. Revenue is required to provide the right energy mix, which is inextricably linked to sustainable development. Its availability and sustainable use can provide a positive outcome for development and human well-being. This could help, for instance, in the provision of water, food, health care, and other developmental needs or it could exacerbate the adverse challenges that the world has been experiencing (e.g. climate change, air pollution, competitiveness, equity). All these require adequate revenue provision for mitigation.¹⁰ Fossil energy is good, but pollution from its production

6 Op. cit Goal 5.

7 Sri Mulyani Indrawati "Energy and Sustainable Development: What's Next?" (2015). <<http://www.worldbank.org/en/news/speech/>> accessed 27 July 2018.

8 Op. cit Goal 6.

9 Op. cit Goal 7.

10 N.N. Nebojsa, M. Rogner and L. Srivastava, 'Toward Energy as a Sustainable Development Goals' International Council for Science' < <https://>

and use is bad. Mitigating it requires the use of modern technology. Managing pollution with technology increases overall energy costs, but also drives higher economic output and well-being. In contrast, diversification from fossil fuels to renewable energy such as solar, hydro and wind energy requires capital investments. Even when energy is available, the poor will not have access because it will not be affordable. Lack of maintenance will also make it unreliable and subsequently unsustainable. Reduction in revenue will lead to lack of accessibility, unaffordability, unreliability, and unsustainability of modern energy for the very few. Universal access to affordable electricity by 2030 means investing in clean energy sources such as solar, wind, and hydro. Expanding infrastructure and upgrading technology to provide clean energy in all developing countries is a crucial goal that can encourage growth and help the environment. It goes without saying of course that these require huge amounts of money; hence prudent revenue management is necessary.¹¹

A well-managed petroleum revenue will promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.¹² A corrupt and mismanaged, where there is lack of transparency and accountability in the management of petroleum revenue, will weaken the agricultural and manufacturing sectors, thereby affecting the economy. The effects will be many: there will be lack of economic growth, inflation will be on the increase, the local industry will go out of production, and there will be unemployment and casualization of workers. Moreover, the working environment will both be unhygienic and unsafe. For there to be sustained, inclusive and sustainable economic growth, petroleum revenue should be deployed to diversify the economy into agriculture, manufacturing industry, tourism, hospitality, and so on. Dubai in United Arab Emirate and Canada are examples of oil economies that have reduced their dependence on petroleum revenue.

To build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation,¹³ Nigeria, as a developing country,

sustainabledevelopment.un.org/getWSDoc.php?id=1013> accessed 24 March 2016.

11 D. L McCollum, L. G. Echeverri and S. Busch, et al. "Connecting the Sustainable Development Goals by their Energy Inter-linkages" (2018) 13 (3) ERL < <http://iopscience.iop.org>> accessed 27 July 2018.

12 Op. cit Goal 8.

13 Op. cit Goal 9.

has enormous unmet needs in infrastructure, social protection and the delivery of services. As such, it has been suggested that the achievement of the SDGs requires an escalation of development finance.¹⁴ Prudent and accountable petroleum revenue management could result in saving and investing part of the petroleum revenue offshore. The profits from such investment could be repatriated to build industries and infrastructure that will stand the test of time in all sectors of the economy. It will further promote small and medium enterprises, entrepreneurship and creativity in the citizens, thereby reducing over-dependence on the government. The industries and the infrastructure that will be built should be durable for the present and future generation. Majority of the petroleum producing and exporting countries depend on petroleum revenue resulting in the paradox of plenty. They are facing abject poverty, economic instability and political strife, especially in places like Nigeria, Libya and Angola. Wide gaps exist between them and the countries that are not endowed with petroleum resources because of corruption and mismanagement. Conversely, when petroleum revenues are properly managed, they will obviate the social vices and reduce inequality within and among countries.¹⁵

Countries with mismanaged petroleum revenue have witnessed decaying infrastructure, strife, cultism, militancy, riots and, sometimes, death. They have the most unsafe cities and human settlements in the world. However, a well-managed petroleum revenue can promote peace and hospitable cities and safe human settlements as advocated in SDG 11. For instance, due to prudent management and diversification of petroleum revenue in the United Arab Emirate, the City of Dubai has become a global tourist centre and a place for holiday and rest. On the other hand, countries that consume more energy like China, U.S. etc. perform better economically than countries that consume less. Countries dependent on petroleum revenue consume less energy due to lack of industrialization occasioned by mismanagement of petroleum revenue. A prudent and accountable management of petroleum revenue will engender industrialization and establish factories. The citizens will be

14 Cathal Long and Mark Miller “Taxation and the Sustainable Development Goals. Do good things come to those who tax more?” (2017) < <https://www.odi.org/sites/odi.org.uk> > accessed 20 July 2018.

15 Ibid 13.

encouraged to use modern energy, and this will ensure sustainable consumption and production patterns.¹⁶

Gas flaring from the exploration of petroleum has been identified as one of the causes of climate change. Combating climate change requires huge amount of money. The mismanagement of petroleum revenue will result in lack or reduction in revenue. This will make it difficult to take appropriate actions to combat climate change as required by SDG 13. However, a well-managed petroleum revenue will increase revenue to combat climate change. Goal 14 is to conserve and sustainably use the oceans, seas and marine resources for sustainable development. However, pollution caused by petroleum exploration in the oceans and seas destroys marine and aquatic life. Where there is prudent management of petroleum revenue, huge revenues could be realized to conserve the oceans, seas and creeks for other sustainable economic endeavours. Proper revenue utilization would help restore the oceans, seas and marine resources.

Nigeria is required to protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation as well as halt biodiversity loss, according to SDG 15. This can be achieved through an increase in petroleum revenue, which will engender more money for the protection, restoration and promotion of sustainable use of terrestrial ecosystem. There will be funds to manage forest and combat desertification. Revenue will also be deployed to protect the environment against land degradation and biodiversity loss due to petroleum exploration.

Prudent, transparent and accountable management of petroleum revenue will promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.¹⁷ Where institutions in petroleum revenue management are strong, including, institutions for justice, there will be adherence to the rule of law. Law will be a respecter of no person, justice would be given without bias and there will be transparency and accountability at all level. Justice systems and the rule of law contribute to sustainable development through resolving land and natural resource disputes, keeping governments accountable, and giving businesses the confidence to enter into and enforce contracts.¹⁸

16 Op. cit Goal 12.

17 Op. cit Goal 16.

18 Nicholas Menzies and Gaston Pierri "The SDGs Indicators on Rule of Law Need to Respect the Targets Agreed in September" (2015) 1 <<http://blogs.worldbank.org/governance/edutech/sdgs> accessed 27 June 2018.

Access to justice for all is an essential element in establishing and maintaining the rule of law by empowering the most vulnerable groups in society to exercise their rights.¹⁹ This will lead to human rights in petroleum revenue management and sustainable development goals. Governments, institutions and persons will be held to explain, answer and account for their actions. The effect is that human rights will be treated as a form of infrastructure development similar to roads, schools and hospitals, a vital step to improving people's lives and strengthening their societies.

A successful sustainable development agenda requires partnerships between countries, governments, the private sectors and civil societies.²⁰ Therefore, prudent and accountable management of petroleum revenue will strengthen economies to partner with petroleum dependent countries for the implementation and realization of sustainable development goals. However, where petroleum revenue is mismanaged, there will be lack of global partnership for sustainable development. No country will like to partner with corrupt and mismanaged petroleum dependent country.

3. LEGISLATION REGULATING THE PETROLEUM SECTOR IN NIGERIA

Legislation regulating the petroleum sector are classified into four as shown in Figure 1. The Constitution of the Federal Republic of Nigeria, 1999, as amended, encompasses all the classifications; hence it is the fundamental law. All laws whether they have come into commencement ex-ante or ex-post to the Constitution, owe their legality to the Constitution.²¹ The Constitution is supreme and its provisions are binding on all authorities and persons throughout the Federal Republic of Nigeria.²² First is the legislation for ownership and control of petroleum resources. This comprises the Constitution of the Federal Republic of Nigeria 1999 as amended.²³ Section 44 (3) of the Constitution vests the ownership, control and management of petroleum resources in the Federal

19 Priva Shah "The Rule of Law and the Sustainable Development Goals" < http://www.a4id.org/student_blog > accessed 27 June 2018.

20 Op. cit Goal 17.

21 *Ogbonna v. The President* (1990) 4 NWLR (Pt. 142) 124.

22 *General Sanni Abacha v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

23 Cap C23 Laws of the Federation of Nigeria, 2004.

Government, to be managed in the manner prescribed by the National Assembly.

Other laws are the Petroleum Act, which under section 1(1) vests the entire ownership and control of all petroleum resources in, under, or upon any lands to the Federal Government.²⁴ The Territorial Waters Act,²⁵ extends the ownership and control of natural resources in every part of the open sea within twelve nautical miles of the coast of Nigeria (measured from low water mark) on the seaward limits of inland waters to the Federal Government, and the Exclusive Economic Zone Act,²⁶ which reinforces the ownership by the federal government of Nigeria over natural resources in the nautical miles seawards from the coasts of Nigeria. Within this zone and subject to the universally recognized rights of other states (including landlocked states), Nigeria would exercise certain sovereign rights especially in relation to the conservation or exploration of natural resources such as petroleum, minerals, living species, etcetera).²⁷

Second is the legislation for exploration, production, and Nigerian content. These are the laws affecting the exploration, production, and development of petroleum resources, as well as the development of indigenous capacity. The laws include, the Petroleum Act²⁸ and its Regulations, which guide exploration, production, and Nigerian content. It regulates the manner of petroleum exploration, production, development, refining, training, and engagement of indigenous capacities. It also gives the Minister of Petroleum Resources power to issue regulations necessary for exploration, production, and Nigerian content.²⁹ Oil Pipelines Act³⁰ and its regulations provide for the grant of permit and license for the establishment and maintenance of oil and gas pipelines. It further provides for the fees to be paid and compensation to persons affected by the construction of the pipelines.

The Associated Gas Re-injection Act³¹ and its regulations compel every company producing oil and natural gas in Nigeria to submit

24 Cap P10 Laws of the Federation of Nigeria, 2004.

25 Cap T5 Laws of the Federation of Nigeria, 2004.

26 Cap E17 Laws of the Federation of Nigeria, 2004.

27 *Supra*, s. 1, 2 and 3.

28 *Supra*, n.19.

29 *Supra*, s. 9.

30 Cap 07 Laws of the Federation of Nigeria, 2004.

31 Cap A25 Laws of the Federation of Nigeria, 2004.

preliminary programmes for gas re-injection and detailed plans for implementing gas re-injection. Its 1985 regulation provide the conditions for issuance of certificate for continued flaring of gas and the power of the minister to review the regulation. The Nigerian Oil and Gas Industry Content Development Act³² is aimed at training Nigerians to acquire the requisite skills and indigenous participation of Nigerians and material resources in the oil and gas industry, just as the West African Gas Pipelines Act³³ provides for the implementation of the Treaty of the West African Gas Pipeline Project entered into by the Republic of Benin, Ghana, Nigeria and Togo.

Third is the legislation for the environment. This comprises the laws affecting the environment, where petroleum activities are taking place. It includes the National Oil Spills Detection and Response Agency (NOSDRA) Act,³⁴ that protects the environment in the oil and gas sector in Nigeria and establishes the National Oil Spill Detection and Response Agency charged with the responsibility for preparedness, detection, and response to all oil spillages in Nigeria. It also establishes the National Control and Response Centre (NCRC),³⁵ which is the advisory, monitoring, evaluating, mediating and coordinating arm of NOSDRA. The Harmful Waste (Special Criminal Provisions etc.) Act,³⁶ prohibits and criminalizes the carrying, depositing, dumping, transporting, importing, and selling or offering for sale of harmful waste on any land, territorial waters or contiguous zone or exclusive economic zone of Nigeria or its inland waterways. Whether such offence is committed by individual or corporate bodies, upon conviction, the offender is liable to life imprisonment and the forfeiture to the Federal Government of Nigeria the materials used to carry the harmful waste.³⁷

The Oil in Navigable Waters Act and its regulations³⁸ implement the terms of the International Convention for the Prevention of Pollution of the Sea by Oil 1954 to 1962 and to make provisions for such prevention in the navigable waters of Nigeria. While, the National Environmental

32 Signed into law by former President Goodluck Ebele Jonathan on 22 April 2010.

33 Signed into Law by former President Olusegun Obasanjo, on 22 June 2005.

34 Cap N157 Laws of the Federation of Nigeria, 2004.

35 *Supra*, s.18.

36 Cap H5 Laws of the Federation of Nigeria, 2004.

37 *Supra*, s.1, 2, 6 and 7.

38 Cap 06 Laws of the Federation of Nigeria, 2004.

Standards and Regulations Enforcement Agency (NESREA) Act,³⁹ created NESREA, which replaced the defunct Federal Environmental Protection Agency (FEPA). It is responsible for the protection and development of the environment, biodiversity, conservation and sustainable development of Nigeria's natural resources as well as environmental technology.

Similarly, the Environmental Impact Assessment (EIA) Act,⁴⁰ provides that an environmental impact assessment is required for all major industries and projects likely to affect the environment. The practice is that an environmental impact assessment must be prepared in respect of all projects and approved by the Federal Ministry of Environment and the environmental agency of the State in Nigeria in which the project is located, and the Nigerian Security and Civil Defence Corps (NSCDC) Act,⁴¹ under s.1 establishes the Nigerian Security and Civil Defence Corps, charged with the responsibility of maintaining twenty four hours surveillance over infrastructure, sites, and projects for the federal, states and local governments. Furthermore, it has the power to search premises of any suspected illegal dealer in petroleum products or material used by Power Holding Company of Nigeria, Postal Services, and Nigerian Telecommunication or for any other public utility or infrastructure.⁴²

The fourth classification is petroleum revenue management legislation. It includes laws and regulations affecting assessment and collection, distribution, expenditure, and combating corruption. This article is concerned about petroleum revenue management legislation.

4. PETROLEUM REVENUE MANAGEMENT LEGISLATION

Nigeria has enough legislation to ensure prudent management of its petroleum revenue, even though some of the laws require amendment. Placing the laws in appropriate pillar for easy, transparent, and effective application is germane. The first pillar is the legislation for assessment and collection. This comprises laws for assessment and collection of petroleum revenue. The laws include the Petroleum Act, as amended, and its Regulations; the Act has several regulations that need harmonization. The Act do not stipulate time limits when the revenue

39 2007 No. 25.

30 Cap E12 Laws of the Federation of Nigeria, 2004.

41 NSCDC Act, 2003 as amended in 2007.

42 *Supra*, s.3 (1) (e) (i-ii).

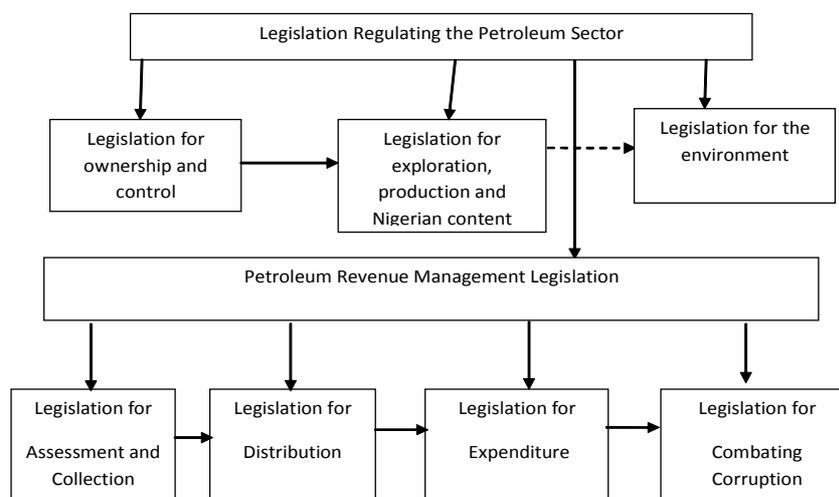


Figure 1. Classification of Legislation in the Petroleum Sector.

collected by DPR will be transferred to the Federation Account. The law need a holistic amendment as suggested by the Petroleum Industry Bill, 2012 version. Next is the Federal Inland Revenue Service (Establishment) Act which establishes the FIRS and charges it with the responsibility of collecting petroleum revenue. However, this Act has a loophole. For example, the 4 per cent collection fee against gas revenue is not provided for in section 15 (a) of the FIRS Act just as it allows room for confidential provision in section 30 of the Act. All these hinder transparency and accountability in petroleum revenue management. Similarly, the Nigerian National Corporation (NNPC) Act, by virtue of sections 5 and 6 empowers the NNPC to undertake the functions of the official regulator of all sectors of the oil industry, be it commercial, upstream, midstream, downstream and gas company. Section 10 of the NNPC ACT creates the Petroleum Inspectorate, which is yet to come into existence. The organization's practice of defraying its expenses before remitting revenue into the Federation Account as well as lack of proper checks and balances has bred monumental corruption in the industry.

Also, the Petroleum Profit Tax Act has too many allowable deductions and incentives under s.10 and s.11 (2) (a) respectively. Moreover, there are decreases in fines for defaulters under sections 51 (1), 52 and 55. And the fines under sections 92, 93, 94 and 95 are insignificant. Cumulatively, this will encourage corruption and lead to decrease in

revenue. Fines under sections 60 (4), 92, 93, 94 and 95 of the Companies Income Tax Act (CITA) are small and similarly encourage corruption. Also, the Deep Offshore and Inland Basin Production Sharing Contracts (Amendment) Act does not clearly interpret the term “economically beneficial.” This has led to the dispute between FBIR and the IOC’s. An Amendment is necessary to interpret this term.

The Central Bank of Nigeria (CBN) Act, under s.8 (1) and 11(2) (f), empowers the President to appoint or remove the CBN Governor. It has resulted in the Governor being treated as a rubber stamp, leading to mismanagement and corruption. The President should not have the power to remove the Governor except with the approval of the Senate. There are yet other laws in these category. Under the Oil Terminal Dues Act, oil terminal dues are collected by the Nigerian Ports Authority (NPA) but they are not regarded as petroleum revenue. Similarly, the Value Added Tax (VAT) Act, under its section 3, exempts oil export from VAT, an exemption that reduces petroleum revenue. Under the Capital Gains Tax Act (CGTA), capital gains tax is within the definition of petroleum revenue under section 162 (10) (a) of the 1999 Constitution, and therefore, should be paid into the Federation Account. In the Associated Gas Re-Injection Act, gas flared penalties are small and not enforced.

The second pillar harbours the legislation for distribution of petroleum revenue. It includes, the Finance (Control and Management) Act, which enjoins every person entrusted with public money to obey instructions from the Minister of Finance by virtue of section 3. It is on record, however, that the DPR sometimes does not obey instructions from the Minister of Finance. The Act does not indicate any sanction for any violation of the law. Also instructive is the fact that the Allocation of Revenue (Federation Account, etc.) Act has modifications. Section 5 of this Act allows NDDC and FCT to share from the Federation Account, contrary to the Constitution, and this has been declared unconstitutional by the Supreme Court of Nigeria. Similarly, the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) Act does not grant financial autonomy to RMAFC, thus exposing it to the power of interference by the President.

The third pillar houses the legislation that provides how petroleum revenue will be expended. These include the Appropriate Act, which is commonly called budget.⁴³ A missing Appropriation Act leads to

43 *Budget* is unknown to the Nigeria Constitution; the correct name is Appropriation Act.

corruption. By the letters of the Constitution, the National Assembly has no power whatsoever to reduce or increase the Appropriation Act. Such action amounts to legislative corruption. Unfortunately, the Appropriation Act has no sanctions or penalties for its violation, this poses great danger for its implementation. Similarly confusing is the provision in the Nigerian Sovereign Investment Authority (NSIA) Act, under section 30 of which it states that the NSIA should be funded from the oil price above budgeted bench mark, when it is clearly not a beneficiary of the Federation Account. This unconstitutional provision negatively affects the 13 per cent derivation by oil producing states. There is also the Nigeria Extractive Industries Transparency Initiative (NEITI) Act, which is superior to any other legislation except the Constitution, as amended. Fiscal Responsibility Act (FRA) creates the Fiscal Responsibility Commission (FRC). The Chief Executive of the Commission is appointed by the President under s.5, therefore, it is not independent and autonomous, as envisaged under s.3 (2) of the Act.

Similarly, the Public Procurement Act (PPA), under sections 17 to 24, provides for organizational procurement, and sections 25 to 38 provide for procurement methods of goods and services, but these are not strictly applied. However, the Act does not apply to procurement in the petroleum industry. In the Niger Delta Development Commission (NDDC) Act, the appointment of the chairman and other board members is by the President under s.5 (2) has been based on political considerations. Section 14 does not provide any sanction on failure to make contribution into the fund. All these breaches have led to inefficiency, mismanagement, corruption and non-development of the Niger Delta region. The Petroleum Technology Development Fund Act, under section 1, does not provide for its funding through signature bonuses, concession rentals and royalties. This practice is illegal, unconstitutional and a petroleum revenue corruption. The operational scope of the PTDF is small and should be expanded to include the establishment of skill acquisition centres in all the Local Government Councils.

Nigeria's LNG (Fiscal Incentives, Guarantees and Assurances) Act, under s.7 exempt the NLNG from payment of custom duties. Paragraphs 3, 6 and 15 states that it is not subject to new laws, regulations, taxes, duties, imposts or charges resulting to several litigations. These numerous exemptions and pioneer status have decreased petroleum revenue. The Monitoring of Revenue Allocation to Local Government (MRALG) Act, establishes the State Joint Local Government Account Allocation Committee. This is a duplication of the committee created under s.7 of

the Allocation of Revenue Federation Account Act, and the West African Gas Pipelines (Special Provisions, etc.) Act, which is a domestication of the sub-regional treaty. Apart from the 1999 Constitution, it is superior to any other law in Nigeria. The Act does not outline the revenue derived for Nigeria.

The fourth pillar contains the legislation for combating corruption. These are the laws to ensure that petroleum revenue is properly expended in accordance with the law. It includes the Constitution of the Federal Republic of Nigeria 1999, as amended; the Economic and Financial Crimes Commission (Establishment) Act, which empowers the EFCC to combat corruption generally. The chairman and members are appointed by the President under s.2 (3) of the Act. This appointment allows for political interference in their operation. The Corrupt Practices and other Related Offences Act, covers illegally acquired money or wealth; the subsisting law is the 2000 Act. A resulting 2003 Act also, which was erroneously published in the Laws of the Federation of Nigeria has created confusion for practitioners. However, the correct law is the 2000 Act. According to the letter sent by the Attorney-General of the Federation in that regard, the Code of Conduct Bureau and Tribunal Act, provide for the establishment of the Code of Conduct Bureau and Tribunal to deal with complaints of Corruption by public servants. The Criminal Code Act, under sections 98 and 101, deals with corruption in the petroleum industry.

The Penal Code (Northern States) Federal Provisions Act, under s.474 deals with petroleum revenue corruption. Money Laundering (Prohibition) (Amendment) Act 2012, strengthens the framework for combating money laundering and petroleum revenue corruption in Nigeria. The Act is enforced by EFCC by virtue of section 7 of the EFCC Act. Banks and Other Financial Institutions Act 1991 as amended in 2002, is administered and enforced by the EFCC by virtue of section 7 of the EFCC Act. Since petroleum revenue involves huge sums of money, banks and other financial institutions are used as agents for financial crimes. There should be thorough investigation of the banks and other financial institutions with respect to petroleum revenue corruption. In the Advance Fee Fraud and other Fraud Related Offences Act, the offence of advance fee fraud is committed when a person obtains by false pretence, induces any other person, and obtains any property by medium of contract inducement. The Act is enforced by EFCC under section 7 of the EFCC Act. It is germane in combating corruption, since fraud, false pretence, inducement to obtain property or contract inducement are practised in the petroleum industry.

Accordingly, the Freedom of Information Act, makes public records and information more freely available, and provides for public access to public records and information. This includes information and records in the management of petroleum revenue. There is a need to establish Freedom of Information Department or Unit (FOID or FOIU) in all MDAs and petroleum companies. The Police Act, under sections 4, 23, 24 and 28, empowers the force to fight corruption. This includes corruption in the petroleum industry. Finally, the National Security Agencies (NSA) Act, under section 1 (c), empowers the SSS to prevent and detect crime against internal security, that is *impair matria* with Decree No. 1 of 1999, which also empowers it to deal with threat of sabotage, economic crimes, and national security. Both laws do not consider the political interference as hindrance.

5. INSTITUTIONAL FRAMEWORKS FOR PETROLEUM REVENUE MANAGEMENT

The institutions for petroleum revenue management are classified into four pillars. The first pillar relates to institutions for assessment and collection of petroleum revenue. These include, the Federal Inland Revenue Service, which assesses, collects and accounts for petroleum revenue. The FIRS does not publish what it collects and has a poor manner of enforcement. The Department of Petroleum Resources (DPR), is the technical parastatal of Ministry of Petroleum Resources charged with the responsibility of regulating and monitoring activities of the oil and gas industry. It is not subject to the control of the ministry; as such, it has overwhelming power. It collects royalty, gas flaring penalty fees, concession rentals, fees for license and lease, signature bonuses, commissions from Speculative Data Companies and other fees. It collects petroleum revenue and deposits same into several accounts; but it lacks transparency and accountability. The Nigerian National Petroleum Corporation (NNPC) is an integrated oil corporation through which the Federal Government of Nigeria makes policies, regulates and participates in the country's petroleum industry.

The Central Bank of Nigeria (CBN) is the apex bank charged with the responsibility for the custody of the fund for the federation. The federation's domestic and foreign revenue accounts are domiciled with the CBN. The Ministry of Petroleum Resources is one of the Federal Ministries charged with the responsibilities of initiating policies for the petroleum sector and supervising the implementation of the approved

policies. The President can also exercise the power vested on the minister. In the case of *Korean National Oil Corporation (KNOC) v. Yar'Adua*,⁴⁴ the President exercised power under paragraphs 23 and 24 of the First Schedule of the Petroleum Act. The plaintiff challenged the powers of the President to revoke its oil exploration licenses. The Federal High Court Abuja voided the revocation of KNOC's oil license by the President stating that the President lacks the legal powers to revoke oil exploration licenses issued the consortium, especially since he was not the nation's petroleum minister. The West African Gas Pipeline Authority (WAGPA) is a regional institution created by the treaty on the West African Gas Pipeline (WAGP) Project between the Republic of Benin, Ghana, Togo, and the Federal Republic of Nigeria to manage the West African Gas Pipelines Project.⁴⁵ The Joint Development Authority (JDA) is authorized to develop and manage petroleum and other natural resources within the Joint Development Zone. Joint Development Zone (JDZ) is an agreement reached between Nigeria and Sao Tome and Principe for the joint exploration and development of petroleum and other natural resources within the Gulf of Guinea.⁴⁶

The second pillar relates to institutions responsible for the distribution of petroleum revenue to the tiers of government. It includes the Revenue Mobilization Allocation and Fiscal Commission (RMAFC), which manages petroleum revenues by monitoring the accruals to and disbursement of revenue from the Federation Account. The Federation Accounts Allocation Committee (FAAC)⁴⁷ is responsible for the distribution of revenue accruing to the Federation Account among the three tiers of government; the Office of the Accountant-General of the Federation (OAGF) houses the Accountant-General of the Federation, and charges it with the responsibility of preparing the nation's financial statements

44 Suit No FHC/FCT/231/2009 (Unreported).

45 Alain Rosier, "West African Gas Pipeline (WAGP)-A Case Study" (2016) 4 < <http://www.beg.utexas.edu/enrgyecon/Abuja> > accessed 26 September 2018.

46 Tanga J. Biang "The Joint Development Zone between Nigeria, and Sao Tome and Principe: A Case of Provisional Arrangement in the Gulf of International Law, State Practice and Prospects for Regional Integration" (2010)1 < <http://www.un.org/depts/los/nippon/unffprogramme> > accessed 26 September 2018. Joint Development Zone is the joint development of trans-boundary resources within a maritime zone where the two countries have overlapping claims in respect to their exclusive economic zone.

47 Allocation of Revenue (Federation Account, ETC) Act, s. 6 (1).

arising from collection and receipt of income, fees, rentals, taxes and payment into the Federation Account. The Ministry of Finance (MOF), is charged with the responsibility of collecting and disbursing government revenue, formulating policies on taxation, tariffs, fiscal management, preparing and managing the budget, preparing annual accounts for ministries, departments and agencies, managing federal debt and regulating the capital market.

Third pillar houses the institutions for expending petroleum revenue. It includes the Federal Executive Council (FEC), which is a meeting between the President with the Vice-President and all the Ministers of the Government of the Federation for the determination of the general direction of domestic and foreign policies of the Government of the Federation. The Federal Executive Council is established under sections 144 (5) of the 1999 Constitution. This is followed by the National Economic Council (NEC), which is the meeting between the Vice-President, the Governor of each of the state of the federation and the Governor of the Central Bank of Nigeria to discuss economic affairs of the federation. It endorses funding regime for the oil and gas industry.⁴⁸ It has powers to demand that the Federal Government give details to the states on the spending of any money to which they are beneficiaries. It is one of the federal executive bodies established under section 153 (1) (h) and paragraphs 18 and 19 of the third schedule, part 1 of the 1999 Constitution as amended.

The National Assembly (NASS) is charged with the responsibility of law making and oversight functions over the other arms of government.⁴⁹ Sections 4 and 47 of the 1999 Constitution of Nigeria as amended vests legislative powers on the National Assembly. Also, the Office of the Auditor-General of the Federation (OAuGF), headed by the Auditor-General of the Federation, whose existence, powers, duties and responsibilities are provided under section 85 of the 1999 Constitution as amended, has the duty to audit all public accounts of the federation, all offices and courts of the federation and submit its report to the National Assembly. Similarly, the Niger Delta Development Commission (NDDC) is an agency of the

48 NEC endorses alternative funding for oil and gas < <http://www.channelstv.com> > accessed 26 September 2018.

49 Albert T. *Sam-Tsokwa* and Christopher Ochanja *Ngara*, "The National Assembly and the Budget process in Nigeria's Fourth Republic: Tackling the Challenges of Timelessness" 5 (12) (2016) CSS < <http://www.cscanada.net> > accessed 26 September 2018.

Federal Government created to oversee the development of oil and gas producing states of the Niger Delta. Other institutions are the Petroleum Technology Development Fund (PTDF), a parastatal of the Ministry of Petroleum Resources established for the purpose of developing and promoting petroleum technology and for creating the manpower needs of the oil and gas industry through research and training of Nigerians.

Also, the Fiscal Responsibility Commission (FRC) is vested with the power to inspect all offices of corporations, have access to obtain all available information with regard to revenue generated and operating surplus. It has power to compel government institutions to disclose information to public revenues and expenditure, and the Nigerian Sovereign Investment Authority (NSIA), established as a successor to the Excess Crude Account. It governs the Nigerian Sovereign Wealth Fund (NSWF).

The fourth pillar houses the institutions for combating corruption. This includes the Economic and Financial Crimes Commission (EFCC), which is authorized to prevent, investigate, prosecute and punished economic and financial crimes. It enforces the provisions of other laws and regulation relating to economic and financial crimes. The Independent Corrupt Practices and Other Related Offences Commission (ICPC), is to receive and investigate complaints from members of the public on allegations of corrupt practices and, in appropriate cases, prosecute the offenders; to examine the practices, systems and procedures of public bodies and where such systems aid corruption, to direct and supervise their review.⁵⁰ It can instruct and advise institutions in petroleum industry on ways to eliminate or minimize corruption.

The Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT) are germane. The Bureau is mandated to receive assets declaration by public officers, examine the declaration, retain custody of, ensure compliance with, receive complaints about non-compliance; appoint, promote, dismiss and exercise disciplinary control over staff and carry out other functions as may be conferred by the National Assembly. The Code of Conduct Tribunal on its own part, adjudicates on matters referred to it by the Code of Conduct Bureau.

Furthermore, the Nigerian Police Force (NPF), is established under section 214 (1) of the 1999 Constitution as amended, and section 3 of the Police Act. The Nigeria Police Force is part of the armed forces of the

50 Independent Corrupt Practices and Other Related Offences Act, 2000, s.6(a-f).

Federation for the protection of harbours, waterways, railways and air fields. Section 4 grants the police the duties of prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations. Finally, the State Security Services (SSS) is veritable organ for combating corruption. It is established under section 2 (3) of the National Security Agencies (NSA) Act and Decree No.1 of 1999. It is responsible for the prevention and detection within Nigeria of any crime against the internal security, the protection and preservation of all non-military classified matters concerning the internal security of Nigeria, and such other responsibilities affecting internal security within Nigeria as the National Assembly or the President may deem necessary.

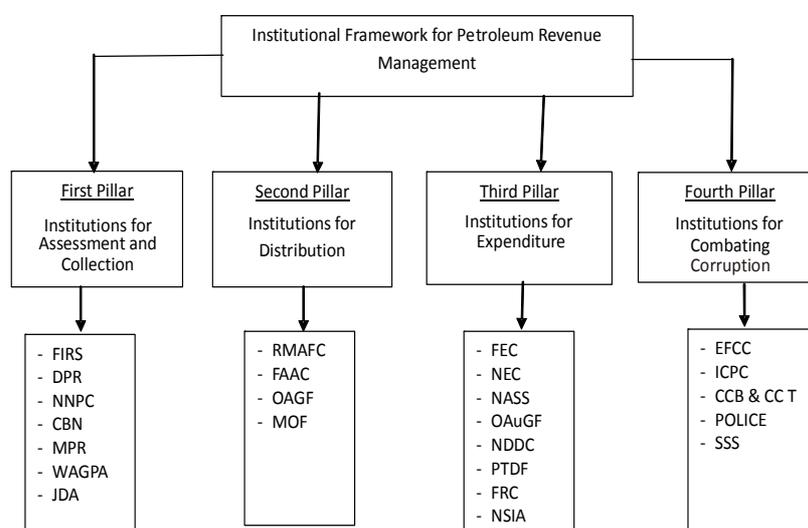


Figure 2. The Four Pillars of the Institutions for Petroleum Revenue Management

6. REFORMING THE IMPLEMENTATION OF THE PETROLEUM REVENUE MANAGEMENT LAW

Nigeria requires robust legal reforms to effectively implement petroleum revenue management laws. This section discusses five key legal and institutional reforms that are required to lay the groundwork for a successful and sustainable implementation petroleum revenue management law for of Nigeria.

6.1 Amend the Constitution of the Federal Republic of Nigeria, 1999 as amended

Nigeria should amend sections 162 (1) and (10) of the Constitution of the Federal Republic of Nigeria 1999, as amended, to list all petroleum revenue and state the appropriate timeframe for remittances into the Federation Account. Similarly, section 15 (5) of the 1999 Constitution which provides that the state shall abolish all corrupt practices and abuse of power be deleted from Chapter II and insert in Chapter IV of the Constitution, so that it will be a fundamental right issue. Also to be amended is section 157 (1) and (2) of the Constitution to delete the power of the President to remove from the office the chairman and members of RMAFC. The matter leading to their removal should first be laid before the National Assembly for consideration and confirmation by the Senate.

6.2 Enact Petroleum Revenue Management Law

Nigeria should enact a legislation that will harmonize the diverse laws and institutions in the assessment and collection, distribution, expenditure and combating of corruption and cause them to operate strictly in accordance with the principles of good governance and transparency as obtainable in other successful jurisdictions.

6.3 Amend the NNPC Act and Other Laws

Sections 5 and 6 of the NNPC Act should be amended to unbundle the corporation into different entities such as regulation, commercial, midstream, downstream, and gas company. Section 7 (2) and (3) of the NNPC Act should also be amended to empower the National Assembly and NEITI to appoint two distinct auditors one from each of them for NNPC. Section 10 of the Act should be deleted since the Petroleum Inspectorate Division is extinct and its functions performed by the DPR. In the same vein, sections 9 and 10 of the Petroleum Profit Tax Act should be amended for clarity and understanding to the ordinary man, and to reduce the numerous allowable deductions, respectively. Also, section 11 (2) (g) of the Petroleum Profit Tax Act should be amended, so that a certain percentage of tax and royalty can be collected from the transfer of natural gas liquids facility to the gas-to-liquid facilities to increase revenue. Also, section 14 should be amended to include chargeable oil by ocean going oil-tankers from Nigeria to other jurisdictions in adjusted profit. The Associated Gas Re-Injection Act

should be amended to incorporate the penalty into the Act and reviewed upward the penalty from US\$3.5 per 1000 Scf to US\$5 per 1000 Scf.

In addition, sections 21, 22, and 23 of the PPTA should be amended to easily ascertain assessable tax, chargeable tax, and additional chargeable tax payable. Furthermore, section (51) (1), 52, 53, and 55 should be amended to increase imprisonment to twenty years and the fines to 200 per cent of the amount withheld, embezzled, collected and/or defrauded or both. Sections 8 (1) and 11 (2) (f) of the Central Bank of Nigeria Act should be amended to remove the power of the President to appoint and remove the CBN Governor, and the ascension to the office should be by seniority among the public servants on the board of CBN. Section 27 (b) (c) of the Act should be amended to limit the CBN from opening accounts for MDAs in respect of petroleum revenue, where such account will contravene sections 80 and 162 of the 1999 Constitution as amended. The Allocation of Revenue (Federation Account, etc.) Act should be amended to provide for new revenue allocation formula or incorporate the adjustments made by the Executive Order of 2002. Furthermore, amend section 40(1) of the Companies Income Tax Act to include gas income as part of petroleum revenue and section 30(2) of the Act to state clearly when a company make excess profit. Section 2(1) of the Capital Gains Tax Act should be amended to state that capital gains from the disposal of company assets is petroleum revenue.

Furthermore, section 29(2) of the Nigerian Sovereign Investment Authority Act should be amended to remove FCT Abuja and its Area Councils as beneficiaries of the Federation Account. Section 30 of the NSIA Act should be amended to read that when the oil price is above budgeted benchmark it should be paid into the Federation Account. The beneficiaries are obliged to pay their contribution into NSIA after distribution. Section 5(2) of the Niger Delta Development Commission Act should be amended to interpret “the same interest” to mean person from the oil producing area of a member state in alphabetical order next to produce the Chairman and Managing Director. The appointment of the chairman and managing directors should be advertised in three national newspapers for the people of oil producing areas of the state having the turn. And they should be screened by the Senate. Also, sections 1, 2, 7 and paragraphs 3, 6, and 15 of the Nigeria Liquefied Natural Gas (Fiscal Incentives, Guarantees and Assurance) Act should be amended to remove the pioneer status, subject it to new laws, regulations, taxes, duties, imposts or charges and reduce the numerous exemptions causing loss of revenue to the federation. Banks and Other Financial Institutions

Act, as amended in 2002, should be re-enacted to bring all the amendments in a single legislation. Section 2 of the PTFDF Act should be amended to expand the scope of the agency to include the establishment of skill acquisition centres in all Local Government Areas of the federation in order to utilize the huge fund accruing to it.

The Advance Fee Fraud and Other Fraud Act should be re-enacted to bring all the amendments into one legislation. Section 6 of the Act should be amended to include false documents on petroleum contracts, terminal figures, and procurements. The provisions of the Freedom of Information Act should be invoked when information relating to petroleum revenue is demanded and is refused. The National Assembly should amend the Police Act to curtail the excessive control of the Inspector General of Police by the President. Section 5 should be amended to remove the appointment and removal of the IGP by the President and read that the appointment shall be by order of seniority of Deputy Inspector General of Police. Furthermore, the Act should be amended to provide death penalty for any police officer found guilty of corruption by a court of competent jurisdiction. The National Security Agencies Act should be concerned with internal security matters within Nigeria. Section 1(c) of the Act should be amended to remove the power of the President to add other responsibilities to the State Security Services. Section 6 of the Act and Decree No 1 of 1999 should be repealed.

Finally, section 5 should be amended to remove the appointment and removal of the IGP by the President and read that the appointment shall be by order of seniority of Deputy Inspector General of Police. The Act should be amended to provide for death penalty for any police officer found guilty of corruption by a court of competent jurisdiction. The National Security Agencies Act should be concerned with internal security matters within Nigeria. Section 1(c) of the Act should be amended to remove the power of the President to add other responsibilities to the State Security Services. Section 6 of the Act and Decree No 1 of 1999 should be repealed. The Appropriation Act should state clearly that missing budget and budget padding are corruption, fraud, and abuse of office punishable by law and that perpetrators should be tried in a court of competent jurisdiction.

6.4 Amend the Oil Terminal Dues Act and Nigerian Ports Authority Act

The Oil Terminal Dues Act and its Orders and the Nigerian Ports Authority Act should be amended to include oil terminal dues as petroleum revenue.

Indeed, it is also necessary to incorporate the new terminals into the Oil Terminal Dues Act. Section 10 of the Oil Terminal Dues Act should be amended to review upward the oil terminal dues rate to increase revenue.

6.5 Institutional Reforms and Capacity Building

Institutional reforms refer to activities aimed at developing structures, organizational mechanisms and processes, as well as human resources.⁵¹ The government must have the political will to overhaul the institutions and build their capacity to cope with challenges associated with prudent management of petroleum revenue. Capacity training through seminars and workshops to build up their technological feasibility and capacity to be able to apply electronic collection and payment. The capacity acquired should be integrated in a way that leads to change in individual behaviour and ultimately to more efficient and effective operations. The reform should also discourage graft and mandate the institutions to publish its dealings. The FIRS should be strengthened by discouraging graft and mandating it to publish what is collected from the petroleum companies, fix time to remit revenue the receipts into the Federation Account and publish same.

The DPR should be directed to stop receiving 4 per cent payment from the federal government as cost of collection of petroleum revenue. Instead, monies collected should be refunded and paid into the Federation Account. It should also reduce multiple revenue accounts operated and publish same for public scrutiny. NNPC should be unbundled to separate entities such as regulation, commercial, upstream, midstream, downstream, and gas company. NNPC should not be allocating crude oil to refineries above the current operating capacity. In addition, the sale of crude locally by NNPC should not be below the international market price. West African Gas Pipeline Authority should be made effective to avoid loss of petroleum revenue from the West African Gas Pipeline project, and the Joint Development Authority should be mandated to disclose and publish information on revenue accruing to Nigeria in the Joint Development Zone. RMAFC should properly advise the tiers of government on how to increase and manage petroleum revenue efficiently. In addition, the Office of the Accountant-General of the Federation should be authorized to deduct at source any revenue collected by an MDA, which is not remitted on time.

The appointment into the Federal Executive Council should not be based on party affiliation, but on merit, competence, and capability. NDDC should annex the prototype photographs of the project at every

milestone before approval is made for the release of fund by the National Assembly. The Fiscal Responsibility Commission should be funded adequately from statutory transfer. The Economic and Financial Crimes Commission should be made effective and efficient. There should be no political interference in the performance of the Commission's duty. The Nigerian Sovereign Investment Authority should be properly funded, and the fund invested carefully offshore for sustainable development. For the Independent Corrupt Practices (Other Related Offences) Commission, an Anti-Corruption and Transparency Unit (ACTU) should be established in the petroleum sector. The Code of Conduct Bureau and Code of Conduct Tribunal should be strengthened to fight corruption. There should be no political interference in the performance of its duties.

For the Nigerian Police Force, any police officer involved in petroleum revenue corruption should be prosecuted and, if found guilty, punished by death. The State Security Services should not be used to fight corruption but should be concerned about internal security. Electronic devices should be used to monitor discussion in offices to discourage corruption. No revenue meant for the federation should be paid into the Consolidated Revenue Fund. All petroleum revenue should be paid into the Federation Account. Oil terminal dues collected by the Nigerian Ports Authority is petroleum revenue and should be paid into the Federation Account.

7. BENEFITS OF PETROLEUM REVENUE MANAGEMENT LAW

Successful implementation of petroleum revenue management law in Nigeria will engender many benefits. Given that all the laws are contained in a single document, it will be easy for reference purposes and understanding. A petroleum revenue management law will end corruption in Nigeria, especially where all the sources of petroleum revenue are known, the manner of assessment and collection are transparent and there is appropriate timeframe for remittances into the Federation Account and Consolidated Revenue Fund. Furthermore, when the manner of distribution, expenditure and combating corruption is in accordance with the rule of law, it will minimize corruption. There will be a boost in petroleum revenue for the federation. This will engender socio-economic benefits and enhance sustainable development for the country. Petroleum revenue management law can be studied in the tertiary institutions to inculcate the values for the management of revenue at early stage.

8. CONCLUSION

Nigeria's prospects for achieving its development agenda of becoming one of the industrialized nations may appear daunting under the present economic challenges. The country's development efforts are weakened by poor infrastructure, human capacity inadequacies, corruption, predatory earmarking, weak institutions, and unaccountable leadership. Nevertheless, the energy sector reforms are one of the cardinal objectives of the government to enthrone transparency and accountability in petroleum revenue management, but this can only be achieved through legal reforms.

An appropriate legal and institutional design is required for prudent and transparent management of petroleum revenue in order to guarantee sustainable development. The fight against corruption is not a child's play; petroleum revenue dependent countries should have detailed knowledge of their legislation and institutional frameworks to be able to categorize them for easy appraisal. The laws and institutions affecting petroleum revenue in Nigeria are strewn all over the place. Therefore, a new legal regime to harmonize diverse legislation and institutions and cause them to operate strictly in accordance with the principles of good governance, transparency, and accountability is desirable. This article recommends the enactment of petroleum revenue management law where the legislation and institutions for assessment and collection, distribution, expenditure, and combating corruption will be streamlined.

To successfully design and implement a petroleum revenue management law in Nigeria, the Federal Government and the Legislature must demonstrate political will to inaugurate the right experts that will design the petroleum revenue management law and submit same to the National Assembly for passage into law. The law should state clearly that missing budget and budget padding are corruption, fraud and abuse of office punishable by law and that perpetrators should be tried in a court of competent jurisdiction. Virement without approval by the National Assembly contradicts the Public Procurement Act, therefore, it is administrative or official corruption. Crude oil price above budgeted benchmark should be paid into the Federation Account to form part of the revenue for the deduction of 13 per cent derivation for the oil producing states.

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