JOURNAL OF ACADEMICS STAND AGAINST POVERTY

Vol 3 No 1

Volume 3 · July 2023

ISSN 2690-3431 (print) · ISSN 2690-3458 (online)

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ISSN	ISSN 2690-3431 (print) · ISSN 2690-3458 (online)
Publisher	Academics Stand Against Poverty
Licence	CC BY 4.0 — https://creativecommons.org/licenses/by/4.0/
Website	https://journalasap.org

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JOURNAL
OF
ACADEMICS STAND AGAINST POVERTY

e-ISSN 2690-3458 ISSN 2690-3431

Volume 3, Issue 1, 2023: pages 1-16

Research Paper

'Pandemic in a Pandemic': Covid-19, Public Procurement Corruption and Illicit Financial Flows in Sub-Saharan Africa

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Abstract: Public procurement in Sub-Saharan Africa has become synonymous with corruption, and the region faces difficulty separating the two. The United Nations Office on Drugs and Crime found that for most Sub-Saharan countries, public procurement spending constitutes 15% to 30% of the national Gross Domestic Product. With the COVID-19 pandemic sharply escalating public spending, most Sub-Saharan African countries are experiencing unprecedented losses due to corruption in public procurement and the illicit financial flows that result. Corruption in public procurement in most Sub-Saharan African countries can be explained using a '3-Gear Corruption Model.' This model depicts the foundational structures of corruption, namely private individuals, private institutions, public officials and state linked institutions. The model explains how the corruption dynamics play out and eventually feed into the public procurement ecosystem. Solutions to corruption and illicit financial flows must therefore acknowledge the relationship of these gears. The larger gear (1) is more influential than the smaller gears (2 and 3); therefore, more energy should be expended on addressing the bigger gear. Informed by this model, this essay proposes a number of actionable policies and measures to deal with corruption in public procurement, such as E-procurement systems, protection of civil liberties, and strengthening institutions. The government holds a central role in solving these problems, so success is highly dependent on the government's commitment to dealing with the scourge of corruption.

Keywords:

1. Covid-19
2. Corruption
3. Public Procurement
4. Sub-Saharan Africa

2023 Journal ASAP

DOI: 10.5281/zenodo.8132390

Received 26 April 2023
Revised 4 July 2023
Accepted 6 July 2023
Available online 10 July 2023

"Theft doesn't even stop during a pandemic"[1]

[1] Statement by Kenyan activist Wanjeri Nderu, quoted in Andres Schipani, Joseph Cotterill & Neil Munshi (2020, September 1). "Africa's Covid-19 Corruption: 'Theft doesn't even stop during a pandemic.'" Financial Times. https://www.ft.com/content/617187c2-ab0b-4cf9-bdca-0aa246548745

1. Introduction

According to the United Nations, Sub-Saharan Africa (SSA) is essentially made up of Central Africa, East Africa and Southern Africa. SSA has a combined population of approximately 1.2 billion as at 2023, comprising 14% of world population (World Population Review, 2023). The World Bank estimates that 400 million people from this region live in extreme poverty, with this figure expected to increase. Hosting some of the world's poorest countries, the combined Gross Domestic Product (GDP) of SSA countries was estimated to be USD2.05 trillion (World Bank, 2022). Oxford professor Paul Collier suggests that the *bottom billion*, the poorest billion people, are mostly in SSA (2007). In fact, World Bank (2019) shows that 60% of the extremely poor were reportedly living in SSA. These countries have suffered phases of development which have largely been incomplete, what Mahuni et al. (2020) call "incomplete cycles of development". In essence, SSA countries are bedeviled by political and economic strife.

The COVID-19 pandemic came at a time when corruption had already taken root in the continent. Just as the coronavirus epidemic spread across the region, so had corruption. It is therefore fitting to label the state of corruption in SSA as a 'pandemic.' Today, SSA continues to score poorly on corruption. For example, on a 100-point scale, the SSA region had a low score of 33 out of 100 (Transparency International, 2022). According to the same source, this score points to no progress on the 2021 Corruption Perceptions Index.

Public procurement for COVID-19 materials has been a recent example of rubbing salt in the wound of long-standing government malpractice and corruption in SSA. Public procurement is becoming a conduit for illicit financial flows (IFFs), allowing grand corruption by public and private sector actors in SSA through various corruption means. COVID-19 has, via public procurement processes, seen the escalation of corruption, an endemic cancer in SSA which has in turn accelerated IFFs.

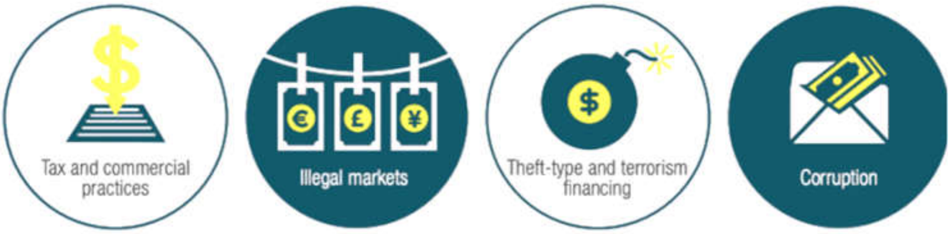
1.1 What are Illicit Financial Flows?

According to the International Monetary Fund (IMF), IFFs involves the movement of money across borders that is illegal in its source (e.g. corruption, smuggling), its transfer (e.g. tax evasion), or its use (e.g. terrorist financing). While differing definitions exist, it is clear that IFFs are an obstacle to development, especially in SSA countries. SSA is an Emerging Market and Developing Economy (EMDE). This designation makes the region important. It is the next frontier for growth and development in having a youthful population and abundant natural resources. Figure 1 below shows broad categories of IFFs. This essay will focus on corruption via public procurement as a conduit for IFFs in SSA.

Corruption has strong links with IFFs. It is a cross-cutting issue that fuels IFFs at various stages. A significant proportion of IFFs come directly from the scourge of corruption, which is more likely to thrive in developing countries with weak institutions. Furthermore, corruption related to IFFs often involves key actors such as judges, police, politicians, prosecutors, and lawyers. In most cases, these stakeholders are closely associated with key institutions which are supposed to be the eyes and ears of the public.[2] In general, Africa is estimated to be losing approximately USD88.6 billion annually through IFFs (UNCTAD, 2020).This is disturbing for a continent in which a third of the population lives in extreme poverty.

[2] Khalil Goga (2015, July 8). "Addressing corruption may act as a significant step to limit illicit financial flows from Africa." Institute for Security Studies. https://issafrica.org/iss-today/how-corruption-drives-illicit-financial-flows

Fig. 1. Categories of Illicit Financial Flows



Source: Economic Development in Africa Report 2020 (adapted from African Renewal)[3]

The brief profile of SSA above is essential for three main purposes. Firstly, it helps us appreciate the dynamics of SSA. Secondly, we do this so as to unpack some of the pre-existing vulnerabilities of the region, which remain an obstacle to the region’s sustainable progress. Thirdly, we want to show how the perennially vulnerable nature of SSA begets more vulnerability. For example, the advent of COVID-19 exposed the structural flaws of the region, adding pressure to pre-existing fragilities.

As highlighted earlier, IFFs occur at various levels. The way they interplay in SSA against innumerable challenges makes this treatise on IFFs pertinent. Escalation in corruption manifesting through public procurement due to the need to manage the COVID-19 health emergency has created a ‘pandemic within a pandemic’ by exacerbating IFFs.

1.2 What is Public Procurement?

Asare et al. (n.d., Slide 2) define public procurement as a way of ‘organizing and spending public resources for delivering goods and services.’ The authors go on to show five main thematic areas which should function properly for efficient public procurement: (1) demand assessment; (2) budgeting; (3) awarding and managing contracts; (4)regulating quality of goods; and (5) contract enforcement.

On the other hand, the Tanzania Procurement Policy (2012) defines public procurement as:

> … an acquisition, whether under formal contract or otherwise, of works, supplies and services by public bodies using publicly sourced finances. It involves the purchasing, hiring or obtaining by any contractual means of publicly needed goods, construction works and services by the public sector. It also includes situations in which public funds are mobilized to procure works, goods and services even if the government does not get directly involved. (Uromi, 2014, p. 54)

The nature of public procurement in SSA is such that it has become synonymous with corruption. In particular a process such as awarding of tenders has become a fertile ground for massive corruption. Public procurement scandals have always been a long standing challenge for SSA. Table 1 lists some of the scandals from a few selected countries.

[3] Adapted from Matilda Moyo (2021, June 15). “Tackling illicit financial flows, a matter of survival for Africa’s development.” Africa Renewal. https://www.un.org/africarenewal/magazine/july-2021/tackling-illicit-financial-flows-matter-survival-africas-development

Tab. 1. Examples of Public Procurement Scandals for Selected SSA countries

Country	**Brief explanation of the Public Procurement Scandal**	**Sector /Purpose**
Mauritius	▪ Tender irregularities for supply of turbines (1994). ▪ Supply and installation of 60 MW for Port Louis Power Station (2014).	Energy
Burundi	▪ Mis-spending of Global Fund resources amounting to USD184,000 (2014).	Health
Kenya	▪ 30 million Euros paid to Anglo Leasing Finance for supply of high technology passports (2015). ▪ 21 billion shillings lost through 'Dam scandal' (2019).	Printing of passports Infrastructure
South Africa	▪ 30 billion Rands lost in procurement of defense equipment (1999). ▪ In 2017, 50% of R800 billion annual procurement budget was reportedly lost through irregularities in procurement (2017).	Defense Procurement budget
Tanzania	▪ Resignation of Minister of Energy in 2008 over supply of generators meant to help ease out power crises(2008).[4] ▪ USD 122 million siphoned off under the guise of energy contracts which did not exist (2015).[5]	Energy Energy

Source: Author compilation[6]

1.3 Objectives of the essay

Against the brief background above, this paper aims to:

- Explore how corruption linked to public procurement from COVID-19 affects SSA countries.
- Examine enabling conditions exacerbating corruption in public procurement due to COVID-19.
- Examine practicable solutions to curtail corruption linked to public procurement in SSA beyond the COVID-19 health emergency.

[4] Kizito Makoye (2015, March 9). "Rotten fish and energy scandals stink up Tanzania." Reuters. https://www.reuters.com/article/energy-corruption-tanzania-idINL1N0W827G20150309

[5] Kizito Makoye (2015, June 25). "Fire and water don't mix for Tanzania whistleblower**."** Reuters. https://www.reuters.com/article/us-tanzania-whistleblower-idUSKBN0P52EW20150625

[6] Sources consulted for the countries respectively include: Wikipedia; Global Fund Reports; BBC News Full details are in the References section. Only data on Tanzania was obtained from Reuters.

2. Corruption Related to COVID-19 Procurement in Sub-Saharan Africa: Evidence from Selected Countries

Table 2 presents a number of corruption cases which have been witnessed across selected countries in SSA during the Covid-19 period.

Tab. 2. Countries and Covid-19 public procurement corruption related scandals

Country	Description of case
Cameroon	An estimated amount of USD 335 million meant for Covid 19 is said to have been misused in 2020.
South Africa	The Minister of Health resigned after personally benefitting from a 10 million Covid-19 communications contract fund.[7]
Malawi	USD 1.3 million was lost through procurement and allowances irregularities during Covid-19.
Kenya	Kenya Medical Supplies Authority is accused of having siphoned off approximately USD400 million meant for medical supplies.
Uganda	Price inflation of food relief items meant for those affected by Covid 19 are believed to have cost the country USD528 000.
Zimbabwe	Health Minister is alleged to have awarded a USD60 million Covid 19 materials supply tender to a Dubai based company without following laid- down tender procedures. The minister was later relieved of his duties.[8]
Nigeria	Price inflation of Covid 19 materials. 1808 face masks were allegedly procured for USD96,000 by the Federal Ministry of Health.
Ghana	Overpricing of vaccines. Minister of Health oversaw procurement of Sputnik Vaccine at USD19 instead of USD10 per unit.

Source: Author compilation[9]

Summary of the countries examined

The table above shows some of the different financial losses suffered by selected countries in SSA with respect to COVID-19-related procurement activities. The different forms of the leakage

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[7] Hassan Isilow (2021, September 30). "Report implicates former South African health minister, others in coronavirus contract scandal." Aandolu Agency. http://www.aa.com.tr/en/africa/report-implicates-former-south-african-health-minister-others-in-coronavirus-contract-scandal/2378559#

[8] Reuters Staff (2020, June 21). "Zimbabwe's health minister granted bail over $60 mln graft claims." Reuters. https://www.reuters.com/article/health-coronavirus-zimbabwe-corruption-idUSL8N2DX0B3

[9] Articles on Uganda, Malawi, Nigeria, Kenya and Malawi are from Michael Oduor (2021, May 25). "Africa's Covid 19 corruption that outweighs pandemic." Africanews. https://www.africanews.com/2021/05/25/africa-s-Covid-19-corruption-that-outweighs-pandemic//. Data for Cameroon were obtained from VOA News; Ghana from the BBC; Zimbabwe from Reuters. Full details are in the Reference section.

of resources range from price inflation of materials, equipment, irregular allowances, misappropriation, and other illegal malpractices. The compound effect of widespread financial leakage and corruption created fertile grounds for IFFs. A lot of procurement frequently flows through various ministries or departments besides Health. They include crucial social and economic ministries such as Education, Transport, and Energy. The United Nations Office on Drugs and Crime (UNODC, n.d.) shows that public procurement averages from 15% to 30% of GDP for most countries. Moreover, the report highlights that the health sector's procurement of pharmaceuticals and medical devices normally accounts for large proportions of procurement budgets. For most SSA countries, this further worsens corruption and IFFs as public procurement becomes a playing field for institutions and public and private officials to enrich themselves.

3. Effects of COVID-19 Public Procurement-Induced Corruption in Sub-Saharan Africa

The COVID-19 emergency came at a time when public procurement systems in SSA were already weak and working inefficiently. Endemic corruption already entrenched in the legal system was further worsened by IFFs. The limited resources available to the health sector to actually respond to medical crises as a whole severely affected their capability to address the pandemic. Human Capital Development (HCD) was severely impacted, and the shock of the COVID-19 emergency had a ripple effect on other sectors. The education sector, challenged by the physical and medical obstacles surrounding the pandemic, was substantially disrupted. Against this backdrop, SSA will continue to face challenges in attaining targets in the health sector with respect to SDGs.

3.1 Underprovision of Health Care, a Key Merit Good

Large-scale corruption via public procurement has acted as a barrier to the provision and access to health care, a critical merit good, by millions in SSA.[10] A survey by Reuters shows that Nigeria, Ethiopia, and Egypt had a combined total of 1,920 intensive care unit (ICU) beds for their combined populations of 400 million people – less than one ICU bed per 200,000 people. For Africa as a whole, the survey found about one ICU bed per 100,000 people.[11]

3.2 Increase of Corruption as an 'Economic Bad'

An 'economic bad' is simply understood as something that is undesirable to society. We can understand the increase in corruption as an economic bad because it is undesirable in rational economic societies due to its attendant effects. Increased corruption simply begets more corruption. Ongoing public procurement corruption in SSA only creates more room for corruption, in the process exacerbating IFFs. COVID-19 has given a lifeline to looters in the region to loot even more. COVID-19 has acted like a *booster shot* to rejuvenate and embolden corruption networks of looting officials and institutions, and this has been possible under the guise of public procurement.

3.3 Increases in inequalities and poverty

[10] A merit good is a good that has positive externalities (i.e. positive effects beyond those directly involved in its production or consumption) and which is therefore not provided by a free market to the degree that maximizes public welfare. Education and health care are prominent examples.

[11] Katharine Houreld, David Lewis, Ryan McNeill & Samuel Granados (2020, May 7). "Virus exposes gaping holes in Africa's health systems." Reuters Graphics. https://www.reuters.com/graphics/HEALTH-CORONAVIRUS/AFRICA/yzdpxoqbdvx/

The World Bank conducted a survey that examined 100 countries to examine how livelihoods have deteriorated due to COVID-19 and changes in access to health facilities (World Bank Blogs, 2021). 41 of these countries were from SSA. In Uganda, households largely experienced limited access to medical facilities due to financial constraints.

Mahler et al. (2020) highlight that COVID-19 was expected to drive 22.6 million people in SSA into extreme poverty. At the same time the authors show that global poverty was projected to increase by 49 million people due to the Coronavirus. Furthermore, in their analysis they predicted that SSA was going to be the most affected region.

For much of SSA, the poor were left to contend with crumbling public facilities. Better facilities are often inaccessible to the poor since they are expensive. COVID-19 has disproportionately affected the poor in several ways. These include lack of access to adequate health facilities; dwindling incomes due to inability to work; and shouldering the burden of crumbling economies. All this has aggravated inequality. More often than not, the poor tend to bear the effects of severe adverse events, such as COVID-19, whereas the middle to upper classes of society tend to be cushioned from the worst effects.

Because of corruption in public procurement, societal inequalities are increased due to the misallocation of resources within sectors of the economy. Many public health departments and facilities in SSA are poorly resourced and often depend on donor support.

Covid-19 had a number of effects which in turn increased inequality in terms of accessibility to health care. Some of the effects included misappropriation of public resources (for example the hefty allowances to public officials in countries such as Uganda at the expense of service delivery that we explored earlier), under-provision of critical equipment and materials for health staff as well as the morale-sapping physical and emotional strain of the pandemic on health staff, especially in public health facilities. In most instances, the poor were not able to access expensive private health institutions due to exorbitant fees charged. All this worsened inequalities in health care.

3.4 Failing to achieve Sustainable Development Goal #3

United Nations Sustainable Development (SDG) goal number three is to ‘Ensure healthy lives and promote well-being for all at all ages.’[12] COVID-19 has had disruptive effects on economies throughout the world and has made this vision increasingly difficult to realize. A recent UN report on SDG3 describes the disruptive effects the pandemic has had on the health and well-being of economies globally. It shows that the pandemic has reversed or even stopped progress in health and shortened life expectancy. Furthermore, the report shows that 90% of countries around the globe are still reporting disruptions of health services due to the pandemic.[13]

How does corruption-induced public procurement prevent the possibility of achieving SDG Goal # 3 in SSA? Given the circumstances in which a majority of health systems across the globe are buckling under the sheer weight of the burden of the pandemic, resources are not distributed evenly. As the impacts of COVID-19 worsened, the strain on health sectors for most SSA countries increased. A number countries were forced to neglect other diseases such as HIV/AIDS, tuberculosis, and malaria so as to focus on managing COVID-19. This had a negative disruptive effect, reversing gains made earlier. This happened since major donors had reduced support to most developing countries to focus on the development of vaccines and other health essentials aimed at managing the spread of COVID-19.

[12] SDG 3. “Ensure healthy lives and promote well-being for all at all ages.” UN Department of Economic and Social Affairs. https://sdgs.un.org/goals/goal3

[13] Ibid.

To substantiate the above mentioned point, a study in SSA by HIV Modelling Consortium (2020) shows that in 2018 there were an estimated 18 million people living with HIV/AIDS in this region. The study used multiple mathematical models to analyze the potential impacts of disruptions to HIV-related programs due to COVID-19. Among its findings was that the disruption in antiretroviral therapy increased mother-to-child transmission of HIV by 60%, while other findings illustrated that the interruption in the supply of condoms as well as peer education programs increased the risk of HIV transmissions.

3.5 High Labour Turnover in the Health Sector

The COVID-19 emergency opened a flood gate of corruption in procurement of medical materials. As we saw in the case studies covered earlier, some of the materials were purchased at inflated prices. In some instances, officials would simply misuse the funds for unnecessary travel and subsistence allowances. On top of this, tendering of essential materials was flawed and corruptly done, which compounded the structural weaknesses we examined earlier. The net effect was that frontline workers were left with inadequate supplies of protective clothing, masks, and drugs among other essential equipment. This led to healthcare workers feeling demoralized, unsafe, and under-appreciated. One of the grievances that led to a strike by health professionals in Kenya in 2020 was related to COVID-19.[14] The strikers wanted the government to clear salary arrears as well as to provide PPEs for hospitals.

COVID-19 has created fresh challenges for some economies in SSA, further escalating the problem of a 'medical brain drain' which many countries were already battling with. Scores of skilled health professionals are being lured by better offers in better economies as they also grapple with the pandemic. Recently the Zimbabwe Health Services Board indicated that the country lost 2,200 nurses since 2021.[15] Zimbabwe's medical sector has seen large numbers of resignations, with a number of those leaving going to the United Kingdom for a better life. Zimbabwe's Health Ministry has of late been contemplating engaging the United Nations to help the country to at least get some compensation for the skills training costs incurred. In a struggling economy like Zimbabwe's, with low motivation of staff caused in part by poor working conditions, COVID-19 has actually opened opportunities for staff to leave the country in search of greener pastures.

3.6 Further Underinvestment in the Health Sector Due to Misallocation of Critical Resources

Most countries in SSA are struggling to meet the Abuja Declaration on Health of 2001 that requires that states commit 15% of their budgets towards health financing (WHO, 2010). Health financing is crucial for any economy. It helps to keep the population healthy, which is crucial for well-being and functioning of a robust economy. Flawed public procurement processes and the ensuing corruption lead to IFFs and divert resources which would otherwise assist health financing. Under-investment in this sector only makes the delivery of health services increasingly difficult as well as more inaccessible. The longer COVID-19 continues to play a significant role in the region, the more will IFFs be siphoned off from corruption-induced public procurement processes. This increases the misallocation of resources, reducing investment in the health sector which has seen repeated failures to meet multiple health targets at the regional level.

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[14] Andrew Wasike (2020, August 21). "Kenya: Crackdown on demo over 'theft' of COVID-19 funds." AA News. https://www.aa.com.tr/en/africa/kenya-crackdown-on-demo-over-theft-of-Covid-19-funds/1949336

[15] Africa News (2021, December 16). "Zimbabwe hit by exodus of health professionals." https://www.africanews.com/2021/12/16/zimbabwe-hit-by-exodus-of-health-professionals//

3.7 Creation and Perpetuation of Extractive Institutions

COVID-19 created fertile ground for collusion, allowing criminality to take place. Often with the knowledge of influential public figures, this has allowed the emergence of fly-by-night companies who position themselves as state-linked tenderers. In some instances, companies without experience in the health sector have procured health-related items and equipment, while many other companies were suddenly created. Quite a number have benefitted from flawed procurement systems. The result has been the procurement of COVID-19 materials at inflated prices. At some point, committees supposed to adjudicate on various bidders have simply been weakened or made powerless to raise concerns, despite knowing the situation and understanding it as a symptom of corruption.

To conclude, if hemorrhaging of resources continues in SSA through well-orchestrated corruption schemes, the region will continuously fail to meet SDGs and health care in particular will remain inadequate. Given the centrality of health to the well-being of people, problems created in the health sector mentioned earlier have a knock-on effect to other sectors in the national economy.

4. Conditions That Enable Public Procurement-Induced Corruption in Sub-Saharan Africa

The words quoted above from Kenyan activist Wanjeri Nderu - ‘Theft doesn’t even stop during a pandemic’) - speak volumes about not only the situation in Kenya but in most countries in SSA.

Protests such as those of Wanjeri Nderu and others have erupted across many parts of SSA. Protestors largely voiced their concerns about corruption which marred COVID-19 programs, resulting in many health facilities failing to have basic essentials necessary to deal with the pandemic. In general, COVID-19 has laid bare the disparities in health systems across regions. The health emergency has led to shortcuts in public procurement increasing corruption risks, adding fuel to the fire of the protests. In most cases, protests were or are still being met with heavy-handedness by governments. For example, about a dozen protestors were arrested in Kenya for protesting against allegations of the misuse of PPEs, hospital equipment, and donated funds.[16]

In the following section we give a detailed account of the various enablers of this persistent problem in SSA. We will demonstrate that most of these enablers have a strong link to the conditions created by COVID-19.

4.1 Weak Parliamentary Oversight

Parliament is a critical institution in modern economies. Agora, a platform for parliamentary development, indicates that parliament is a key institution in any country and performs three main roles: (i) representing citizens; (ii) making laws; and (iii) overseeing the government.[17] The third role is fundamental in ensuring that the government is held accountable by the people. Examples of a parliament undertaking appropriate oversight include inquiries and hearings into the operations of government. Parliaments in SSA are often weak in establishing oversight and fail to hold governments accountable. This has resulted in public procurement being a convenient playing field for grand corruption schemes.

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[16] Andrew Wasike (2020, August 21). “Kenya: Crackdown on demo over 'theft' of COVID-19 funds.” AA News. https://www.aa.com.tr/en/africa/kenya-crackdown-on-demo-over-theft-of-Covid-19-funds/1949336

[17] Agora (n.d.). “Parliamentary Function of Lawmaking.” Portal for Parliamentary Development. https://www.agora-parl.org/resources/aoe/parliamentary-function-lawmaking

Parliaments ideally should have the power to query certain procedures, processes, and deals that governments can embark on. This is possible since legislators can move motions to query. However, the tendency has been for parliamentarians to be polarized along partisan lines with each party standing for its ideologies and at times overlooking productive debate on critical issues. In a recent workshop organized by Africa Parliaments' Network Against Corruption (APNAC) in Zimbabwe, one parliamentarian raised concern about parliamentarians' lack of oversight and "…remaining mum and failing to query tenders and questionable characters coming in as investors." Furthermore, the legislator expressed concern about how legislators are letting the nation down.[18]

4.2 Stifling of Civil Liberties

Civil liberties are important for any democracy. Through them, the public is able to take the government to task on various issues, requiring it to show that its actions are consistent with the liberties of its citizens. Strong and robust civil liberties are a powerful cornerstone of a democratic state.

In large parts of SSA, civil liberties are costly to exercise. For instance, genuine and peaceful protests are often met with heavy-handed government repression. As a response, instead of taking protests to the streets, activists, as well as investigative journalists and people in general, have made use of various digital platforms to raise concerns about corruption. Digital platforms have proven to be safer spaces to seek refuge from the oppressive state apparatus which is often unleashed on defenseless protestors. At times, however, digital spaces are muzzled in the form of countrywide internet blackouts, weakening citizen activism.

COVID-19 made it easier for governments in most SSA to account properly for public funds. In most countries, citizens always find it difficult to demand accountability in any form. So protests, no matter how well-supported and well-organised they might be, are mostly met with heavy handedness. In some instances, protestors may be labeled as opponents of the state and once they are labeled as such, they are persecuted and can even face incarceration, sending a clear signal to other would-be protestors. COVID-19 response measures such as hard lockdowns have been the order of the day in SSA. The response measures have been used to consolidate authoritarian rules in which incumbents get away with ills such as corruption in public procurement with no fear of being held accountable. The stringent measures simply meant that even if people wanted to protest against clear cases of abuse of public funds, government would respond with brutality, thereby avoiding accountability and creating a conducive atmosphere for IFFs to go undetected.

4.3 Incessant Conflicts in Sub-Saharan Africa

SSA is riddled with conflicts of one form or another. During the 1970s, SSA was known to have experienced a decade of coups. Since then, a modicum of peace and stability has been enjoyed with a few pockets of instability here and there still witnessed in the region. Sadly, however, conflict is slowly resurfacing in the region. For example, Mali has been through three coups since 2012 and Ethiopia is currently at war with rebels in the Tigray. This is a direct result of what is known as hybrid threats, where different types of coercive and subversive activities are used by state or non-state actors to achieve specific objectives below the threshold of a formally declared war (Faleg and Kovalčiková, 2021).

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[18] Quoted from Leopold Munhende (2022, June 20). "'Shame on you,' Mliswa says in scathing attack on fellow legislators' poor record in fighting corruption." New Zimbabwe. https://www.newzimbabwe.com/shame-on-you-mliswa-says-in-scathing-attack-on-fellow-legislators-poor-record-in-fighting-corruption/

This is tantamount to subverting the will of the people, and it has become a growing phenomenon in SSA. The net effect is to create powerful undemocratic regimes that usually prey on their people. So how can conflict be an enabler in SSA? In general, conflict is used to undermine key institutions. This has the twin effect of perpetuating existing predatory institutions or creating new institutions which only help to prop up undemocratic regimes.

Besides accountability challenges, the resulting institutions also have a tendency to apply justice selectively. An Afro Barometer (2023) survey in Angola found 62% of Angolans feared reporting corruption in 2022. In 2019, the figure was 54%. Thus Angolans were of the view that the ostensible fight against corruption was in reality a tool to settle scores against opponents, using the compromised and weak institutions.[19]

The enablers we covered above have been in existence for a long time. The emergence of COVID-19 has strengthened these factors, thereby facilitating corruption.

5. Combating Illicit Financial Flows caused by Rampant Corruption in Public Procurement in Sub-Saharan Africa

How best then can SSA curtail IFFs caused by corruption in public procurement? We briefly discuss the main ways of dealing with this problem.

5.1 Government Commitment

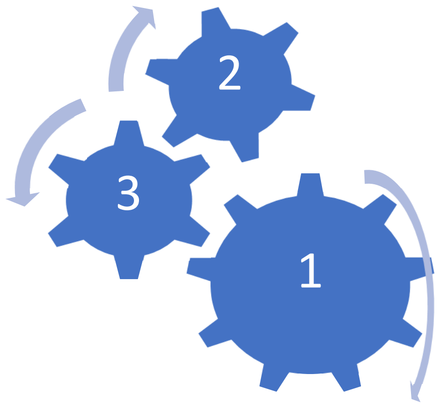
Government is key to decisively dealing with corruption linked to public procurement. In an earlier section of the paper, we showed the role government can play in exacerbating this problem. Once corruption linked to public procurement takes shape and its ecosystem grows, a lethal network is created among the following stakeholders:

1. Influential public officials.
2. Influential state institutions.
3. Individuals linked to influential public officials.
4. Private institutions linked to influential state institutions.

The above prominent actors in corruption-related public procurement can be depicted together as a simple 3-Gear Corruption Model shown below.

[19]Carlos Pacatolo and David Boio.(2023, April 17). "AD631: Angolans see growing corruption, government failure to contain it." Afrobarometer. https://www.afrobarometer.org/publication/ad631-angolans-see-growing-corruption-government-failure-to-contain-it/

Fig. 2. 3-Gear Corruption Model



Source: Author

The model depicts the relationships which are created between the main corruption actors. The two smaller gears (2 & 3), showing individuals and private institutions, are equal in size to signify that they exert similar external influences. On the other hand, the bigger gear (1) consists of two closely-interrelated actors, i.e. public officials and state-linked institutions. We present them on a single gear to show that work on decisively dealing with the scourge of corruption in public procurement rests largely on these actors. For the bigger gear to move, it requires the support of the small gears as shown. Also, the small gears cannot have any effect alone; they need the support of the bigger gear. If the bigger gear stalls, the machine will likely fail to move forward.

The model shows how public institutions and officials (actors 1 and 2) are centerpieces in the fight against corruption linked to public procurement. The size of the bigger gear shows the immense responsibility lying on these actors in curtailing corruption. The smaller gears are not difficult to align once the bigger gear is properly aligned. Currently, for most of SSA, the gears are tightly interlocked, building a special corruption relationship that propels corruption through public procurement that it is very difficult to unlock. These relationships have been further cemented in a number of countries during the peak of the COVID-19 pandemic as proper procedures were often bypassed in the name of dealing with the health emergency.

Government should show commitment through a range of initiatives including awareness campaigns, imposing harsher sentences on offenders, and walking the talk on corruption. In countries such as Zimbabwe, the phrase 'Catch and Release' has become common parlance in different media platforms and also among the general populace. In most cases, it is used to refer to the government's lackluster stance towards corruption among influential people. It is quite common to see certain influential people who may be accused of corruption apprehended and all of a sudden set free, with their cases never heard of again even when evidence is overwhelming. In most cases, for most SSA, the public has little trust in government's commitment to decisively deal with the scourge of corruption.

5.2 Protection and Strengthening of Civil Liberties

Civil liberties as we have explored earlier are crucial markers of any democracy. SSA states need to ensure that civil liberties are strongly promoted and protected. In part due to worsening COVID-19 conditions, civil liberties have been greatly diminished in most SSA states. Democracy and human rights have suffered as the pandemic has often been used as an excuse to limit or abolish rights, hidden behind a smokescreen of concerns over procedures such as public procurement. Transparency International (2022) observes that COVID-19 has made it easier for countries in SSA to silence freedoms. Besides this, it has allowed these countries to be in a position to actually by-pass important checks and balances, fueling IFFs in the process. For SSA, COVID-19 has allowed consolidation of powers by authoritarian regimes further coupling Gears 1, 2, and 3 to propel corruption forward. Experience with most SSA countries is that these types of regimes are most closely related to the gears (Figure 2) we highlighted in the previous section.

Table 4 shows selected countries from SSA and their Corruption Perception Index (CPI) rankings for 2021 (the higher the number the more the country is perceived as corrupt).

Tab. 4. CPI rankings of Selected SSA Countries

Country	Nigeria	Kenya	DRC	Angola	Cameroon	Zimbabwe	Burundi
Score /180	154	128	169	136	144	157	169

Source: Own Compilation from Transparency International (2022)

This table displays the prevalence of perceived corruption in a number of countries in SSA. These states demonstrably scored poorly on civil liberties. Transparency International presents CPI rankings as a viable measure of corruption by states. In addition, Transparency International (2022) further shows that countries which normally score well in CPI rankings are those that respect human rights; those that fail to respect human rights generally have low CPI rankings.

5.3 Public Procurement Reforms- The Need to Embrace Technologies

Public procurement systems of most SSA countries remain vulnerable. Quite a significant number of countries in the region continue to rely on systems prone to high-risk human interference. Adoption of electronic procurement systems is a holy grail to move these countries away from the porous systems which fuel corruption and IFFs. The electronic systems’ ability to modernize procedures would be the start of a clean system that could go a long way towards uncouplling the gears in Figure 2.

In a feature story for the World Bank, Dinka and Mugambi (2018) present a clear example about the use of technology in procurement so as to enhance transparency that a number of SSA countries can learn from. Rwanda is one country in Africa which is gradually changing its approach. It is making a lot of strides towards economic progress which has made it an envy of other states. Transparency International (2022) shows that Rwanda’s CPI score in 2022 was 51/100, up from 49/100 in 2014.[20] By becoming the first African country to embrace electronic procurement, the country’s statement of intent on corruption is loud and clear. Whilst the e-system itself is difficult and costly to put in place, the long-run benefits heavily outweigh the costs. Advantages include reduction in fraud, corruption, and reduction of personal contact among bidders.

5.4 Protection of Whistleblowers

Whistle blowing in SSA countries is not for the faint-hearted. Often, even if platforms to report corruption exist, the challenge is that there is normally a price to pay for reporting it. There are a number of risks involved including violence and death. It is even more difficult in situations where there is a strong criminal relationship among the three gears 1, 2, 3 which may be difficult to disengage. For example, powerful private institutions and individuals (found in Gears 2 and 3) are actually able to exert strong influence on the functioning of Gear 1. This makes most

[20] A score of 100 is considered cleanest by Transparency International, whereas a score of 0 indicates that a country is highly corrupt.

individuals avoid reporting corruption for fear of retaliation from public and/or private power. Even journalists are not spared punishment for reporting and exposing corruption in public procurement. At times, journalists are arrested for exposing corruption issues and accused of abusing ‘press freedom’. The role of the government to ensure the protection of whistleblowers is therefore crucial to making progress on reducing corruption. As the main gear, the government has a leading role to ensure this protection.

The majority of countries in SSA have weak frameworks for protection of whistleblowers. This leaves whistleblowers exposed. Even countries in the region such as Mauritius which have done fairly well in dealing with corruption still have no comprehensive legislation to protect whistleblowers (Chelin, 2022).

An October 2020 Mauritian case of Soopromanien Kistnen is well known in the island country. Kistnen was about to present evidence about fake bidding in procurement for COVID-19 materials among other related cases when his burnt body was found in a cane field in Moka.[21] In December 2020 Pravin Kanakiah, who had been a procurement officer in the Ministry of Finance, was found dead under unclear circumstances. He was about to make revelations regarding malpractices in the Ministry.[22]

Whistleblowers have an important role in curtailing public procurement corruption where it exists, and they must be ensured protection. This will reduce the collusion of actors in Gear 1, 2 and 3 Once protection is guaranteed upon whistleblowing, people are generally encouraged to come forward and report cases of corruption.

5.5 Institutional Capacity Building and Development

The role of strong institutions in fighting corruption linked to public procurement and corruption in general is important. Much work rests on building efficient institutions as well as astute public office bearers (gear 1) whom the public trusts when it comes to dealing with issues like corruption. Government can help in designing and sustaining these institutions so that they operate efficiently. We have seen earlier the positive and bold steps taken by Rwanda in engaging the World Bank for its electronic procurement system. In the first phase of its inception, the program cost Rwanda USD7 million. This is a significant expense for a SSA country, but in the long-run the benefits justified the expenditure.

6. Conclusion

The above essay has shown the importance of rampant corruption in public procurement in SSA which feeds into IFFs. We explored how the advent of COVID-19, which resulted in emergency interventions by governments throughout the world, has actually exacerbated corruption in most of SSA. The acceleration of corruption in public procurement has taken various forms from price inflation of medical materials to violation of tender procedures. Thus, the COVID-19 health emergency has created a ‘pandemic in a pandemic’ situation for SSA. Factors such as weak oversight and conflict among others in this region have acted as enablers for corruption-induced public procurement, either directly and/or indirectly.

There is plenty of scope for curtailing corruption in SSA. It is most important that the solutions to this problem be grounded on an appreciation of the real problem, what it has done/is doing to the region, and what continuously perpetuates it. This essay has shown that

[21]Lexpress.mu. (2023, June 11). “Kistnen case: the investigation into oblivion?” https://lexpress.mu/article/423481/affaire-kistnen-lenquete-aux-oubliettes

[22] Carole Grimaud. (2020, December 20). “Death of Pravin Kanakiah: Too many grey areas to conclude suicide.” Lexpress.mu. https://lexpress.mu/article/386660/mort-pravin-kanakiah-trop-zones-dombre-pour-deja-conclure-au-suicide

the solution to the problem of corruption linked to public procurement lies mainly in the three gears shown in Figure 2. The main problem is that the gears are interlocked and must be disengaged. The paper looked at some of the critical measures to help address this problem. Public procurement reforms, asset recovery, and the protection of whistleblowers are some essential immediate interventions required. Finally, above all, government commitment is an integral component of the intervention matrix.

Acknowledgements
The author is an independent researcher currently studying for a PhD in Economics at the University of Mauritius. The views expressed in the paper do not necessarily reflect those of the University of Mauritius. The author received no financial support during the authorship of this article. There are no potential conflicts of interest with respect to the research, authorship and/or publication of this article.

References

Acemoglu, D., and Robinson, J. A. (2012). *Why Nations Fail: The Origins of Power, Prosperity and Poverty.* Crown Publishers.

Asare, T., Kane, A., Leautier, F., & Majoni, S. (n.d.). *Trends in Public Procurement in Africa: Challenges and Opportunities of Capacity Building Interventions.* Power Point Presentation. https://docplayer.net/50368850-Trends-in-public-procurement-in-africa-opportunities-and-challenges-of-capacity-building-interventions.html

BBC News (2021). *Coronavirus update in Ghana: Why Ghana govment buy unit cost of Sputnik vaccine for $19 instead $10 global factory price.* https://www.bbc.com/pidgin/tori-57432831

BBC News (2015). *Kenyan officials charged over Anglo leasing scandal*. https://www.bbc.com/news/world-africa-31733052

Chelin, R. (2022). *How can people be expected to expose corruption and other crimes if they aren't protected?* Institute for Security Studies. https://issafrica.org/iss-today/mauritius-case-a-reminder-that-africa-must-shield-its-whistleblowers

Collier, Paul. (2007). *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It*. Oxford University Press.

Dinka, M., and Migambi, R. (2018). *How Rwanda became the first African country with an electronic procurement system.* World Bank. https://medium.com/world-of-opportunity/how-rwanda-became-the-first-african-country-with-an-electronic-procurement-system-61f40fdb23b8#:~

Faleg, G., & Kovalčiková, N. (2022). *Rising Hybrid Threats in Africa: Challenges and implications for the EU.* European Union Institute for Security Studies. https://www.iss.europa.eu/content/rising-hybrid-threats-africa

Global Fund Investigation Report (2014). https://www.theglobalfund.org/media/2613/oig_gf-oig-14-020_report_en.pdf

HIV Modelling Consortium. (2020). Potential effects of disruption to HIV programs in sub-Saharan Africa caused by COVID-19: results from multiple mathematical models. *The Lancet HIV,* 7(9), EG29-EG40. https://doi.org/10.1016/S2352-3018(20)30211-3

International Monetary Fund (2023). The IMF and the Fight Against Illicit Financial Flows. https://www.imf.org/en/About/Factsheets/Sheets/2023/Fight-against-illicit-financial-flows

Mahler, D.G., Lakner, C., Aguilar, R. A. C., & Wu, H. (2020). *The impact of COVID-19 (Coronavirus) on global poverty: Why Sub-Saharan Africa might be the region hardest hit.* World Bank Blogs. https://blogs.worldbank.org/opendata/impact-Covid-19-coronavirus-global-poverty-why-sub-saharan-africa-might-be-region-hardest

Mahuni, Kenneth. Taru, Josiah. & Bonga, Wellington Garikayi.(2020). *Africa's Incomplete Cycles of Development*. Peter Lang Publishers.

Transparency International (2021).*Turbulence, Deep-seated Corruption Exacerbates Threats to Freedoms*. https://www.transparency.org/en/news/cpi-2021-sub-saharan-africa-amid-democratic-turbulence-deep-seated-corruption

UNCTAD (2020). *Africa could gain $89 billion annually by curbing illicit financial flows.* https:// //unctad.org/news/africa-could-gain-89-billion-annually-curbing-illicit-financial-flows

UNODC. (n.d.). *Covid-19 Vaccines and Corruption Risks: Preventing Corruption in the Manufacture, Allocation and Distribution of Vaccines.* United Nations Office on Drugs and Crime. https://www.unodc.org/documents/corruption/COVID-19/Policy_paper_on_COVID-19_vaccines_and_corruption_risks.pdf

Uromi, S (2014). Challenges facing public procurement information in some African countries namely: South Africa, Uganda, Zimbabwe and Tanzania. *International Journal for Innovation Education and Research*, 2(7), 54-60. https://doi.org/10.31686/ijier.vol2.iss7.208

VOA News (2021). *Cameroon Investigates Missing $335 Million in COVID Funds.* https://www.voanews.com/a/africa_cameroon-investigates-missing-335-million-covid-funds/6206445.html

WHO.(2010).*The Abuja declaration: ten years on.* World Health Organization. https://apps.who.int/iris/handle/10665/341162

Wikipedia (2023). *Corruption in Mauritius.* https://www.wiki3.en-us.nina.az/Corruption_in_Mauritius.html

World Bank Blogs (2021). *How livelihoods deteriorated in Sub-Saharan Africa due to COVID-19.* https://blogs.worldbank.org/africacan/how-livelihoods-deteriorated-sub-saharan-africa-due-Covid-19

World Bank (2023). GDP (current US$)-Sub Saharan Africa. https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZG

World Population Review (2023). *Sub-Saharan Africa Population 2023.*

https://worldpopulationreview.com/continents/sub--Saharan-africa-population

e-ISSN 2690-3458 ISSN 2690-3431

JOURNAL OF ACADEMICS STAND AGAINST POVERTY

Volume 3, Issue 1, 2023: pages 17-36

Research Paper

Oil Wealth and Illicit Financial Flows in Nigeria's Petroleum Sector

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Abstract: It is quite phenomenon that natural resources of most developing nations today have become a driving force for sustained poverty, armed conflict, and illicit financial flows (IFFs). Against this background, this paper presents a detailed analysis of this phenomenon and seeks to assess the intersection between natural resources and illicit capital outflows with Nigeria's oil economy acting as a dominant theme of discussion. Despite being the richest oil-producing country, with other abundant natural resources in Africa, the paradox remains that Nigeria operates a weak mono-economy with many of its citizens living in abject poverty. This paper reveals that Nigeria's oil and gas sector is a landmark for money laundering, corruption, tax evasion, and oil spills which prevents the nation from achieving the 2030 sustainable development goals. This problem is due to enthroned corruption by Nigerian public officials, weak institutions, non-policy implementation, corrupt tax agencies, and noncompliance with petroleum laws. The study recommends that the international communities should achieve a collective reform on transfer pricing policies, while the Nigerian government should achieve a transparent mechanism for disclosing beneficial ownership and as well digitalized anti-money laundering activity.

Keywords:

1. Paradox of Plenty
2. IFFs
3. Oil theft
4. Crude oil
5. Nigeria

2023 Journal ASAP

DOI: 10.5281/zenodo.8167750

Received 27 February 2023
Revised 10 June 2023
Accepted 15 July 2023
Available online 20 July 2023

1. Introduction

As far back as 1981, the Indian Nobel laureate, Amartya Sen – in his essay titled: "Poverty and Famine," – proposed that people died not because there are limited food supplies, but because they lack entitlements to such food supplies (Amartya, 1981). This encapsulates the ongoing quagmire that has beclouded resource-dependent countries, like Nigeria, where only a few enjoys the benefits of natural resources at the expense of many. The popular "liquid black gold," formally known as crude oil, is one major resource that has been enjoyed by "a few" at the expense of others, and has been encroached upon by pervasive political corruption, illegal bunkering, armed conflict and internal violence, extreme poverty, and gross human deprivations in Nigeria. Although statistics from the UNECA High-Level Panel on Illicit Financial Flows indicate that crude oil, among other natural resources, contributes greatly to Nigeria's gross domestic product (GDP) – which has almost tripled to $490.857 billion, (African Union/Economic Commission for Africa, 2011, p17); a larger portion of the money has been laundered and stashed away in foreign banks. Crude oil theft alone amounts to US$6bn annually, representing 10% of IFFs in Africa (Porter and Anderson, 2021). This exposes the nation to "macro-critical risks of economic instability, exacerbating their often-high vulnerability to chronic poverty, fragility and episodic conflict" (Porter and Anderson, 2021, p. 3).

Global Financial Integrity (GFI, 2019) in a Twitter report, published that Nigeria has lost a total of $217 billion to IFFs between 1970 and 2018[1] – and 92.9% of this loss was linked to fraudulent practices in the nation's oil and gas industry (Ibid). Foul play on business transactions by multinationals such as tax evasion and transfer pricing, unhealthy tax holidays, duty waivers, and mis-invoicing, account for 60% of IFFs in the oil sector, while 5% are driven by bribery and corruption (Porter and Anderson, 2021, p. 11).

These stolen funds are way higher than Nigeria's net official development assistance and official aid received, according to the World Bank Official report (2022)[2]. In a study carried out by the Organization for Economic Co-operation and Development (OECD, 2014), the extractive sectors (particularly oil and gas) are the most vulnerable to foreign bribery. A lot more could go wrong if we look on with hands akimbo. Hence, vibrant measures should be taken at the international and national levels to intercept gross illicit capital outflows in Nigeria's oil and gas sector. This essay presents detailed information on the theme of the topic. The content of the paper covers a conceptual framework, the evolution of oil crime and perpetrators in Nigeria, the magnitude and estimates of financial losses, selected root causes, consequential impacts, and possible reforms.

2. The Paradox of Plenty: Understanding the Concept

It has become an aging phenomenon that many countries of the world, bestowed with abundant natural resources such as oil, minerals, diamonds, and timber, are torn between high-level of corruption and violent conflict. International scholars defined this problem as a resource curse – a situation where countries with abundant natural resources grow slower than expected considering their resource wealth, and, in many cases, grow slower than resource-scarce countries (African Development Bank, 2007, p. 97).

Scholars categorized this form of resource curse into two theory models: The first model was developed by Van Wijnbergen in 1984. In this model, Moti (2019, p. 486) explained that "when a country discovers oil, its population wants to spend part of the value of this as consumption of non-traded goods. Demand for these increases, pulling resources out of traded sectors, and decreasing production here." He states that "decreased traded sector, in turn, means less learning by doing, and lower productivity growth than would otherwise be the case. This effect

[1] Global Financial Integrity (2019). A Twitter post on crude oil theft in Nigeria. Retrieved from https://twitter.com/illicitflows/status/1101493643968421888?lang=bg

[2] World Bank (2022). Net official development assistance and official aid received (current US$). Retrieved from https://data.worldbank.org/indicator/DT.ODA.ALLD.CD

may be sufficiently strong to outweigh the initial increase in income that the oil discovery generated" (Moti, 2019, p. 486).

The second model, common with today's state officials and power influencers, consists of rent-seeking, bribery, and corruption. To gain favor from the government, oil moguls and multinational petroleum companies offer huge bribes to government officials to win contracts and licenses from the government officials; and to avoid petroleum tax fees and loyalties. Government officials, on the other hand, masquerade behind these lobbyists – in form of anonymous beneficial ownership – to launder oil revenues. This undermines social-economic development and fuel internal violence and armed conflicts. Countries like Angola, Sudan, Gabon, Equatorial Guinea, Sierra Leone, Liberia, Nigeria, and several others, have endured hardships brought on by the presence of highly sought-after raw materials, notably oil and precious gemstones (Mbabazi, 2009).

2.1 Oil Theft

According to the United Nations on Drugs and Crime (UNODC, 2009) and the London School of Economics[3], oil theft, which could also be referred to as "illegal crude oil bunkering," is seen as the practice of stealing and trafficking oil not only in Nigeria but across the West African countries and the world at large. In Anyio's article (2015, p. 54), "oil theft is an unauthorized carting away or stealing of petroleum products by individuals, organized gangs and other vested interests for personal aggrandizement to the detriment of the entire society." In a more complex world, oil theft has grown largely at the international level.

Ikegbe (2005, p. 221) opined that:

> There is a large-scale illegal local and international trading of crude oil. This has grown from a few amateurs in the 1980s who utilized crude methods to extract crude from pipelines to a very sophisticated industry that uses advanced technologies to tap crude and sophisticated communications equipment to navigate through the maze of hundreds of creeks, rivers, and rivulets. The oil theft syndicates have also graduated from boats and barges to ships and large oil tankers on the high seas. The stealing and smuggling of crude have become very extensive and large-scale since the late 1990s.

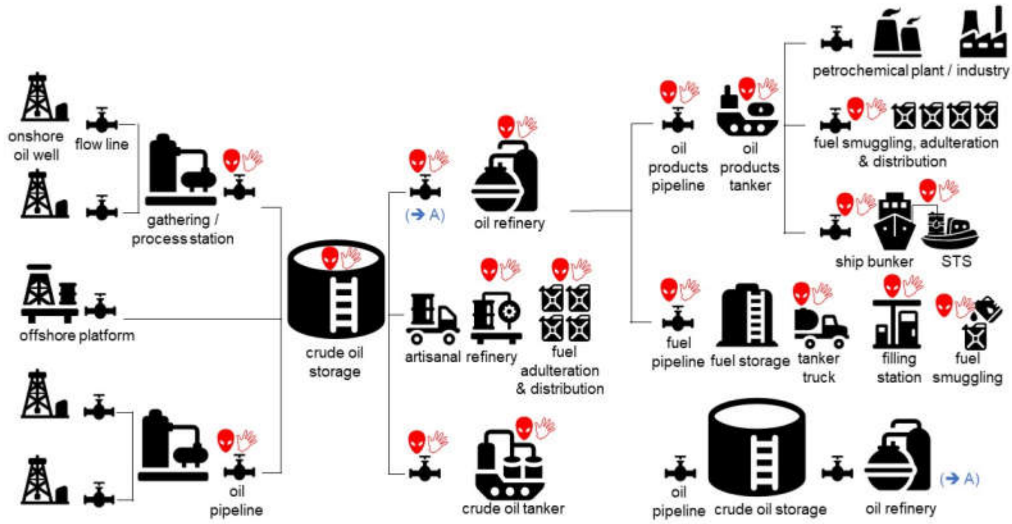
Anyio (2015) buttressed that oil theft involves three stages which include:

- Minor and small-scale pilfering of condensate and petroleum products destined for the local market.
- Direct hacking into pipelines or tapping with a hose from the oil wellhead.
- Excess lifting of crude oil beyond the licensed amount, using forged bills of lading.

Etienne wrote in the United Nations Wider Working Paper (2022) that "Oil theft regularly occurs across the supply chain, from the gathering station, crude oil pipeline, oil storage facility, and oil bunkering station, during crude oil tanker loading, during illegal ship-to-ship (STS) transfers facilitated by oil tanker crews and owing to violent acts of robbery and piracy at sea," as captured in the below figure.

[3] London School of Economics (November 2, 2015). Curbing Crude Oil Theft. https://blogs.lse.ac.uk/africaatlse/2015/11/02/curbing-crude-oil-theft/

Fig. 1. Stages of Oil Theft in the oil supply chain



Source: Romsom (2022)

Reuters posits that crude oil is being stolen on an industrial scale. Proceeds are laundered through world financial centers and used to buy assets in and outside Nigeria[4]. "The world's biggest cause for worry in oil theft is money laundering which poses financial risks for the centers that facilitate it.[5]" For the purpose of this paper, oil theft is defined as any illegal activity that is associated with the discovery, refining, selling, and usage of oil resources which include vandalism, tax evasion and transfer pricing, illicit export of crude oil, bribery for oil license and contract, and money laundering perpetrated by some politically exposed persons (PEPs).

2.2 Illicit Financial Flows

When dirty money is earned, transferred, or utilized from one country to another, according to Global Financial Integrity (GFI), it is classified as IFFs. This is not to say that the movement of money or funds across borders is illegal in its entirety – it is even imperative for world economic growth – however, it is termed dirty and illegal when the means of earning and utilizing them contravenes national and international laws. Put differently, "these flows of money are in violation of laws in their origin, or during their movement or use, and are therefore considered illicit" (African Union/Economic Commission for Africa, 2011, p. 23).

That is why Baker (2005) argues that if it breaks any law in its origin, movement, or use, then it could be seen as IFFs. In recent times, intellectual efforts have been made to distinguish between IFFs and capital flight. While capital flight is concerned about the outflow or the movement or outflow of capital or assets from one country to another due to poor economic

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[4] Reuters (September 9, 2013). Nigeria's oil is sold and laundered abroad. Retrieved from https://www.reuters.com/article/nigeria-oil-theft/nigerias-stolen-oil-is-sold-and-laundered-abroad-report-idUSL5N0HE2RC20130919

[5] Ibid

events (such as currency depreciation)[6], IFFs – according to the Organization for Economic Co-operation and Development (OCED) – include:

- Funds with a criminal origin, such as the proceeds of crime (including corruption);
- Funds with a criminal destination, such as bribery, terrorist financing, or conflict financing;
- Funds associated with tax evasion;
- Transfers to, by, or for, entities subject to financial sanctions; and
- Transfers that seek to evade anti-money laundering /counter-terrorist financing measures or other legal requirements, (OECD, 2015).

IFFs come in form of abusive transfer pricing, trade mispricing, misinvoicing of services and intangibles, and using unequal contracts to evade taxes, avoidance, and illegal export of foreign exchange (AU/ECA, 2015, p.24). three major stages of IFFs will include **corruption** (i.e., bribery, embezzlement, and money laundering); **criminal activities** (drug trading, human trafficking, racketeering, counterfeiting, oil theft, contraband, and terrorist financing); and **commercial activities** (i.e. transfer pricing, tax evasion, trade mispricing, unequal contracts, beneficial ownership, to mention but a few, [ECA, 2013; AU/ECA/2015]). These stages are not mutually exclusive in the sense that commercial activities such as transfer pricing and tax evasion can be facilitated by corruption in form of bribery and money laundering.

2.3 Oil Boom Narrative: Origin of IFFs in Nigeria's Petroleum Sector

Nigeria – a nation estimated as Africa's biggest economy, with a gross domestic product of $441.54 billion, according to a report released by Statista[7] – found crude oil in 1956 at Oloibiri, Bayelsa State, in the Niger Delta, and joined the ranks of top oil producers in the world, after 50 years of oil exploration by the British colonial government[8]. Within 13 years of oil discovery (1958-1971), the nation had produced over 600 million barrels, with her revenues at $23 million. World Bank (1987, p. 419) highlighted that the global oil price shocks of 1973-74 and 1979 resulted in a large transfer of wealth to Nigeria. "Public expenditure increased greatly, as did the country's access to international capital markets," (World Bank, 1987, p. 419).

Hopes were high in the 1970s. Through a series of new laws and mutual agreements, the Nigerian government remodeled its internal market to attract potential foreign investors. Multinational oil companies – including Shell exploration company, Midwestern Oil, AGIP Energy, and Pan Ocean Oil Corporation, among many others – responded favorably to the new laws and competed to take part in joint venture agreements with the Nigerian government. Private indigenous oil industries were also springing up in great numbers[9]. And by 1975, Nigeria had the fifth largest stock of foreign direct investment in the developing world[10]. Such were the good old days!

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[6] Corporate Finance Institute (February 12, 2021). Capital Flight. https://corporatefinanceinstitute.com/resources/knowledge/economics/capital-flight/

[7] Statisca (May 17, 2022). African countries with the highest gross domestic product IN 2021 (in billion U.S. dollars). Retrieved from https://www.statista.com/statistics/1120999/gdp-of-african-countries-by-country/#:~:text=Nigeria's%20GDP%20amounted%20to%20441.5,2021%2C%20the%20highest%20in%20Africa.

[8] Nairametrics (2013). Development of Nigeria's oil industry. Retrieved from https://nairametrics.com/wp-content/uploads/2013/01/History-of-Oil-and-Gas-in-Nigeria.pdf

[9] Chris Hajzler (n.d.). Nigerian Oil Economy: Development or Dependence. Retrieved from https://artsandscience.usask.ca/economics/resources/pdf/hajler3.htm#_ftn1

[10] World Bank (2022). Foreign direct investment, net inflows (% of GDP) – Nigeria. Retrieved from https://data.worldbank.org/indicator/BX.KLT.DINV.WD.GD.ZS?locations=NG

With the concomitant flow of crude oil and high increase in public revenue, illicit financial flows – in form of exorbitant contracts and allocation of oil licenses for exportation of crude oil, massive embezzlement of funds, bribery collection, pipeline vandalism, and tax evasion – became even more pronounced in the oil and gas industry. A former Nigerian Minister of Petroleum and Energy, Tam David-West, decried that the country had lost over $16 billion (about 20 percent of her oil revenue) during the Second Parliamentary Republic (from 1979-1983) due to fraud, unreasonable contracts, incessant oil theft and other fraudulent practices perpetrated by some staff of the Nigerian National Petroleum Corporation, otherwise known as NNPC. In the same wise, Pius Okigbo, an eminent Nigerian economist, reported that Nigeria lost an oil revenue of $12.2 billion which was siphoned from the Public Treasury Accounts between 1988 and 1994.

These fraudulent acts have been accompanied by tax evasion and illegal drilling/bunkering. Chioma Achinike, a legal luminary in the Brickman Law firm, reported that a multinational oil company, known as Chevron Nigeria Limited, was indicted for tax evasion in 1998 and 1999. It was alleged that the Company, in collaboration with some unscrupulous tax officials at that time, successfully evaded the due tax amount of $2.7 billion, accruable to the federal government. Nigeria is gradually losing its place as the top oil-producing country to Angola.

2.4 Channels of IFFs in Nigeria's Petroleum Industry

The passion for illicit wealth extends along the entire oil supply chain – from oil wells to an export terminal, with reported cases of artisan refining/illegal bunkering, tax evasion, and money laundering. Illegal bunkering – being one of the commonest channels of IFFs in the oil and gas sector –refers to the direct and widespread theft of oil from oil pipelines. The Human Rights Watch classified it as Nigeria's most profitable private business[11], where oil is often stolen from high-pressure pipelines by skilled criminals who weld a tap into the channel and siphon oil to nearby vessels or containers (Robin and Nicholas, 2020, p. 6). These containers or vessels are primarily hidden in small brooks or creeks covered in Mangrove forests and there are little or no proactive efforts to fight off the vandals in the process of tapping crude oil for sales, (Ibid). The stolen crude can currently be sold at around U.S.$15 to $20 per barrel on the spot market. And estimates of the financial loss from bunkering stands between $750 million and $1.5 billion annually[12].

With transfer pricing, on the other hand, oil multinationals can easily dodge petroleum profit taxes and other tax fees. The Tax Justice Network (2022) defines transfer pricing (TP) as a tool employed by multinational corporations to shift profits out of the countries where it genuinely does business and into a tax haven where it has to pay very little or no tax on profit[13]. The abuse of this act has been on the radar of the multinational corporation today and Nigeria is dead vulnerable to this strategy of tax avoidance because it lacks sufficient information from parent companies to understand and arrest transfer pricing crimes and other forms of tax corruption. Oil companies such as Shell International Petroleum, Halliburton, and Chevron in 2003, 2002, and 1999 evaded over $17million, $14 million, and US$710,506,000 in taxes respectively by using a novel design of accounting and tax transactions with a domestic and foreign government (Bakre 2006, p. 16-19).

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[11] Human Rights Watch (2013). Illegal oil bunkering. Retrieved from https://www.hrw.org/reports/2003/nigeria1103/5.htm

[12] Ibid.

[13] Tax Justice Network (2022). What is transfer Pricing? Retrieved from https://taxjustice.net/faq/what-is-transfer-pricing/

In addition, there is a vicious cycle between elected public officials and IFFs in Nigeria's oil and gas sector. Some government officials abuse power by awarding oil licenses and contracts to undeserving private oil companies and hiding under the shadow of anonymous beneficial ownership with the purported aim of collecting humongous bribes and pocketing proceeds from crude oil sales. This was the case of Alison-Madueke, a former petroleum minister, who pocketed over $17 million in gifts from three Nigerian oil moguls in exchange for awarding oil contracts and licenses to them[14].

3. Money Laundering Scheme in Nigeria's Oil Sector: Who is Involved?

3.1 James Ibori (Former Governor of Delta State)

James Ibori is arguably a household name in the history of fraud and oil theft in Nigeria's post-colonial leadership. The former governor of a rich-but-impoverished-oil Delta state was arraigned (in the British Southwick Crown Court, London in 2012) and found guilty of a ten-count charge, which includes money laundering and fraud conspiracy[15]. Ibori, a man who forged his biodata and asset before emerging as the governor of Delta State, looted $250 Million from Delta State's oil revenue, through offshore companies, during his eight-year regime as a governor (Ibid)[16]. Reuters revealed that the ex-convicted Ibori hid some of his assets in the Oando oil company and money passed from the company's accounts to his [Ibori's] Swiss accounts[17]. Among some of the illicit property he acquired, Ibori had six foreign houses worth 6.9 million pounds in the United Kingdom, a fleet of luxury cars including a Bentley, a Maybach 62, and a fleet of ranger rovers worth over $700,000, and that he had tried to purchase a $20-million private jet before he was apprehended by the security operatives[18]. He also traveled around the globe, frolicking in the most expensive hotels, and spending lavishly in luxury stores along with his sister, whereas his oil-rich state was wallowing in abject poverty[19].

3.2 Dan Etete and the Malabu Scandal

The Malabu oil scandal, a company controlled by a former Petroleum Minister, Dan Etete, was reportedly involved in an oil money scandal with the British-Dutch Shell and the Italian Eni oil and Gas companies. According to the Global Witness Report (2017, p.2), the Malabu scandal was involved the transfer of about $1.1 billion bride through the Shell and Eni companies to accounts controlled by Dan Etete to win licenses to explore oil and gas in Block OPL 246, one of Nigeria's richest blocks. From accounts controlled by Etete, about half the bride's money (roughly $520 million) went to accounts of companies controlled by Aliu Abubakar, owner of AA Oil Limited. The proceeds from this bride were used to purchase three properties in Maitama, two in central area Abuja, three properties in Lagos in Ikoyi, Lekki, and Victoria Garden City VGC, and a commercial Property Shopping Mall in Dubai, and a residential property also in Dubai,

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[14] Sahara Reporters (October 12, 2021). Malabu Oil Scam: Group Exposes Ploy By Corrupt Officials To Cover Dirty Tracks, Blackmail HEDA Boss, Suraju. Retrieved from https://saharareporters.com/2021/10/12/malabu-oil-scam-group-exposes-ploy-corrupt-officials-cover-dirty-tracks-blackmail-heda

[15] Aljazeera (February 28, 2012). Ex-Nigerian governor pleads guilty of graft. Retrieved from https://www.aljazeera.com/news/2012/2/28/ex-nigerian-governor-pleads-guilty-of-graft

[16] Ibid

[17] Reuters (September 16, 2013). Jailed ex-governor hid assets in Nigeria's Oando: British prosecutor. Retrieved from https://www.reuters.com/article/us-britain-nigeria-ibori-idUSBRE98F0KT20130916

[18] Ibid

[19] Ibid

United Arab Emirates[20]. Global Witness (2017, p.2) estimates that the extent of this illicit deal roughly cost the people of Nigeria a sum as high as its public health expenditure in 2017.

3.3 Diezani Alison-Madueke (Former Petroleum Minister)

In 2014, the Department of Justice in the United States lodged a formal report that two Nigerian business moguls, namely Kowale Aluko and Jide Omokore, alongside others, paid bribes to Diezani who oversaw Nigeria's owned oil company[21]. The proceeds of these illicit oil contracts, according to the Department of Justice, were laundered in the U.S. and used to purchase exotic assets including a $50 million condominium which is in one of Manhattan's most expensive buildings (in 157. 57th street) and an expensive Galactica Star superyacht which cost about $80 million[22]. In a further statement released by Abdulrasheed Bawa, the chairman of Economic Financial Crime Control (EFCC – is a government regulatory agency that scrutinizes financial crimes such as money laundering in Nigeria), the EFCC recovered $150 million in cash and over 80 properties worth $80 million from Diezani's possession[23].

3.4 Olajide Omokore (Nigerian Oil Mogul)

Jide Omokore, the chairman of Energy Brass Development Limited, who sidelined Diezani in perpetrating crude oil fraud, was also penalized by the law. Gatherings from EFCC revealed that Omokore, alongside Victor Briggs, Abiye Membere, and David Mbanefo, were involved in the criminal diversion of about $1.6 billion, which was traced as proceeds of petroleum products belonging to the federal government, (EFCC, 2018). This led to the subsequent confiscation of his properties including the $80 million Galactica Star Yacht which he owns jointly with his business partner, Aluko Kowale, (Ibid).

3.5 Farouk Lawan (A former Nigerian Lawmaker)

A Nigerian lawmaker who is currently keeping his cools in the Nigerian prison was involved in a fraud conspiracy and bribery corruption. In an allegation, which was later proved in Nigeria's Court of Appeal, Farouk Lawan demanded and collected bribe cash of $500,000 from a billionaire oil magnate, known as Femi Otedola, to exonerate his (Femi) oil firm from the fuel subsidy scam list that happened in 2011[24]. The 2012 fuel subsidy is a fact that struck the Nigerian historical annals. In a report of the 2011 "fuel subsidy", seven of Nigeria's oil companies were reported to have manufactured fictional or fake oil vessels – with phantom petrol – which, in their false claims, traveled across seas and oceans of the world with Nigeria being the final destination of the "product." As a reward for supplying the phantom petrol product to Nigeria, the seven companies involved pocketed a huge sum of N13 billion naira (approximately $31

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[20] Sahara Reporters (February 7, 2022). Malabu Fraud: Nigeria's Ex-Petroleum Minister, Dan Etete's Ally Admits Receiving $400million As Consultancy Fee. Retrieved from https://saharareporters.com/2022/02/07/malabu-fraud-nigeria%E2%80%99s-ex-petroleum-minister-dan-etetes-ally-admits-receiving-400million

[21] The United States Department of Justice (July 14, 2017). Department of Justice Seeks to Recover Over $100 Million Obtained From Corruption in the Nigerian Oil Industry. Retrieved from https://www.justice.gov/opa/pr/department-justice-seeks-recover-over-100-million-obtained-corruption-nigerian-oil-industry

[22] Ibid

[23] The Guardian Newspaper (May 12, 2021). We recovered $153 million, 80 houses from Diezani, says EFCC boss. Retrieved from https://guardian.ng/news/we-recovered-153-million-80-houses-from-diezani-says-efcc-boss/

[24] BBC (February 1, 2013). Nigerian Farouk Lawan charged over $3m fuel scam 'bribe' retrieved from https://www.bbc.com/news/world-africa-21294154

million) from the fuel subsidy payments[25]. While another category of other oil companies, who were also part of this scandal, pocketed about N21 billion naira ($50 million)[26]. In response to this fraud, the Nigerian authority set up an investigative committee, which Farouk Lawan was part of, to investigate and identify oil companies involved in such illicit acts. Farouk's greed for money, however, pushed him into bribery collection – as shown in the evidence (video camera) presented in the law court – where he was captured collecting a monetary offer of $500,000 from Femi Otedola[27].

4. Magnitudes and Estimates

It is difficult to estimate the magnitude of IFFs, considering their complex and hidden nature, especially in the extractive industry (i.e., oil and gas). However, concrete research and findings to track illicit financial transactions have been made over the years. A study carried out by the Nigeria Extractive Industries Transparency Initiative (NEITI, 2019), shows that crude oil and refined product (about 505 million barrels of oil), valued at about $41.9 billion, were stolen from Nigeria between 2008 and 2018 – a breakdown of this $41.9 billion includes $38.5 billion on crude theft alone (e.g., artisan refining and vandalism), $1.6 billion on domestic crude and another $1.8 billion on refined petroleum products. This is the size of Nigeria's entire foreign reserve and about 5% of the nation's entire budget by estimates, according to NEITI.

Estimates from "Africa's High-level Panel on Illicit Financial Flows revealed that Nigeria lost over $140 billion to illicit financial flows, between 2000 and 2014 – with crude oil theft and commercial money (tax evasion by oil multinational companies) constituting the largest component of the $140 billion loss, followed by proceeds from corruption and over-invoicing of contract fees, (Bonnie and Oluwaseun, 2017). Oil bunkering – otherwise referred to as pipeline vandalism – accounts for 35 percent of illicit financial flows in Nigeria (Central Bank of Nigeria [CBN] Financial Stability Report, 2014).

Nigeria loses about 400,000 barrels of oil (valued at $40 million) per day to theft. Other estimates produced by private studies have, however, suggested that up to a fifth of Nigeria's daily crude oil production may be lost to theft and vandalism (NEITI, 2019). Oil theft, according to a Reuters report, accounts for $1 billion in losses in the first quarter of 2022. Data from the National Oil Spill Detection and Responsible Agency (NOSDRA) – an agency under the Federal Ministry of Environment in Nigeria – recorded a total number of 4919 oil spills and about 4.5 trillion oil barrels between 2015 and 2021[28], this runs into billions of dollars when estimated. In the figure below, NOSDRA suggests that oil theft and sabotage, asides from other incidents, majorly contribute to oil spill adversity, which affects barrels of oil and the financial stability of the nation.

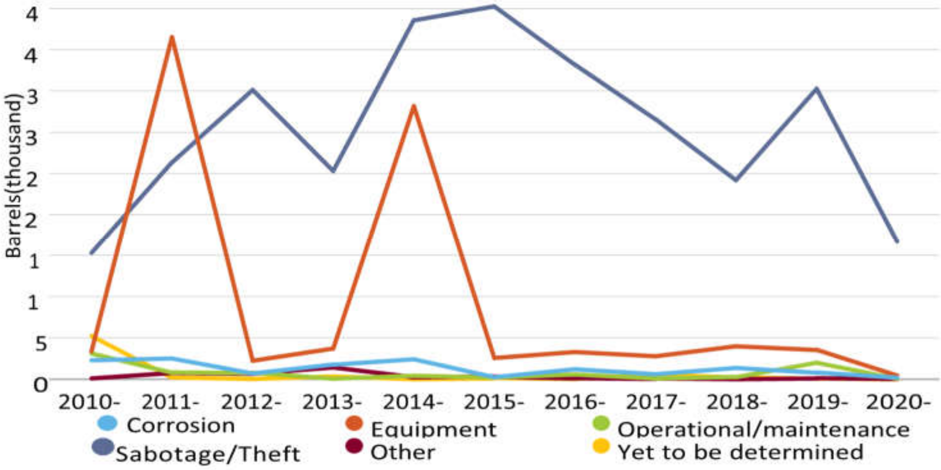
[25] Premium Times (August 16, 2012). EXCLUSIVE: Nigeria's biggest oil fraudsters; the worst subsidy scam ever. Retrieved from https://www.premiumtimesng.com/business/96716-exclusive-nigerias-biggest-oil-fraudsters-the-worst-subsidy-scam-ever.html

[26] Ibid

[27] Premium Times (June 22, 2021). How Farouk Lawan, 'cap banker' was sent to jail for taking $500,000 bribe. Retrieved from https://www.premiumtimesng.com/news/headlines/469425-how-farouk-lawan-cap-banker-was-sent-to-jail-for-taking-500000-bribe.html

[28] NOSDRA (2020). Nigeria Oil Spill Monitor. Nigeria Oil Spill Monitor. Retrieved from https://oilspillmonitor.ng

Fig. 2. NOSDRA oil spill monitor: spill cause, 2010–2020 (barrels)



Source: NOSDRA (2021)[29]

Asides these humongous financial losses, the magnitudes of tax evasion by oil multinationals are quite alarming. Data from NEITI suggested that 77 petroleum industries in Nigeria currently owe over $6.3 billion to the federal government, through evasion of petroleum profit tax, company income tax, education tax, value added tax, withholding tax, royalty, and concession on rentals. According to NEITI, Nigeria lost $1.17 billion between 2009 and 2014 and $1.56 billion between 2014 and 2016, to unreasonable tax exemptions. These financial losses, in Prof. Sagay's voice, can provide: "…635.18 kilometers of roads, 36 ultra-modern hospitals per state, 183 schools, educated 3,974 children from primary to tertiary level at 25.24 million per child, and built 20,042 units of 2-bedroom houses."

5. Consequential Impacts

5.1 Drastic Cut in Government Revenue

Nigeria's federal government will largely depend on oil revenue to provide vital infrastructure and distribute allocation funds/revenues to other tiers of government, since 80% of her revenue, 95% of export receipts, and 90% of foreign exchange earnings come from oil exports (Brookings, 2021). But on the contrary, reckless bunkering and the sheer exploitation of crude oil resources in many of Nigeria's communities today have shrunk revenues, thereby limiting the government's capacity to perform its statutory functions. Data from the Nigeria Natural Resource Charter (NNRC) suggests that Nigeria lost a huge amount of $10.7 billion to oil theft activities between 2015 and 2018 alone. This is not right for a nation faced with a budget deficit of $14 billion (PwC, 2021), a debt loan of $100 million[30], a rising inflation rate that has worsened

[29] NOSDRA (2020). Nigeria Oil Spill Monitor. Nigeria Oil Spill Monitor. Retrieved from https://oilspillmonitor.ng

[30] Debt Management Office Nigeria (2022). Nigeria's total public debt portfolio as at march 31, 2022. https://www.dmo.gov.ng/debt-profile/total-public-debt/3938-nigeria-s-total-public-debt-as-at-march-31-2022/file

prices of food items, a weak purchasing power, and a high unemployment rate that stands at 33.3 percent[31].

5.2 Violence and Internal Strife

In the Niger Delta region where there are about 37 billion barrels (bb) of oil reserves and 168 trillion cubic feet of gas deposits (Omotola, 2009), a group of criminal gang known as "the Avengers" has been on a ceaseless war with the government and oil multinationals. It is believed that this militant group has been on ceaseless war for the Movement for the Emancipation of the Niger Delta (MEND) against environmental degradation and oil exploitation. Aside from blowing up a lot of oil pipelines installed by the government, this militant group kills and abducts oil contractors and security personnel at offshore sites. On 25 April 2019, according to a Reuters report, two Royal Dutch Shell Oil workers, who were returning from an official trip to Balysea state, were kidnapped by the Avengers and their security escorts were killed on the spot[32]. Cases like abductions, ransom demands, killings, security clashes, and bomb blasts at offshore sites are carried out by this terrorist group. A lot of oil companies are shutting down and inhabitants of the affected areas are taking to their heels for safety.

5.3 Environmental and Health Hazards

75% of oil spills in Nigeria are due to theft and sabotage, mostly carried out by militants and organized crime groups, which have become a threat to human existence and other biotic interactions[33]. About 5 – 10% of Nigeria's mangrove ecosystem has been eroded by unregulated oil spillage; the rainforest which covered over 7,400sq.km of land in the Niger Delta region has disappeared as well, (Agunobi, Obienusi, and Onuohia, 2014, p125). The heat from spills does not only kills and destroys mangrove swamps and salt marshes, but equally induces soil degradation and diminishes agricultural productivity. Aquatic lives are gradually going into extinction. When an oil spill occurs near the shore, the water body is invaded by a deadly pungent smell as the air current carries volatile components for a field (Ibid, pg.126). This leaves different species of fish and other sea animals in a very awkward state. The combustion from Oil spills often leads to widespread fires, which release respirable particulate matter (PM) into the air. Hazards to human health may result from dermal contact with soil and water; ingestion of contaminated drinking water, crops, or fish; and inhalation of vaporized chemical substances which can cause skin cancer and lung damage, as well as deformities in children, asthma, bronchitis, pneumonia, neurological and reproductive problems[34].

5.4 Exploitation and Impoverishment of Individuals

The Niger Delta has an enormous, rich natural endowment in the form of land, water, forests, and fauna – one of the largest wetlands in Africa and the world at large – making it a great place for industrial agriculture, but when oil spill invades water bodies, plant and organic soil, it destroys their crop-livestock and fishery farming. Most of the rural dwellers are low-scale

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[31] Nairametrics (2021). Nigeria's unemployment rate jumps to 33.3% as at Q4 2020 https://nairametrics.com/2021/03/15/nigerias-unemployment-rate-jumps-to-33-3-as-at-q4-2020/.

[32] Reuters (April 28, 2019). Two foreign workers kidnapped from oil rig in Nigeria's Delta. Retrieved from https://www.reuters.com/article/nigeria-oil-kidnapping-idUSL5N22A0MZ

[33] Institute for Security Studies (March 24, 2022). Endless oil spills blacken Ogoniland's prospects. Retrieved from https://issafrica.org/iss-today/endless-oil-spills-blacken-ogonilands-prospects

[34] CSL Stockbrokers (2020). Crude Oil: "Historic" production cuts; Implications for Nigeria. [Online] Nairametrics, Available At: https://nairametrics.com/2020/04/14/crudeoil-historic-production-cuts-implications-for-nigeria/

farmers and traders who depend on livestock farming to provide for the upkeep of their families. However, crude oil spills have negatively impacted the environment, cutting off major sources of living and livelihood for the vast majority of settlements which comprise mostly rural residents. This deprivation usually leads to economic predicaments such as widespread poverty and high hunger rates. Currently, the Niger Delta Region is characterized by widespread poverty with about 70% of the population living below the poverty line.[35]

6. Key Enablers/Drivers of IFFs in Nigeria's Petroleum Sector

Nigeria has been tagged as the country most plagued by oil vandals and thefts among its contemporaries of Indonesia, Russia, Iraq, Venezuela, and Mexico (Adishi and Hunga, 2021). The urge to destroy oil pipelines, launder oil revenues, and evade petroleum taxes, for one selfish reason or the other, are being encouraged by a plethora of odious factors which include:

6.1 Corruption and Unbridled passion for Illicit Wealth

The culture of political corruption and the problem of poor transparency and steadfastness to fight this malfeasance and other relatable corrupt practices, which have encroached on the nation's wealthiest resource (Olusola 2021, p. 5), has constantly occasioned the quest for illicit financial gains. Individual government representatives are purportedly profiting from fraudulent practices by defying and sabotaging all transparency mechanisms stipulated to curb fraud and other forms of IFFs in the oil sector (Ibid). Little wonder the nation continues to appear at the forefront of global corruption, being ranked 146th out of 180 countries in the 2019 Corruption Perceptions Index of Transparency International (148th in 2017)[36] and the 14th most vulnerable country out of 125 countries on the 2020 Basel Anti-Money-Laundering Index[37]. And a significant level of this corruption according to the Chr. Michelsen Institute report is domiciled in Nigeria's oil sector.[38]

6.2 Poor Compliance and Inadequacies of Petroleum Transparency Acts and Laws

One of the fundamental challenges that encourages massive capital flight in the petroleum sector today is non-compliance with petroleum several Acts and laws. The NEITI Act of 2007, section 16, sub-section section one, for instance, states:

> An extractive industry company that: (a) gives false information or reports to the Federal Government or its agency regarding its volume or production, sales and income; or (b) renders a false statement of account or, fails to render a statement of account required under this Act to the Federal Government or its agencies, resulting in the underpayment or non-payment of revenue accruable to the Federal Government. or statutory recipients commit an offense and are liable of conviction to a fine, not less than N30,000,000 [which is $72, 639 in Nigeria's CBN exchange rate).

[35] Nigeria Delta Budget (n.d). History, the Niger Delta Region. https://www.nigerdeltabudget.org/the-niger-delta/

[36] Transparency International (2017). Corruption Perception Index. Retrieved from https://images.transparencycdn.org/images/2017_CPI_Brochure_EN_200406_140253.PDF

[37] Transparency International (2019). Corruption Perception Index. Retrieved from https://images.transparencycdn.org/images/2019_CPI_Report_EN_200331_141425.pdf

[38] Chr. Michelsen Institute (2009). Reforming corruption out of Nigerian oil? Part one: Mapping corruption risks in oil sector governance. Alexander Gillies. Retrieved from https://www.cmi.no/publications/3295-reforming-corruption-out-of-nigerian-oil-part-one

To the best of this research work, no petroleum firm has been stated to be reprimanded for non-conformity with the NEITI Act, despite significant infringements of the Act (Olusola, 2021, p15). And even if there is (which I am yet to see), stipulating an amount of $72,639 is not sufficient to discourage tax evasion and falsification of documents among big oil and gas industries. The punishments seem deficient, bearing in mind the billions of dollars that are engendered by the industry. Even two years of incarceration does not have a rigorous dissuasion consequence, seeing the prevalence of corruption in the industry (Ibid).

6.3 Bad Eggs Among Tax Officials

Some multinationals and private oil companies in Nigeria bribe tax officials to slash their petroleum profit tax fees, accept forged documents stating fake profits for the year and enable them to earn tax exemptions, oil licenses, and clearances (Transparency International, 2014). This was the case of Chevron Nigeria Limited, an American Multinational Energy Corporation that was indicted for tax circumvention and deception between 1998 and 1999 (Otusanya, 2011). The firm, in collusion with some [unnamed] tax officials, evaded approximately US $2.7 billion due taxes by reprocessing the sum of tax owed to the Federal Government, in addition to the accrued fines of $8 million (Ibid). Even when all accrued taxes are paid to tax officials, there are tendencies that these fees would be misappropriated or tampered with even before it gets to government officials. A report from KPMG audit had shown that, within a period of five years [from 2010-2015], the Federal Inland Revenue Service [FIRS: which collects petroleum profit taxes, among other forms of taxes], Department of Petroleum Resources [a department that collects royalties on oil producing fields, gas flare penalties, rents, etc.], among others, had failed to remit $21 billion into the Federation Account[39].

6.4 Lack of Opportunities and Youth Retaliation

The Niger Delta region is considered the most oil impacted region around the globe due to poor regulated oil and gas activities (such as gas flares and oil spillage), which results in grave environmental crises like climate change, water and land pollution, destruction or degradation of livestock and other farm produce – and this, to a large extent, has culminated to widespread hunger and poverty, diseases, loss of income generation and other sources of living. (Omotola, 2009; Raji & Abejide, 2013; and UNEP, 201). In retaliation, a group of people has gone on a rampage, causing wanton destruction of lives, vandalizing, and stealing crude oil resources, with the proceeds going into the procurement of sophisticated arms and ammunition.

Although the government has made concerted efforts to improve economic development in the region through the establishment of the Niger Delta Development Commission (NDDC), Oil Mineral Producing Areas Development Commission (OMPADEC), Ministry of Niger delta (MND), and Amnesty program for the militants and improvements of revenue derivation for the oil-producing states in the region from 1 to 13% over the years, no vibrant progress has been recorded partly due to inconsistency in programs implementations and political corruption, (Ahmed and Moh'd, 2017, p. 3). Consequently, the aggrieved individuals have taken this as a pretext for sustaining decades-long financial crime and conflict.

6.5 Challenges with Beneficial Ownership Disclosure

In most oil-rich countries like Nigeria, the concept of anonymous ownership of businesses without thorough scrutiny from law and anti-graft agencies today serves as a vehicle for capital

[39] Olalekan Adetayo, "NNPC, NPA, FIRS, others failed to remit N526 bn, $21 bn - NEC", The Punch, May 18, 2018, https://punchng.com/nnpc-npa-firs-others-failed-to-remit-n526bn-21bn-nec/

flight and conflict of interests by Politically Exposed Persons (PEPs). When corrupt government officials and politically connected individuals seek to profit from a country's mineral assets, they latch onto anonymous ownership structures that do not provide sufficient information about the true identities of the natural persons behind the title.

According to NEITI:

> …the real problem is not just about anonymity, it is that this lack of transparency allows influential officials to use their positions to extract maximum rent from a country's mineral resources with minimum or no benefit to the citizens. In practical terms, billions of dollars are lost annually which politically connected individuals appropriate to themselves using fronts and secret ownership arrangements… local and international oil companies operating in developing countries [like Nigeria] typically exhibit a complex structure of ownership that makes it difficult to identify the real individuals behind these companies or their connection to companies with whom they transact business.

The complexity of this anonymous structure, coupled with Nigeria's weak institutions and law enforcement agencies, has enabled both PEP and oil firms to conceal fraudulent activities and evade due taxes commensurate to their profit earnings. A well-designed beneficial ownership policy, backed up by free-corrupt agencies and with legislative enactments, can help restrict IFFs practices between PEP and companies engaged in the petroleum sector.

7. Policy Recommendations for International Communities

7.1 Collective Reforms on Transfer Pricing Policies

Since transfer pricing has become a global technique for shifting oil profits and avoiding taxes, the Organization of the Petroleum Exporting Countries, responsible for regulating petroleum production, supplies, and prices in the global market, should work closely with the International Centre for Tax and Development and the Organization for Economic Co-operation and Development (OCED: an organization geared towards for stimulating global policies for better economic lives) – among other international communities – in reforming existing transfer pricing policies in a way that would bring about transparency in the method of intercompany transactions, while curtailing illicit financial flows such as tax evasion. The OPEC should place a binding law on its member states to strictly adhere to the reformed TP policies and indicate penal sanctions where the reformed or new policies are violated.

7.2 International Regulation on the Petroleum Transparency Acts and Laws

In August 2021, Nigeria subscribed to a new act known as the Petroleum Industry Act (PIA 2021) with a view to regulating its petroleum sector, but the question is: will the nation activates sustainable action plans toward implementing the new Petroleum Acts? An international eye like the OPEC should regulate Nigeria's efforts in implementing the PIA 2021. OPEC should often run a quality check to ensure that the PIA 2021 is in line with the international Petroleum Act standards, Anti-money laundering, and are free from excessive political interferences. Amendments should be made in PIA sections where there are ambiguous or imprecise language and ineffective paragraphs. Collective aids should also be taken in building capacities that would address and implement the new PIA.

7.3 Roles of International Banks

Every year, billions of dollars are being stashed away in foreign banks, making them a haven for illicit accumulated oil wealth. Against this, foreign banks, especially in the United Kingdom and elsewhere in the world, should continue to shun corruption and keep conducting critical assessments in investigating, detecting, and freezing illicitly gained wealth from Nigeria. In cases where ill-gotten wealth has been traced and frozen by an international bank, a proper reportage channel should be transparent enough to communicate to the relevant Nigerian government authority and air on a tv news broadcast for the public to note. This will discourage many PEPs and oil moguls from stashing away public oil revenue.

8. Policy Recommendations for the Nigerian Government

8.1 Established transparent mechanism for oil licenses and contract awards:

Government, in collaboration with its anti-graft agencies, should create a robust and transparent mechanism for issuing oil licenses and contract awards to private oil companies in Nigeria. This mechanism should act as a yardstick for explaining the "who-and-why" reason(s) for granting oil contracts to a private oil company. It should be able to identify and understand the business entity of such an oil company, its financial capacity, and its possible connection with a politically exposed person to prevent money laundering schemes and other fraud activities.

8.2 Improved Transparency on beneficial ownership

The anonymous, unaccountable, and complex structure of beneficial ownership – that does not provide sufficient information about the true identities of the real persons behind such ownership structure – has remained a tool for coveting oil revenue. The government needs to step up its game by improving – rather than establishing new – standards and procedures that regulate beneficial ownership in Nigeria's oil and gas sector. In line with the EITI's[40] 2016 standards, the government must establish public registers that would disclose who owns, controls, and benefits from any oil contracts or related arrangements so as to improve the transparency of any transactions and discourage individuals from engaging in fraudulent oil activities such as money laundering and tax evasion.

8.3 Strict Regulation of Petroleum Industry Acts

Nigeria has taken a good step by signing the new Petroleum Industry Act (PIA) 2021. The new PIA guides the overall governance of the oil and gas sector to ensure that petroleum resources are free from fraudulence and are utilized in the best effective manner.

According to Brookings (2021):

> PIA can represent the gold standard of natural resource management, with clear and separate roles for the subsectors of the industry; the existence of a commercially-oriented and profit-driven national petroleum company; the codification of transparency, good governance, and accountability in the administration of the petroleum resources of Nigeria; the economic and social development of host communities; environmental remediation; and a business environment conducive for oil and gas operations to thrive in the country.

[40] Extractive Industries Transparency Initiative (EITI) is a global standard for the good governance of oil, gas, and mineral resources. It seeks to address the key governance issues in the extractive sectors.

These are great steps to save our oil and gas sector from IFFs, but what vibrant actions have been taken to sustain the PIA 2021? In as much as I earlier recommended for international regulation of petroleum transparency acts, it is also imperative for the national government to play vital roles in sustaining her new Petroleum Act, hence, I suggest that:

- Government should create an independent expert team that will regulate the new PIA and ensures that the oil and gas industry operates in accordance with the stipulations of the Petroleum Industry Act. More so, the expert team should be responsible for any amendments that may improve the stipulations of the new petroleum act.
- In a current democratic state, the government should enable anti-graft agencies to work collaboratively with the (proposed) expert team in monitoring and apprehending individuals, oil companies, and PEPs that are into fraudulent activities contrary to the stipulations of PIA.
- Government control over several components of the oil and gas sector should be subject to critical reviews, where an independent team of investigative reporters will have the right to carry out deep investigations and reports on government reactions towards the implementation of the new PIA.

8.4 Addressing Social Injustice

It is the responsibility of the government to improve social justice and the welfare of her citizens. Ordinary citizens are the ones who suffered the adverse effects of pipeline vandalism and oil explosion. To ensure social justice in oil-producingcing arethe as, govneedsent need to be intentional about cleaning up contaminated sites in the oil producing communities. A long-term partnership with multinational oil companies and private investors could help raise funds for the purpose of cleaning up contaminated areas affected by artisanal refining. In addition, a comprehensive assessment should be put in place to keep track of the budget expenditure on the clean-up action. Revenue from oil resources should also be used to address significant issues such as hunger, contaminated water, and other forms of poverty that affect the needs of the people. Strict enforcement of laws and stiffer punishment should be meted out to criminal groups involved in pipeline sabotage, revenue theft, artisanal refineries, and pipeline corrosion – to serve as a deterrence to perpetrators of crime.

8.5 Digitalized Anti-Money Laundering Activity

Public officials can keep track of oil resources by embracing regulatory technology developments, including automating and digitalizing Anti-Money Laundering Software (AML Software) which aims to report or curtail illegally obtained oil income. The Nigerian government can use this technology to track IFFs (such as oil theft), monitor financing projects, and oversee spending in its political institutions.

8.6 Tax Reforms

Government, through its advisers, should embark on feasible tax reforms to improve capacity building and eliminate bad eggs in the tax system. A specific, proactive, and sustainable policy should be consolidated to achieve efficient tax justice in the oil and gas sector. When confronted with complex challenges, tax officials should engage in comparative tax analysis (i.e. comparing our poor tax system with other improved tax systems elsewhere in the world) to identify and fix loopholes in our tax system.

8.7 Government Agencies and civil society

There should be an increased collaboration among petroleum agencies, tax authorities, law enforcement, and community-based organizations (CBO) to highlight supporting, feasible ideas that could help the government to fight illicit financial flows in the oil and gas sector.

The National Orientation Agency of Nigeria – a body responsible for communicating government policy and documenting public opinions – should carry out actionable campaigns against violence such as pipeline vandalism and violent attacks on the oil and gas infrastructure. Local communities, most especially, need to be enlightened on the grave consequences of pipeline vandalism and other related attacks.

9. Concluding Remark

The sad reality about crude oil is that it has become a vehicle for money laundering and capital flight; a tool for armed conflict and violence; and a paradoxical promoter of abject poverty, human right violation, and environmental degradation. Resource-dependent countries like Nigeria have, over the years, licked from the sour of decades-long corruption, artisan refineries, and cronyism that has encroached on her oil and gas sector. This does not only serve as a threat to Nigeria's fragile economy, but also brings great disadvantages to the majority of her citizens – whose lives have been compromised and subjected to severe socio-economic crises such as poverty, hunger, environmental and health hazards, to mention but a few.

Considering the magnitude of IFFs in Nigeria's oil and gas sector – and the vicious acts perpetrated by oil multinationals and corrupt public officials, this paper concludes that the intervention of the international community and that of the government of Nigeria are pivotal to rescuing the crude oil resource from IFFs. The international community should create a collective reform that will curtail fraudulent practices on transfer pricing, while the government of Nigeria should improve the mechanism and transparency of beneficial ownership and push for strict regulations of the new Petroleum Industry Acts.

Acknowledgements

Oluebube Christopher Offor is an audit associate at PriceWaterhouseCoopers (PwC) Lagos, Nigeria. The first draft of this paper won a joint prize in the 9th Amartya Sen Essay Prize and was presented at Yale University's 2022 annual Global Justice Program Conference. The author thanks Professor Thomas Pogge and Kieran Donaghue for their invaluable comments and revision suggestions. The author is deeply grateful to generous funding from Global Financial Integrity in supporting the completion and revision of this piece. No conflict of interest is declared.

References

Amartya Sen (1981). Poverty and Famines: An essay on entitlement and deprivation. Oxford: Oxford University Press, Walton Street, England.

AU/ECA, (2011), Thabo Mbeki Briefing on Illicit Financial Flows from Africa. A report to the African Union Commission/United Nations Economic Commission for Africa (AUC/ECA) Available at: https://www.unodc.org/documents/NGO/AU_ECA_Illicit_Financial_Flows_report_EN.pdf

African Development Bank (2007). Africa's Natural Resources: The Paradox of Plenty. Chapter four. Retrieved from https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/(E)%20African Bank%202007%20Ch4.pdf

Anyio, S.F. (2015). Illegal oil bunkering and oil theft in Nigeria: impact on the national economy and the way forward. Ilimi Journal of Arts and Social Sciences (IJASS), 1(1), 52-65. Available online at https://www.researchgate.net/publication/324137351

AU/ECA, 2015, Illicit Financial Flows, Report of the High-Level Panel on Illicit Financial Flows from Africa. Commissioned by the African Union and Economic Commission for Africa Conference of Ministers of Finance, Planning and Economic Development

Agunobi, K.N., Obienusi,E.A. and Onuohia, D.C. (2014). An Investigation of the Pattern and Environmental Impact of Oil Spillage in Etche Local Government Area of Rivers State, Nigeria. Journal of Natural Sciences Research 4(16), 124-137.

Ahmed Tukur Umar & Moh'd Shahwahid Hajj Othman | (2017) Causes and consequences of crude oil pipeline vandalism in the Niger delta region of Nigeria: A confirmatory factor analysis approach, Cogent Economics & Finance, 5(1), 1353199, DOI: 10.1080/23322039.2017.1353199

Adishi, E. & Hunga, M.O. (2017). Oil Theft, Illegal Bunkering, and Pipeline Vandalism: Its Impact on Nigeria Economy, 2015 – 2016. *IIARD International Journal of Economics and Business Management*, 3(2). P47-65. Available at http://large.stanford.edu/courses/2020/ph240/bolodeoku2/docs/adishi-2017.pdf

Baker, R.W. (2005). Capitalism's Achilles Heel: Dirty Money and How to Renew the Free Market System. London, Wiley.

Bonnie A. and Oluwaseun, B. (2017). In the shadows: Illicit financial flows in Nigeria's oil sector. Illicit Financial Flows Research Series, Issue No 1. *Trust Africa*. http://iffoadatabase.trustafrica.org/iff/Nigeria%20TrustAfrica.pdf

Brookings (2022). Nigeria's Petroleum Industry Act: Addressing old problems, creating new ones. Africa in Focus. Retrieved from https://www.brookings.edu/blog/africa-in-focus/2021/11/24/nigerias-petroleum-industry-act-addressing-old-problems-creating-new-ones/

Economic Commission for Africa (2013). The State of Government in Africa: The Dimension of Illicit Financial Flows as a Dimension of Governance. ECA, Addis Ababa.

Economic Financial Crime Control (2018). Alleged $1.6 Billion Oil Fraud: How Omokore Used Company's Account to Launder Funds – Witness. Retrieved from https://www.efcc.gov.ng/news/3103-alleged-1-6-billion-oil-fraud-how-omokore-used-company-s-account-to-launder-funds-witness

Financial Stability Report (FSR) of the Central Bank of Nigeria (CBN) for the half year ended June 2014 http://www.cenbank.org/Out/2014/FPRD/Financial%20Stability%20Report%20-%20June%202014%20(2).pdf

Global Witness (2017). SHELL KNEW: Emails show senior executives at UK's biggest company knew it was party to a vast bribery scheme. Available online at https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/shell-knew/

Ikelegbe, A. (2005). The Political Economy of Conflict in the Oil Rich Niger Delta Region of Nigeria, Nordic Journal of African Studies, 14,(2), 208-234

London School of Economics (April 6, 2021). Tracking illicit financial flows could support Nigeria's post-pandemic recovery. Retrieved from https://blogs.lse.ac.uk/africaatlse/2021/04/06/tracking-illicit-financial-flows-support-nigeria-post-pandemic-recovery-corruption/

Moti, U. G. (2019). Africa's Natural Resource Wealth: A Paradox of Plenty and Poverty. Advances in Social Sciences Research Journal, 6(7) 483-504. Available online at : https://www.researchgate.net/publication/335227191

Mbabazi, P.K (2009) The Emerging Oil Industry in Uganda; A Blessing or a Curse: African Research and Resource Forum

NEITI. (2019). Policy Brief: Stemming the Increasing Cost of Oil Theft to Nigeria. Policy Brief ISSUE 5: Abuja. Available Online at https://neiti.gov.ng/cms/wp-content/uploads/2021/08/NEITI-PB5-Stemming-The-Increasing-Cost-of-Oil-Theft-to-Nigeria-061119.pdf

Nigeria Extractive Industries Transparency Initiative (NEITI) ACT, 2007. https://nairametrics.com/wp-content/uploads/2013/03/NEITI_act_2007.pdf

Organisation for Economic Co-operation and Development (OCED, 2014). OECD Foreign Bribery Report. Paris: OECD.

Organisation for Economic Co-operation and Development (OCED, 2015). Policy Coherence for Sustainable Development (PCSD), Thematic Module on Illicit Financial Flows, Workshop, Paris, OECD.

Omotola, J. S. (2009). "Liberation movements" and rising violence in the Niger Delta: The new contentious site of oil and environmental politics. *Studies in Conflict & Terrorism, 33*, 36–54.

Olusola J.O. (2021). Nigeria's upstream petroleum industry anti-corruption legal framework: the necessity for overhauling and enrichment. *Journal of Money Laundering Control*, 5-28.

Otusanya, O. (2011). The role of multinational companies in tax evasion and tax avoidance: The case of Nigeria. Critical Perspectives on Accounting 22(3), 316-332. https://doi.org/10.1016/j.cpa.2010.10.005

PriceWaterhouseCoopers (2013). Financial Focus Risk and Regulations. November Issue Review. Retrieved from http://www.pwc.com/en_NG/ng/assets/pdf/financial-focus-december-2013.pdf

PriceWaterhouseCoopers (2021). Highlights of Nigeria's 2022 Budget of Economic Growth and Sustainability. PwC Annual Bulletin. https://www.pwc.com/ng/en/assets/pdf/pwc-bulletin-nigeria--2022-budget-highlights%20.pdf

Porter, D. and C. Anderson (2021), Illicit financial flows in oil and gas commodity trade: Experience, lessons and proposals, OECD Publishing, Paris. Retrieved from https://www.oecd.org/dac/accountable-effective-institutions/illicit-financial-flows-oil-gas-commodity-trade-experience.pdf

Romsom, E. (2022). 'Global Oil Theft: Impact and Policy Responses'. UNU-WIDER Working Paper 2022/16. Helsinki: UNU-WIDER. https://doi.org/10.35188/UNU-WIDER/2022/147-1

Robin C. and Nicholas A. (2020). Organised oil crime in Nigeria The Delta paradox: organised criminals or community saviours? 21. https://enact-africa.s3.amazonaws.com/site/uploads/2020-11-26-organised-oil-crime-in-nigeria.pdf

Raji, A., & Abejide, T. S. (2013). An assessment of environmental problems associated with oil pollution and gas flaring in the Niger Delta Region Nigeria , C. 1960s - 2000. *Oman Chapter of Arabian Journal of Business and Management Review*, *3*, 48–62.10.12816/0016430

Sagay I., 2017. Welcome Address, In Federal Republic of Nigeria, 2017, Declaration and Report of the Conference on Promoting International Co-Operation in combating Illicit Financial Flows and Enhancing Asset Recovery to Foster Sustainable Development, 5th - 7th June, 2017, Abuja IFFAR Report

The 4th Joint AU/ECA Conference of African Ministers of Finance, Planning and Economic Development which held in 2011 mandated the ECA to establish the High Level Panel on IFFs from Africa

Transparency International (2014). Transparency International calls on the Nigerian government to step up its fight against corruption and welcomes an investigation into the oil sector. Retrieved from https://www.transparency.org/en/press/transparency-international-calls-on-the-nigerian-government-to-step-up-its

Transparency International (2017). Corruption Perception Index 2017. Retrieved from https://www.transparency.org/en/news/corruption-perceptions-index-2017#

United Nations Environment Program. (2011). Environmental assessment of Ogoniland First published in 2011 by the United Nations Environment Programme.

United Nations Office on Drug and Crime (July 10, 2009). Oil theft lubricates corruption in West Africa. Retrieved from https://www.unodc.org/unodc/en/frontpage/2009/July/illegal-oil-trade-in-nigeriaworsens-rule-of-law-in-west-africa.html

United Nations on Drugs and Crime (2009). Transnational trafficking and the rule of law in West Africa: A threat assessment. Policy Analysis and Research Branch, Vienna: Austria.

World Bank (1987). Nigeria During and After the Oil Boom: A Policy Comparison with Indonesia. The *World Bank Economic Review*. Vol. 1, No.3, pp 419-445. Available at https://documents1.worldbank.org/curated/en/198091468775789095/pdf/multi-page.pdf

e-ISSN 2690-3458 ISSN 2690-3431

JOURNAL
OF
ACADEMICS STAND AGAINST POVERTY

Volume 3, Issue 1, 2023: pages 37-56

Research Paper

Bombing, Billing, and Cash-Out: the dynamics of the illicit flow of money through international cyber fraud by Nigerian "Yahoo Boys"

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Abstract: Cyber fraudsters, popularly called Yahoo Boys in Nigeria, employ different strategies and formats across various levels of sophistication to get in touch with potential victims and gain the trust of these unsuspecting victims (Bombing). Then the Yahoo Boys go ahead to devise means of requesting payments from their victims (billing) and secure a successful receipt of such fraudulent payments (cash out). This situation has affected the country, its citizens, as well as the victims adversely; hence, the need for innovative ideas to curtail the ugly trend. This essay sets out to proffer viable solutions to the illicit movement of money through international cyberfraud by Yahoo Boys in Nigeria. The essay starts by classifying international cyberfraud as a component of illicit financial flows. It continues to describe the nature, enduring patterns, and formats adopted by Yahoo Boys, and attempts a quantification of the magnitude of relevant outflows. The essay identifies poverty, corruption, harsh economic realities, indiscipline, unemployment, nature of security architecture on social media platforms, amongst others as enabling conditions for fraud. The essay finally recommends personal discipline, skill acquisition, and personal development, greater national commitments to the fight against corruption and poverty, rebranding corporate taxations to fix the education and skills gap, improved security on social media, sustained enlightenment of vulnerable populations, detention in special facilities for convicted fraudsters, and greater international commitments to the fight against cyberfraud in Nigeria. Several authoritative government publications, academic papers, journal articles, and online publications were consulted for this paper.

Keywords:

1. Cyber fraud
2. Illicit Financial Flows
3. Nigeria
4. Yahoo Boys

2023 Journal ASAP

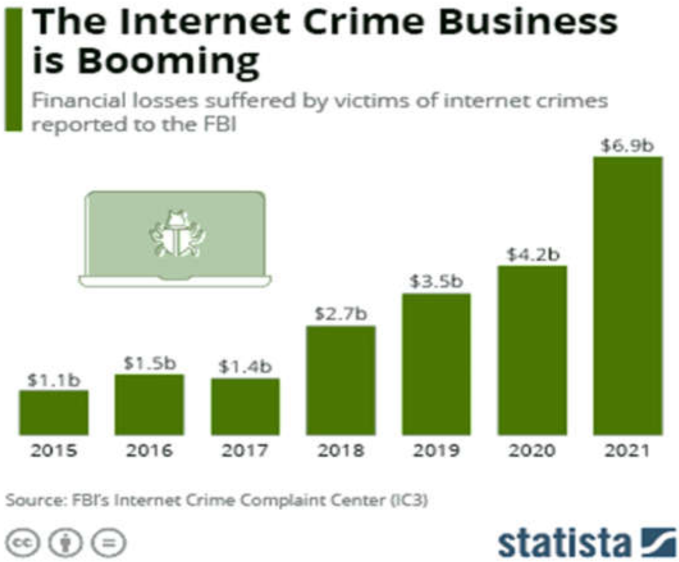
DOI: 10.5281/zenodo.8171965

Received 2 March 2023
Revised 10 June 2023
Accepted 17 July 2023
Available online 21 July 2023

1. Conceptual Clarification

Note: The term" Yahoo Boys" has become popular in Nigeria as it refers to the individuals and groups perpetuating various forms and degrees of cyber fraud in the country. Their activities range from romance scams and crypto frauds to sophisticated investment frauds, using social networking platforms to connect with their victims, and employing sophisticated software to improve the efficiency of their schemes (Fig. 1). While the culprits bask in bumper harvest, the victims languish in pains of loss. This essay aims to discuss in detail the nature, pattern, and dynamics of capital flow through cyber fraud by Nigerian Yahoo Boys and to recommend possible reform measures to tackle cyberfraud and reduce illicit financial flows involving Nigeria.

Fig. 1. Financial Losses suffered by victims of Internet crimes reported to the Federal Bureau of Investigations (FBI) between 2015 and 2021.[1]



The major concepts in this paper are explained below:

1.1. Illicit Financial Flows

Global Financial Integrity defines illicit financial flows (IFFs) as illegal movements of money or capital from one country to another which occurs when funds are illegally earned, transferred, and/or utilized across an international border (Global Financial Integrity, 2022). Similarly, the United Nations Office on Drugs and Crimes (UNODC) further explained that illicit financial flows are multi-dimensional, comprising several different kinds of activities, including flows originating from illicit activities, illicit transactions to transfer funds that have a licit origin, and flows stemming from licit activity being used in an illicit way (UNODC, 2020).

1.2. CyberFraud

Cyber fraud is defined as the use of the internet to perpetuate financial fraud, including, but not limited to phishing emails to gather personal data from unsuspecting readers, fake items for sale, email scams that claim the recipient is owed money if they perform some transaction for

[1] Chart was retrieved from Martin Armstrong, "The Internet Crime Business is Booming," May 16, 2022, https://www.statista.com/chart/20845/financial-losses-suffered-by-victims-of-internet-crimes/#:~:text=The%20FBI's%20Internet%20Crime%20Complaint,losses%20amounting%20to%20%246.9%20billion.

the sender, phony investment schemes and identity theft.[2] International cyber fraud, as used in this essay, refers to when the parties involved (the culprits and the victims) legally or illegally reside in different countries.

1.3. Classifying International Cyber Fraud as a Component of Illicit Financial Flows

By dissecting the definition of illicit financial flows above, we will derive the following indices of Illicit Financial Flows:

- Geographical coverage
- mode of earning
- mode of transfer
- use cases

We will classify international cyber fraud as a component of Illicit Financial Flows based on these indices.

1.3.1 Geographical Coverage

Illicit financial flows involve cross-border movements of funds –the flow of money across international boundaries. Cyber fraud activities in Nigeria involve the movement of funds from Nigeria to other countries of the world, and from other countries to Nigeria – sometimes, with several mid-points. A good example of these cross-border movements was recorded in the case of the Nigerian gang consisting of Emmanuel Nwude-Odinigwe, Ikechukwu Anajemba, Amaka Anajemba, Adedeji Alumile, and Fred Ajudua who connived with their Asian collaborators to defraud Nelson Sakaguchi, a top official of the Brazilian bank, Banco Noroeste SA, of about $242million (Odunlami, 2003). The funds involved in this fraud case were moved across five different continents (Odunlami, 2003). Some of the banks implicated in the funds' transfer included Banco Noroeste dollar accounts in its Cayman branch in British West Indies, a McDaniels Account at Barclays Bank (London, UK), Hillcrest Merchant Bank Ltd in (Geneva, Switzerland), Wells Fargo (USA), and America Express Bank (London, UK).

1.3.2 Mode of Earning

Illicit Financial Flows involve illegally earned funds. The monies involved in the cyber fraud activities by Yahoo Boys in Nigeria are illegally earned through fraudulent activities including romance scams, investment fraud, and crypto fraud schemes.

1.3.3 Mode of Transfer

Illicit Financial Flows are illegally transferred. The Yahoo Boys employ clever and innovative strategies to bypass legal channels and move their earned funds across various locations illegally.

1.3.4 Usage

Funds used to finance illegal activities are also classified as illicit financial flows. While there is no evidence to establish any connection between cyber fraudsters and funding of criminal activities in Nigeria, most of the culprits are notorious for addiction to hard drugs, carefree spending and spraying of money in various locations including streets, clubs, and hotels for little or no purpose. They also overprice items, thereby driving up prices of retail products and making such products unaffordable to most citizens.

Based on this analysis, we can rightly classify international cyber fraud as part of illicit financial flows.

[2] IGI Global, "What is Cyberfraud", accessed July 5, 2022, https://www.igi-global.com/dictionary/turning-westward-information-policies-post/6602

2. Cyber Fraud in Nigeria: Nature and Patterns

This section delves into the nature, patterns, and dominant trends in international cyber fraud by Yahoo Boys in Nigeria. Precisely, the mode of operation, commonly used schemes/formats, methods of funds transfer, strategic collaborations, the continuity of operations, as well as strategies to evade tracking and arrests by security agents are discussed in this section.

2.1. Mode of Operation

Perpetrators of cyber fraud in Nigeria employ various tools and innovative techniques to carry out their operations. The Yahoo Boys use various technological devices, especially mobile phones which can now access the internet at ultra-high speeds. Sophisticated fraudsters who engage in high-level scams also use laptops, wireless fidelity (Wi-fi) internet gadgets, modems, flash drives, scanners, and software.

These operations generally begin from connecting with victims using a falsified identity, showcasing false wealth, and tricking victims into parting with valuables.

2.1.1 Connectivity

Connectivity is an important part of cyber fraud operations. Nigerian cyber fraudsters depend largely on online social networking platforms to connect with their victims. The most notable among these platforms are Facebook, Telegram, Instagram, Twitter, Hangout, Plenty of Fish (POF), Viber, Match.com, WhatsApp, and Google voice.

The Yahoo Boys usually meet their clients (as they call their victims) on Facebook which is generally more effective in connecting with new people. The culprits log onto Facebook and search keywords like “Lonely Granny”, “Angry Granny”, “Investors”, “Business Man”, and “Public Servant”, and Facebook would oblige them with a satisfactory list of accounts with these keywords.

Twitter and Instagram are other effective tools to connect with new people online. However, these social media platforms can take down the accounts of fraudsters at anytime. Therefore, the fraudsters quickly get different contacts of their victims as soon as they establish a significant connection with them. These contact details range from email addresses, telegram usernames, WhatsApp numbers, and phone numbers. For original American social networks like Viber, which requires verification using Native American numbers, the Yahoo Boys usually get their American contacts to help them with these verifications.

2.1.2 Identity Theft

Yahoo Boys do not just hop onto social networking platforms to bomb people with messages. They follow systematic procedures to conceal their real identity, show off a fake lifestyle, and portray the image of a trustworthy figure to their prospective victims. One way to do this is by creating fake accounts across social media platforms.

The fraudsters create accounts with foreign names and fill the profile with pictures of American soldiers, investors, or other personalities depending on the nature of fraud they engage in. The fraudsters get these pictures from real Instagram and Facebook accounts of the individuals they impersonate – though they might use these pictures with different names other than the owner’s real names. The fraudsters usually upload pictures and videos with captions that align with the career or personality they represent. For instance, a fake soldier’s profile will be filled with updates about war experiences, courage on the battlefield, patriotism, and service to the fatherland. The fraudsters use the edit button provided by Facebook to backdate the picture uploads in chronological order. For instance, pictures uploaded in 2020 may be backdated as far back as 2014 to give visitors the impression that this is a real profile and that the owner has been in this field for long enough to command authority. Usually, the fraudsters hide their friends' lists because the profiles in the list do not tally with the personality the fraudsters represent (in terms of location, profession, etc.).

For example, in August 2022, Nigeria's Economic and Financial Crimes Commission (EFCC) secured the conviction of one Collins Okolie for representing himself, with the intent to defraud, to be Alex Lougwin - an American actor on Facebook.[3]

However, platforms like Facebook began clamping down on new accounts with inconsistent updates and irregular modifications. Hence, the Yahoo Boys diverted to old existing accounts. They edit their accounts, buy existing accounts from friends, or hack the accounts of unsuspecting victims. They edit these accounts and use them for their nefarious acts. Facebook soon laid its hands on these modified platforms and removed many of them. Again, the fraudsters devised a new strategy to beat Facebook's security. This strategy requires buying existing Facebook and Instagram accounts from real Americans. The fraudsters buy these accounts from foreign hackers who maliciously gain access to USA Facebook profiles, log the real owners off, change contact settings, and sell these accounts to their Nigerian collaborators.

This brings up another critical point - how to override social media location trackers. Social media security architecture typically detects and removes suspected fraud accounts when the location set by the users does not correspond with the location transmitted by the Internet Protocol (IP) address of the browser. To evade these security algorithms from detecting scam accounts, Yahoo Boys use Virtual Private Networks (VPN) to reset the location of their devices.

2.1.3 Flamboyant Display of False Wealth

An important part of the fraud process is to display enormous wealth to the public through the fraudsters' fake social media accounts. As a top crypto expert, a multi-millionaire investor, a top-brass military officer, or an influential businessperson (which these fraudsters often claim to be), there is a certain level of wealth that onlookers expect you to control. The fraudsters do not want to disappoint the public in this regard. Hence, they fill their social media profiles with pictures of (impersonated) individuals in multi-million-dollar mansions, with exotic cars and costly jewelry, living exquisite and expensive lifestyles. With this, unsuspecting members of the public believe that this wealth is real and become eager and ready to do the fraudsters' bidding just to attain the same level of success flashed before their eyes.

2.2. Patterns and Common Formats of International Cyber Fraud in Nigeria

Cyber fraud activities in Nigeria are perpetrated at various levels of sophistication. The type of fraud (which the Yahoo Boys call 'formats') depends largely on the experience and specialization of the fraudsters. This section delves into these 'formats'.

2.2.1 Romance Scams

This is the most basic format of fraud carried out by Yahoo Boys. Experienced fraudsters usually advise beginners to engage in romance scams to build up their experience and learn how to communicate with foreigners, attract feelings, establish bonding, and manipulate the emotions of victims. The fraudsters mainly target divorcees and aged American women who need true affection and are probably enjoying retirement benefits. Again, Facebook comes in handy in establishing these connections. A simple search of keywords like 'lonely granny', 'divorcee', and 'sad grandma', throws up a list of accounts likely owned by middle-aged women, widows, or divorcees. Once a connection is established with the first contact, the fraudsters usually dig into

[3] Economic and Financial Crimes Commission, "Fake American Actor, Five Others Sent to Jail in Benin for Internet Fraud," August 1, 2022, https://www.efcc.gov.ng/news/8330-fake-american-actor-five-others-sent-to-jail-in-benin-for-internet-fraud

their victim's friends list to connect with other clients (potential victims). Homosexuals are growing victims these days as the culprits present them with false affection from a supposed same-sex partner.

The fraudsters usually trick their victims to fall in love, promise them marriage, and then make several cash demands from them. These cash demands usually include money for travel arrangements and flight tickets to come over to America or any promised location for their wedding which will never hold.

2.2.2 Military

In this format, the Yahoo Boy presents himself as an American soldier on a foreign mission. There are two main patterns to defraud victims using the 'Military Format'.

First is the 'Box'. Here, the fraudster convinces the victim to take delivery and keep custody of a box (filled with gold and diamonds) given to the soldier as a reward for service. The fraudsters often peg the worth of the items in the 'imaginary box' at a high price usually over a million dollars.

The fraudsters build websites for this game. Once, the victim accepts to receive the box and keep custody of it, the fraudsters usually refer their victims to the websites and alert their collaborators (who create and run the scam websites) to stay up for the deal. When contact is established and the first payment (usually less than $2,000) is made via the website, the 'imaginary box' is usually sent to the victims. However, it must pass through two or three midpoints, where 'fake' custom officers (collaborating with the fraudster) establish contact with the victim and demand 'fake' custom fees before the box will be sent to the victim's location.

For instance, a box sent from Syria may have to pass through Turkey and Poland before arriving in the USA. Generally, the midpoints and custom fees keep increasing in count, while the fraudster keeps getting mad at the delivery company, sympathizing with the victim, and encouraging them to keep paying the fees. This keeps going until the Victim runs out of cash or gets tired of paying.

The second is 'leave', which only works when the victim has already fallen in love. Again, there are fraud websites already created and deployed for this service. The victims are generally convinced to apply for leave via these scam websites and pay certain fees to get their supposed soldier-lovers out of the battlefield for their supposed wedding.

2.2.3 Crypto Fraud

This format comes in different dimensions ranging from tricking victims into revealing their wallet secret phrases to convincing victims to invest their coins into scam Ponzi schemes. For example, on November 8, 2021, operatives of the Economic and Financial Crimes Commission (EFCC) arrested one Precious Ofure Omonkhoa for an alleged bitcoin investment scam. He allegedly posed as Moshem Cnich, a Swedish national, to defraud unsuspecting victims of their hard-earned money by claiming that he runs a bitcoin scheme, where people invest money to make huge returns.[4]

2.2.4 Investments Scams

Investment scams are mainly executed through scam websites that the fraudsters build and maintain. The fraudsters lure their victims to these scam websites and get them to invest money in 'non-existent' businesses with the promise that the victim's capital will be refunded with mouth-watering Returns on Investments (ROI) within a very short period. The ROIs promised can be as high as 100% in one week.

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[4] Economic and Financial Crimes Commission, "EFCC Arrests Man for $200,000 Cryptocurrency Fraud in Lagos," Published on May 12, 2022, https://www.efcc.gov.ng/news/7431-efcc-arrests-man-for-200-000-cryptocurrency-fraud-in-lagos

2.2.5 Inheritance Fraud

In inheritance scams, the fraudsters reach out to their victims with evidence of fortunes, usually running into millions of dollars, which a late person has willed to the prospective victim. The victims are required to pay a percentage of the total inheritance as advance fees to claim the non-existent funds. The fraudsters in this game are usually experienced, sophisticated, well connected with foreign collaborators, and in possession of official bank and other financial documents, stamps, and digital signatures to prove the authenticity of the inheritance schemes that they present to their victims.

For example, On June 30, 2020, the Economic and Financial Crimes Commission arraigned one Onwuzuruike Ikenna Kingsley for allegedly representing himself as one Jeff Sikora, President/CEO of Prime Trust Credit Union Bank in the United States of America, and used the false identity to defraud his victims, including an Egyptian who was defrauded of the sum of $6,500,000.00 on the pretext that he was a beneficiary of Inheritance Funds in a fixed deposit account of Prime Trust Financial Bank.[5]

2.2.6 Loading

This is another high-level fraud scheme in which the fraudsters perform fraudulent transfers into the victims' bank accounts. The victims are then required to withdraw real money from these accounts and transfer them to the fraudster's accounts. These fake transfers are likely to be detected by the victim's bank after several days, leading to the arrest of innocent individuals for crimes they know very little about.

One of the respondents in a survey of Yahoo Boys living in Ibadan of South-Western Nigeria revealed that:

> There are some hackers that can conveniently sell companies' accounts information to us. They usually give us details of such accounts, and we will pay them in return. One will then make use of such sensitive information to transfer money from the company whose account had been so compromised to one's client (potential victim) account. It could take up to one week before the affected company detects such a move. By that time, one would have received such cash from one's client. Of course, he or she (client) would be subsequently arrested (Ojedokun&Ilori, 2021).

2.2.7 Business Email Compromise (BEC) Scams

This is arguably one of the most sophisticated schemes executed by NigerianYahoo Boys. It involves breaking into organizations' official email accounts with sophisticated software, hijacking business communications, and initiating financial transactions in the name of victim organizations.

2.3. Means of Funds Transfer

According to the Economic and Financial Crimes Commission, gift cards accounted for about 39 percent of the method employed by Yahoo Boys to access their illicit funds in 2020.

[5] Economic and Financial Crimes Commission, "$8.5 Scam: How We Arrested Internet Fraud Kingpin, Onwuzruike – EFCC Witness," Published on July 13, 2020, https://www.efcc.gov.ng/news/5862-8-5-scam-how-we-arrested-internet-fraud-kingpin-onwuzruike-efcc-witness

Cryptocurrency and bank transfer scams made up about 27 percent and 21 percent of their scamming methods respectively.[6]

Another method of transferring funds is through third-party accounts using western union and other fintech services, with a withdrawal process aided by compromised bank staff in Nigeria. These fraudsters have strong networks spanning all the countries of the world.

Some fraudsters specialize in providing account details of third-party collaborators to receive the monies. These fraudsters are popularly known as 'Pickers' or 'Aza Men'. They include some of the most experienced, most connected, and wealthiest fraudsters, and usually reside outside Nigeria to evade the Economic and Financial Crimes Commission (EFCC) and security agencies that are always on the hunt for them. The picker or Aza man usually takes 20% - 40% of the money received with the account details they provide. This is the major source of their overflowing wealth because they earn from several fraud cases by just providing account details. Aza men usually reside in USA, Dubai, Malaysia, and Cyprus which have become safe havens for their operations. For example, Paul Duru, a convicted Romance scammer allegedly had a 'picker' in the United States, one John T. Benn, who received the money in dollars and sent it to him.[7]

Cryptocurrencies provide another means of transferring funds earned via cyber fraud. The fraudsters ask their victims to purchase bitcoin orother popular cryptocurrencies and transfer them to the fraudsters' wallet address. In cases where the victims do not know how to transfer funds through crypto, the Yahoo Boys usually guide them through the process to ensure successful transactions. This method is gaining popularity as fraudsters do not have to share the proceeds of their schemes with pickers, loaders, or other third parties when the funds are transferred via crypto.

2.4. Collaborations

Cyber Fraud in Nigeria is mainly a cross-border activity involving many international accomplices. For instance, the account details provided by Aza men are usually owned by Americans, Europeans, and real citizens of other countries.

Nigerian Yahoo Boys collaborate with corrupt bank staff to withdraw their funds. As testified by Elvis (not real name), a repentant Yahoo Boy, "For a successful execution of a 'job', an insider within the bank is important. The bank staff facilitates payment without attracting the attention of security agencies. They also get their share of the 'runs'."[8]

Also, the acquisition of real American and British Facebook accounts is facilitated by foreign hackers who provide these accounts to the fraudsters at a fee. According to a respondent in the Ibadan survey:

> [...] some contacts have turned legit (criminal accomplice) over time. These people normally helped us to get whatever tool and information we need over there in the U.S... If there is a strong connection between one and the person (contact), one can start colluding with him/her to get any vital tools that one needs. For instance, such contact(s) can help one get an American SIM card. He

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[6] Economic and Financial Crimes Commission quoted in Afeez Hanafi, "How Yahoo boys befriend, bribe policemen, soldiers to evade justice," December 11, 2021, https://punchng.com/how-yahoo-boys-befriend-bribe-policemen-soldiers-to-evade-justice/

[7] Wale Odunsi, "EFCC arrests Yahoo boys involved in love scam, recovers N31m [PHOTO]," February 6, 2019, https://dailypost.ng/2019/02/06/efcc-arrests-yahoo-boys-involved-love-scam-recovers-n31m-photo/

[8] Nnamdi Ojiego, "(FILTHY RICHES 2) Yahoo Boys' Revelations: How we scout for victims, make billions," October 31, 2022, https://www.vanguardngr.com/2021/10/filthy-riches-2-yahoo-boys-revelations-how-we-scout-for-victims-make-billions/

> or she would then courier same through the DHL or any other means of delivery to Nigeria (Ojedokun&Ilori, 2021).

2.5. Evasion Strategies

Yahoo Boys adopt several strategies to evade tracking and arrest by security agents. These strategies are more proactive than otherwise. Firstly, the fraudsters hide under the umbrella of anonymity created by social media, using the face and details of a stranger to execute their dubious acts. This ensures that the real names and faces of the fraudsters remain unknown to social media natives. Secondly, the fraudsters use false locations and deploy virtual private networks (VPN) to change the location of their devices and hide their Internet Protocol (IP) Addresses.

According to one of the respondents from the Ibadan survey of Yahoo Boys:

> [...] when we are talking about tools that we normally use for this hustle, we are talking about VPN. For example, VPN is used to change one's location. You know many clients (potential victims) have trust issues. When they discovered that one is a Nigerian, they stop interacting with one. So, using a VPN would indicate that one is based in the United States of America; and clients would automatically believe and fall for it. They will believe that one is also one of them. There are some dating sites with very strict access-restriction policies for certain countries. One cannot access them without using a VPN (Ojedokun&Ilori, 2021).

Finally, whenever the victims get rebellious, the fraudsters waste no time hitting the "block" button.

2.6. Recruitment, Training, and Sustainability

For the growth and sustenance of every organized crime, there must be a recruitment process. This process mainly comes in three ways in international cyber fraud in Nigeria. These three ways include:

2.6.1 Socialization

Most cyber fraudsters in Nigeria started by watching their experienced friends play the game. From watching them chat with victims to learning how to edit social media accounts, young men gradually get into the cyberfraud industry. In the survey of Yahoo Boys residing in Ibadan, all respondents confirmed to the scholars that they learned the game from experienced peers and friends (Ojedokun&Ilori, 2021). In the words of one of the respondents:

> In this game (cyber fraud), you have to learn from someone. Everything about this hustle (cyber fraud) boils down to the connection one has and the area of the hustle that one wants to learn because Gee-boys (another name for Yahoo Boys) know that Yahoo Yahoo (cyber fraud) goes beyond what is being done on Facebook, Instagram, and so on. So, for a newcomer, the starting point is to learn from a person that would tell you what you need to know because Yahoo Yahoo is not something that you will just decide to go into without being properly tutored. For my training, I learned a lot of things from my boss who is like an area brother to me. I started with the creation and use of United States citizens' Facebook account profiles. There are so many processes to it (cyber fraud). So, one just has to seek information from those who truly know. It is not about what you just know on your own as an individual (Ojedokun&Ilori, 2021).

Once the fraudster begins, the next baby step is usually to network with other young men who are into fraud. These networks go a long way in hatching further generations of professional fraudsters.

2.6.2 Apprenticeship/Academy System

Experienced and wealthy fraudsters build or rent houses to set up fraud academies in various Nigerian cities. These Academies/training homes are popularly known as HKs (Headquarters). Budding fraudsters are brought into these academies where their experienced colleagues (commonly called Bosses) guide them closely from novitiate to expertise in the game of fraud.

While in these academies, the feeding, data subscription, power needs, accommodation, and other necessities are provided by the 'Boss'. In return, the apprentices forfeit up to 60% - 70% of all fraud proceeds to their Boss as long as they stay in his HK. Apprentices usually stay an average of 6 months to 1 year in the HK, during which they are expected to have cashed out (pulled off at least, a successful fraud scheme). If, however, any apprentice could not cash out within the period, the Boss lets him out as a failed investment.

For example, on May 12, 2022, operatives of the Economic and Financial Crimes Commission (EFCC) arrested 24 years old Afolabi Samad for operating a Yahoo academy (HK) in the capital city of Abuja.[9] Afolabi had 16 apprentices aged between 18 and 27 at the time of the arrest. This system is fast becoming influential in raising a new army of fraudsters in Nigeria dealing with international victims. However, life in HKs is more of a slave-master relationship as the apprentices may experience several abuses at the hands of a ruthless Boss.

2.6.3 Self Enlistment

This is the last major form of recruitment where boys who are not privileged to have a fraudster they can learn from directly and are unwilling to pass through the difficult HK system, push themselves into the game and learn by trial and error. They learn from their mistakes and get better with time and more targets. However, a breakthrough comes when they begin to socialize with experienced peers.

3. Adverse Effects of International CyberFraud by Yahoo Boys in Nigeria

The adverse effects of international cyberfraud by Yahoo Boys in Nigeria can be classified into two: effects on the victims, and effects on the Nigerian society.

3.1. Effects on the Victims

These include impoverishment, depression, death, and jail times for victims.

3.1.1 Impoverishment and Liquidation due to Financial and Property Loss

Most victims of international cyberfraud, including businesses, are defrauded to bankruptcy. Sometimes, victims borrow or mortgage their properties to pay the bills of fraudsters. For example, Renee Holland from Florida transferred her life savings to a man pretending to be in the US military.[10] Also, BankoNoroeste was looted into liquidation by Nigerian fraudsters and their Asian collaborators (Ojedokun&Ilori, 2021).

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[9] Economic and Financial Crimes Commission, "EFCC Nabs YahooYahoo Academy Owner, 16 'Trainees' in Abuja," May 12, 2022, https://www.efcc.gov.ng/news/7999-efcc-nabs-yahooyahoo-academy-owner-16-trainees-in-abuja

[10] **Zoe Kleinman, "**Coronavirus: Romance scams, the Yahoo boys and my friend Beth," August 19, 2020, https://www.bbc.com/news/technology-53445690

3.1.2 Depression

Victims of fraud suffer depression. A report by the education arm of the Financial Industry Regulatory Authority (FINRA), an American private Organization, has it that about 35% of financial fraud victims suffer depression.[11] According to the World Health Organization, depression is a leading cause of disability around the world and contributes greatly to the global burden of disease.[12]

3.1.3 Death

International cyberfraud leads to the deaths of victims through suicide or murder. Renee Holland, the Floridian woman discussed above was later killed by her husband on account of the lost money.[13]

3.1.4 Implication of Victims

Some victims of international cyberfraud get implicated and even spend time behind bars especially when the money lost to the fraudsters belongs to the company that the victims work for. For example, Nelson Sakaguchi, the Banco Noroeste SA official was arrested after he was defrauded of the bank's funds by Nigerian fraudsters (Ojedokun&Ilori, 2021).

3.2. Effects on the Nigerian Society

International cyberfraud by Yahoo Boys has affected the image of the nation, leading to loss of opportunities for citizens. Also, the crime rate has skyrocketed alongside the cost of living.

3.2.1 Bad Image for the Nation

International cyberfraud by Yahoo Boys has defaced the image of the nation in the international community. High-level fraud schemes by Nigerians suchas Ramon Abbas (Hush Puppi) and accomplices[14] have given Nigeria the image of a pathogen harboring viruses that eat up other citizens of the global community.

3.2.2 Loss of Opportunities

A direct effect of the bad image caused by international cyber fraud is the loss of opportunities including remote jobs, migration, and education, for innocent Nigerian citizens. Following the case of Ramon Abbas, the United Arab Emirates enforced visa restrictions for Nigerian citizens.[15] Also, several authoritative websites restricted Nigerians from accessing their portals.

Nigerian freelancers operating from Nigeria seem to be the worst hit by this issue. Potential clients fear working with Nigerians as they feel they may be defrauded. Social media platforms like LinkedIn and Nairaland are filled with stories of Nigerians who lost foreign clients after the clients found out they were Nigerians.

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[11] James Langton, "Financial fraud victims vulnerable to depression," March 13, 2015, https://www.investmentexecutive.com/news/from-the-regulators/financial-fraud-victims-vulnerable-to-depression/

[12] World Health Organization, "Depression," accessed on July 20, 2022, https://www.who.int/health-topics/depression#tab=tab_1

[13] **Zoe Kleinman, "**Coronavirus: Romance scams, the Yahoo boys and my friend Beth," 2020

[14] Nairaland, "UAE Suspends Direct Employment Visa For Nigerians Over Rising Crimes - Travel – Nairaland," accessed on July 30, 2022, https://www.nairaland.com/6625825/uae-suspends-direct-employment-visa

[15] Sahara Reporters, "EXCLUSIVE: UAE Suspends Direct Employment Visa For Nigerians Over Rising Crimes," June 29, 2021, https://saharareporters.com/2021/06/29/exclusive-uae-suspends-direct-employment-visa-nigerians-over-rising-crimes

3.2.3 Increase in Crime Rate

Many youths in Nigeria have normalized cyberfraud as a quick way to make money. Hence, young people including high school students venture into cyber fraud schemes in droves. In some cases, Yahoo Boys kill for ritual purposes to enhance success in their fraud schemes.[16]

3.2.4 Lost Tax Revenues

The money earned through international cyberfraud by Yahoo Boys in Nigeria is not covered by the tax net since they are illegally obtained and kept away from the eyes of the government. This leads to the loss of tax revenues that could have been used to support economic growth, job creation, and poverty eradication, amongst other necessities.

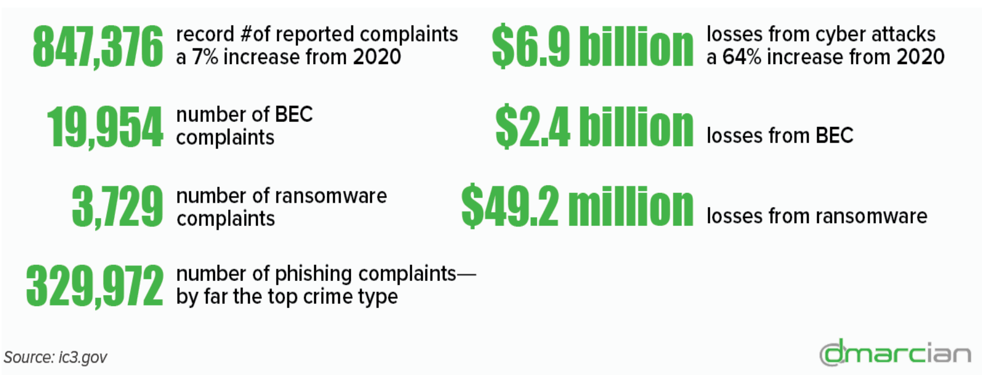
3.2.5 High Cost of Living

Yahoo Boys in Nigeria are notorious for buying items at exorbitant prices. An important part of the distinct lifestyle in which perpetrators of international cybercrime live is to show off their wealth. This show-off comes in several forms including spraying money along the streets, in clubs and over-pricing cheap items. Retailers have followed this trend by increasing the prices of their goods. Most retailers will bluntly ask you, “Do you know how much we sell this to those Yahoo Boys?” This has led to a high cost of living for the populace as the people have to keep up with the high prices stimulated by the extravagance of the Yahoo Boys.

4. Magnitude of Relevant Outflows due to International CyberFraud in Nigeria

According to the 2021 Internet Crime Report released by the Internet Crime Complaint Centre (IC3) of the Federal Bureau of Investigation (FBI), about $6.9 billion was lost to cyber crimes by Americans in the year 2021 alone (Fig. 2). This also comes with a record high of 847, 376 reported complaints. A further breakdown of this report shows that business email compromise schemes had the largest losses amounting to more than $2.4 billion. Cryptocurrency scams recorded losses of $1.6 billion, while confidence scams which include romance scams had losses of up to $956 million (FBI, 2021).

Fig. 2. 2021 Internet crime reports in numbers[17]



[16]IsholaOludare, “Ogun: Yahoo-boy who reportedly used girlfriend for money ritual appears in court,” 16/6/ 2022, https://dailypost.ng/2022/07/16/ogun-yahoo-boy-who-reportedly-used-girlfriend-for-money-ritual-appears-in-court/

[17]Dmarcian, “2021 FBI Internet Crimes Report,” https://dmarcian.com/2021-fbi-internet-crime-report/#:~:text=%E2%80%9CIn%202021%2C%20IC3%20continued%20to,Paul%20Abbate%2C%20FBI%20Deputy%20Director.

Nigerians are not left out of this menace. In 2018, commercial banks in the country lost about ₦15 billion ($36.6million) to electronic fraud and cybercrime while over 17,600 bank customers lost ₦1.9 billion ($4.6million) to cyber fraud in the same year.[18] Between July 2020 and September 2020, Nigerian banks lost ₦3.5 billion ($8.5million) to fraud-related incidents, representing a 534-percent increase from the same period in 2019, when it was ₦552 million ($1.35million).[19] Transactions done over phones were responsible for a loss of ₦410 million ($1million) at 11.7 percent of the entire loss value.[20]

On the global scene, the Centre for Strategic and International Studies (CSIS), in partnership with McAfee presented a report tagged: Economic Impact of Cybercrime – No Slowing Down, a global report on the significant impact of cybercrime on economies worldwide. The report suggests that about $600 billion is lost to cybercrime yearly (CSIS, 2018).

In terms of projections, the Nigeria Consumer Awareness and Financial Enlightenment Initiative placed its projections at a $6 trillion loss to cybercrime within and outside Nigeria by 2030.[21] While a private firm, Cybersecurity Ventures expects global cybercrime costs to reach $10.5 trillion annually by 2025.[22]

5. Factors Responsible for the Persistence of International CyberFraud in Nigeria

The enabling conditions of international cyberfraud in Nigeria include the socio-economic root causes and incentives that pull young people into fraud.

5.1. Bad Economy

The harsh economic realities in Nigeria have pushed many youths into several crimes including cyber fraud. With a staggering debt profile and rising inflation, the country's economy continues on a downward trend as debt servicing surpasses revenue.[23] Despite higher oil prices, the fiscal situation is deteriorating, limiting the government's ability to support the recovery and protect the poor. Exchange rate management policies continue to deter private investment.[24] These issues push young people to alternative ways of earning a living. Sadly, cyber fraud has become one of these alternatives.

5.2. Corruption

Corruption in Nigeria is alarming. Corrupt acts are happening every day in the country. More recently, the Economic and Financial Crimes Commission (EFCC) arrested the Accountant

[18]Afeez Hanafi, "How Yahoo boys befriend, bribe policemen, soldiers to evade justice," December 11, 2021, https://punchng.com/how-yahoo-boys-befriend-bribe-policemen-soldiers-to-evade-justice/

[19] Frank Eleanya, "Cyber fraud rises 534% as Nigerian banks lose N3.5bn," February 16, 2021, https://businessday.ng/banking-finance/article/cyber-fraud-rises-534-as-nigerian-banks-lose-n3-5bn/

[20] Frank Eleanya, "Cyber fraud rises 534% as Nigerian banks lose N3.5bn," 2021

[21] Consumer Awareness and Financial Enlightenment Initiative quoted in Afeez Hanafi, "How Yahoo boys befriend, bribe policemen, soldiers to evade justice," December 11, 2021, https://punchng.com/how-yahoo-boys-befriend-bribe-policemen-soldiers-to-evade-justice/

[22] Steve Morgan, "Cybercrime to Cost The World $10.5 Trillion Annually By 2025," November 13, 2020, https://cybersecurityventures.com/hackerpocalypse-cybercrime-report-2016/

[23] Zainab Ahmed, Honorable Minister of Finance, Budget & National Planning, Federal Government of Nigeria, "Public Consultation on The Draft 2023 – 2025 MTFF/FSP," July 31, 2022, https://www.budgetoffice.gov.ng/index.php/hmfbnp-2023-2025-mtef-fsp-public-consultation?task=document.viewdoc&id=969

[24] World Bank, "Nigeria Development Update," Published on June 1, 2022, https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099740006132214750/p17782005822360a00a0850f63928a34418

General of the Federation, Ahmed Idris over charges of diverting public funds and money laundering to the tune of ₦80 billion (about $193 million).[25]These corrupt acts provide a form of support system for Yahoo Boys in Nigeria since they believe that the system itself is ridden by corruption.

5.3. Poverty

Poverty is one big parasite nurtured by the outcomes of corruption and unemployment, among other socio-economic ills bedeviling the Nigerian system. According to the World Bank,[26] about 4 in every 10 Nigerians live below the poverty line with more than 90 million poor people in the country. This is not just a case of facts and figures. As bad as it has gotten, many Nigerians find it difficult to have one square meal in a day. This situation forces many youths into fraudulent acts to make a living.

5.4. Unemployment

Another problem confronting the Nigerian system is unemployment, which also, is watered by the spring of corruption in the country. According to the National Bureau of Statistics,[27] unemployment rate is at 33% while youth unemployment currently stands at a staggering 42.5%. With no job, many young people resort to cyber fraud to fend for themselves and their families.

5.5. Indiscipline

This is the bedrock where the roots of cyber fraud are nurtured. While there may be credible pointers to corruption, poverty, and a bad economy as enablers of cyberfraud, one cannot overlook the overarching contribution of individual indiscipline to the reign of international cyber fraud in Nigeria. Indeed, numerous other young Nigerians are driving positive change and creating value in the world. While these young people are disciplined to engage in legitimate means of livelihood, others chose the undisciplined path to a fraudulent lifestyle.

5.6. Tough Business Environment

The business climate in Nigeria is tough.Thissituation also contributes to the growth of cyberfraud in Nigeria as young people who have experienced business failures resort to fraud to earn a living.

5.7. Prosperity of Fraudsters and Poor Standard of Living for Those with Legal Means

Fraudsters (Yahoo Boys) in Nigeria seem to be more prosperous than their peers in legal businesses and jobs who barely manage to provide for basic amenities. The extravagant lifestyle and achievements of these young fraudsters pull their peers into the game.

In the Ibadan survey of Yahoo Boys, one of the respondents stated thus:

[25] Camillus Eboh, "Nigeria's accountant general faces corruption charges after arrest," May 17, 2022, https://www.reuters.com/world/africa/nigerias-accountant-general-faces-corruption-charges-after-arrest-2022-05-16/

[26]World Bank, "Deep Structural Reforms Guided by Evidence Are Urgently Needed to Lift Millions of Nigerians Out of Poverty, says New World Bank Report," March 22, 2022, https://www.worldbank.org/en/news/press-release/2022/03/21/afw-deep-structural-reforms-guided-by-evidence-are-urgently-needed-to-lift-millions-of-nigerians-out-of-poverty

[27] National Bureau of Statistics, "Unemployment Statistics," March 22, 2022, https://www.nigerianstat.gov.ng/

> [...] my motivation mainly comes from some of my guys that are already balling hard (living ostentatious lifestyles) and driving big cars worth between $11,795.54 and $13,106.16 (₦4,500,000 and ₦5,000,000). Can you imagine a 19-year-old boy buying a car (Camry Muscle model) worth about $6,553.08 (N2,500,000) through proceeds gained from this hustle (cyber fraud)? So, if one sees all the paparazzi and flexing (glamours and glitz) of guys who are into hustle in one's neighborhood every day, one will also want to try it (cyber fraud). That is what we call ginger (inspiration) (Ojedokun&Ilori, 2021).

5.8. Increasing Corruption amongst Security Agents

Some security officials engaged in the fight against cyberfraud have been corrupted by the juices of the same bad fruit they are supposed to fight. Often, security agents arrest suspected fraudsters, extort cash from them, and release them back into society without charging them to court. More often, the suspects may be re-arrested by the same group of security agents for more ransom.

A Punch publication, "How Yahoo boys befriend, bribe policemen, soldiers to evade justice,"[28] revealed the shameful relationship between officers of the law and Yahoo Boys in which security officers protect fraudsters in exchange for a cut of the proceeds of cyber fraud activities. The revelations in this publication were confirmed by fraudsters and security officers themselves.

5.9. Greed

The success of most cyber fraud cases depends on greed on the part of the victims. The mouth-watering offers presented by these intelligent fraudsters are, sometimes, too good for human greed to ignore.

5.10. Inadequate Security Architecture on Social Media

Although social media companies continue to raise the bar on security within their platforms, the security architecture employed is still unable to track fraud patterns on their messaging applications. This is mainly due to the end-to-end encryption designed to prevent third-party intrusion into the privacy of users. Hence, fraudsters take advantage of this situation to scam unsuspecting victims through direct messaging on these platforms.

5.11. Oversight by Web Hosting Platforms

Web hosting companies provide very little scrutiny over the websites they host on their platforms. This has enabled fraudsters to create and deploy accessible scam websites to the web.

6. Efforts Already Made to Fight Cyberfraud in Nigeria

The efforts made to fight cyber fraud in Nigeria come in the form of the establishment of anti-fraud agencies and international collaborations.

6.1. Establishment of the Economic and Financial Crimes Commission

The Economic and Financial Crimes Commission was established by the Economic and Financial Crimes Commission Establishment Act (2004). The Commission is empowered to prevent,

[28]Afeez Hanafi, "How Yahoo boys befriend, bribe policemen, soldiers to evade justice," 2021

investigate, prosecute and penalize economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes.[29] The EFCC has been instrumental in tackling cyber fraud in Nigeria.

6.2. International Collaborations

Nigeria has recorded significant success in the fight against cyberfraud through international collaborations. In 2019, the then acting Chairman of the Economic and Financial Crimes Commission disclosed that the collaboration between the Commission and the Federal Bureau of Investigation (FBI) has led to the recovery of the sums of $314,000 (Three Hundred and Fourteen Thousand US Dollars) and about ₦373,000,000.00 (Three Hundred and Seventy-three Million Naira) from perpetrators of computer-related fraud as at August 2019.[30]

7. Tackling Cyber Fraud in Nigeria: Way Forward

The solutions proffered under this section range from personal discipline, corporate policies, and national efforts to international commitments to the fight cyber fraud.

7.1. Personal Discipline

This is the bedrock of the fight against cyber fraud in Nigeria and beyond. Personal discipline here involves a resolution to not participate in cyber fraud activities and a strong will to keep to that resolution. The significance of personal discipline is that, when more individuals desist from fraudulent activities, they will influence their peers to jettison the ugly lifestyle.

7.2. Skills Acquisition and Personal Development

Unemployment has been identified as one of the causes of cyber fraud in Nigeria. Unemployment itself is partly a consequence of the insufficiency of employable skills among the youths. Hence, young people in Nigeria should invest in their personal development, especially in the acquisition of relevant skills.

The internet has provided a lot of opportunities to make a decent living. Valuable skills including programming, digital marketing, creative writing, and crypto technologies can be acquired online. Thankfully, some organizations including Google, W3schools, and Freecodecamp have committed resources to provide training on these skills for free. Nigerian youths should take advantage of these opportunities to turn the tide in favor of legal means of livelihood.Parents and Guardians should expose their wards to these opportunities at a young age. Through this, the young people will:

- acquire job-ready skills
- increase their potential of being hired to fill available vacancies
- increase their abilities to create viable products
- reduce the unemployment rate as well as incidences of cyber fraud in Nigeria

7.3. Re-invigorate the Fight against Corruption

The federal government of Nigeria, especially through the Economic and Financial Crimes Commission (EFCC) should pay more attention to closing loopholes through which corrupt

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[29] Economic and Financial Crimes Commission, "The Establishment Act," Retrieved on August 11, 2022, https://www.efcc.gov.ng/about-efcc/the-establishment-act

[30] Economic and Financial Crimes Commission, "Internet Fraud: $314,000, N373m Recovered Through EFCC-FBI Collaboration-Magu," August 27, 2019, https://www.efcc.gov.ng/news/4756-internet-fraud-314-000-n373m-recovered-through-efcc-fbi-collaboration-magu

practices are perpetrated. A corruption-free system creates a transparent environment that makes it difficult for cyber fraud to thrive.

7.4. Tackle Poverty

The eradication of poverty should be a priority in the fight against cyber fraud in Nigeria. The federal government of Nigeria should ensure the provision of quality infrastructure including a steady power supply, good road networks, and a conducive business regulatory environment. The people can leverage the benefits of these provisions to create means of livelihood. This will go a long way to eradicate poverty which is one of the root causes of cyber fraud in Nigeria.

7.5. Set the Pace for Economic Transformation

To create working conditions for legitimate businesses to thrive, economic transformation is non-negotiable. This transformation will not be executed in one day. However, we must set the pace for sustainable transformation. This can be achieved by increasing productive economic activities. Nigeria exports most of its raw materials without being processed. The country can invest more in manufacturing and processing to stimulate economic growth, create job opportunities, increase value addition, and increase revenue generation as well as the Gross Domestic Product of the country.

The Federal government should improve the ease of doing business by ensuring progressive regulatory frameworks and policies while avoiding retrogressive measures that undermine the goals of our economy.

Importantly, there is a need to diversify revenue sources and drift from over-dependence on crude oil revenue. The country should double down on reckless spending and channel resources to critical sectors such as education, health, security, and agriculture.

7.6. Improve Education and Skills Acquisition by Rebranding Corporate Taxations

Corporate taxation can be rechanneled to proper skill acquisition for students, thereby equipping these students with market-ready skills that would keep them away from fraudulent activities.

Top companies in Nigeria struggle to recruit qualified candidates to fill most of their vacancies, especially, technical roles. These companies either offer scholarships to candidates, select top performersand subject the selected candidates to further on-the-job training or recruit teachable candidates through trainee programs. Either way, this leads to additional costs for corporate brands in Nigeria. The federal government can rebrand corporate taxation in a way that companies are required to invest a portion of their taxes to train students in higher education.

For instance, Access Bank[31] can invest 20% of its tax to provide intensive tech training for Nigerian students and remit 80% to the government. Access Bank would then have more qualified candidates to hire from. By this, the human capital of Nigeria will be improved for greater economic benefits, the government's empowerment duties would be aided, companies would save money, and the youths can stay away from crime.

7.7. Create Jobs and Empower the Young Ones

The Federal Government should create jobs for the citizens. Also, the federal government should introduce tech skill courses to secondary school syllabus to empower the students at a

[31]Access Bank is one of the top commercial banks in Nigeria

young age. This will create a proper funnel to fill available job roles in the ever-growing digital economy.

7.8. Improve Conditions of Service

The government and corporate employers should improve conditions of service at their workplaces to ensure productivity and satisfaction at work. This improved condition of service should include adequate compensation plans to enable workers to carter for their financial obligations. This will leave workers with few reasons to go into fraud, and also inspire students and the younger ones with the confidence that they can earn a meaningful living through legitimate channels at the workplace.

7.9. Improved Security on Social Media Platforms

Social media platforms should improve the security architecture of their platforms by using algorithms to track fraud formats, including fraudulent posts, fake profiles, message requests intended for fraud, fraudulent groups, and fake promotions via private handles and groups. These fraudulent posts and profiles should be taken down automatically to protect other users.

7.10. Increased Scrutiny on Websites before Hosting

Web hosting platforms owe the world extra obligations of ensuring security on the internet. Web/cloud hosting companies should subject every website submitted to them to integrity tests. The authenticity of all information and claims included on a website should be verified before hosting. When fraudulent schemes and sites are identified, they should be flagged and reported all over the internet to ensure that other hosting companies do not accept them. By this, more scam websites would be detected and taken down to ensure that such websites do not get to the internet users’ screens.

7.11. Detention in Special Facilities

Convicted cyberfraudsters are sentenced to various prison terms ranging from several months to life imprisonment. However, the correctional facilities in Nigeria do not enhance the rehabilitation of convicted persons, which is the main purpose of their establishment.

The Federal government should build special rehabilitation centers where convicted cyber fraudsters would be detained throughout their sentencing. While in detention, the convicts should be drilled in character and integrity, and offered skills acquisition programs in exciting emerging technologies including blockchain development, artificial intelligence, data science, extended reality, augmented reality, and web3 development. With this, Nigeria can further the course for the elimination of cyber fraud while still ensuring that her human capital potentials are not, in any way, suppressed.

7.12. Increased Sensitization of Vulnerable Population

There should be increased sensitization by individuals and groups in countries like the United States of America, Japan, Germany, Britain, Canada, and others whose citizens are mainly targeted by Yahoo Boys. The same avenues (social media and emails) through which the fraudsters perpetrate their crimes should also be used to counter these fraudulent actions through increased sensitization.

Organizations interested in the fight against cyber fraud should work with researchers and repentant Yahoo Boys to understand the deep strategies and methods that the fraudsters adopt. This understanding would help such organizations to serve vulnerable populations the exact information they need to avoid falling victim to cyber fraud. Imagine someone who reads this paper to understand the common formats adopted by Yahoo Boys. Do you think such person would fall for these formats again? The chances are low. In other words, the fraudsters should be matched action for action, strategy for strategy, and intelligence for intelligence.

7.13. Establishment of Special Secret Unit to Investigate Police Involvement with Yahoo Boys
The Government of Nigeria should set up a special secret unit that will monitor security teams sent out to uncover and arrest Yahoo Boys. Officers who are found guilty of aiding cyber fraud in the country should be punished accordingly. This special unit should include security officers, private investigators, and investigative journalists with unquestionable integrity.

7.14. Greater International Commitment to the Fight against CyberFraud in Nigeria
The United Nations and other Supra-national bodies should invest more resources in the fight against cyber fraud in Nigeria. This commitment should come in the form of mobilizing and deploying seasoned investigators, cybersecurity experts, and anti-fraud experts to Nigeria. These experts would support the Nigerian anti-fraud units to re-invigorate the war against cyber fraud in Nigeria. Financial commitments to sustain such missions would be invaluable as well.

8. Conclusion

Cyber fraud has become abooming component of illicit financial flows. The number of outflows across different countries and the adverse effects on the global population are indications of how devastating the threats of cyber fraud are. This essay has proffered several viable recommendations as possible avenues to stem the tide of cyber fraud across the globe starting from Nigeria. It is time for more action.

Acknowledgements

Savictor Sobechi Evans-Ibe is an independent Essayist and Technical Writer. The first draft of this paper won the 2022 Amartya Sen Global Essay Prize, and was presented at Yale University's 2022 Annual Global Justice Program Conference. The author is deeply grateful to Prof. Thomas Pogge for his contributions to the success of this paper. He also appreciates Global Financial Integrity (GFI) for its generous funding which aided the completion of this paper. Savictor Sobechi Evans-Ibe declares no potential conflict of interest.

References

Federal Bureau of Investigation - Internet Crime Complaint Centre. (2021). 2021 Internet Crime Report. https://www.ic3.gov/Media/PDF/AnnualReport/2021_IC3Report.pdf

Global Financial Integrity (N.D). Illicit Financial Flows. https://gfintegrity.org/issue/illicit-financial-flows/

Lewis, J.A. (2018). Economic Impact of Cybercrime. Centre for Strategic and International Studies (CSIS). https://www.csis.org/analysis/economic-impact-cybercrime

Odunlami, T. (2003, September 1). *The Biggest 419 Affair Ever*, The NEWS, 20-21.

Ojedokun, U., & Ilori, A. (2021). Techniques and Underground Networks of Yahoo-Boys in Ibadan City. International Journal of Criminal Justice, 1(3), 10.36889/IJCJ.2021.003

UNODC. (2020). Conceptual Framework for The Statistical Measurement of Illicit Financial Flows. United Nations Office on Drugs and Crimes. https://www.unodc.org/documents/data-and-analysis/statistics/IFF/IFF_Conceptual_Framework_FINAL.pdf

e-ISSN 2690-3458 ISSN 2690-3431

JOURNAL
OF
ACADEMICS STAND AGAINST POVERTY

Volume 3, Issue 1, 2023: pages 57-60

Letter

The African Union - Rising

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Keywords:

1. African Union
2. Africa
3. G20
4. G21

2023 Journal ASAP

DOI: 10.5281/zenodo.10014908

Received 10 October 2023
Revised 13 October 2023
Accepted 17 October 2023
Available online 17 October 2023

Founded in 1999, the G20 is a self-constituted elite group of powerful governments meant to set directions for the structuring and maintenance of the world economy. Its founding members are the main Western economies (U.S., Canada, Australia, UK, Germany, France, Italy, and the European Union) and the major economies in the rest of the world (Japan, China, India, Indonesia, South Korea, Brazil, Mexico, Argentina, Russia, Turkey, Saudi Arabia, and South Africa).

Chaired by India in 2023 and holding its 18th summit in New Delhi, the G20 resolved to invite the African Union (AU) to join as a full 21st member. Such inclusion had been deemed unfitting in earlier years because the GDP of all 55 African Union members taken together amounts to no more than the GDP of the UK and because South Africa's inclusion as the weakest member already secured a token presence for the continent.

The late inclusion of the AU reflects the ascendancy of a conception of importance other than economic might: the AU represents nearly 1.5 billion people, 18% of humanity; and it represents nearly 40% of the world's undernourished and food-insecure people (FAO, IFAD, UNICEF, WFP, and WHO, 2023) — the most impoverished human beings whom the world economy is failing most dramatically. While average life expectancy is 80 in the European Union (INED, 2023), it is only 60 in sub-Saharan Africa (Statista, 2023).

We have worked hard in the T20[1] to support on these grounds the AU's inclusion — defending the proposal at several meetings preceding the summit and in a well-publicized policy brief.[2] But we must realize that the real work begins only now. G20 membership is a great opportunity for Africa and the AU. But this opportunity will be realized only insofar as Africa can overcome its key weakness of disunity, can come to present the thoughts, needs, and interests of Africans with a strong united voice. G20 membership provides a powerful incentive in this direction; it is an opportunity to transform the AU as much as it is an opportunity to transform the G20. If African leaders fail to seize this chance, the AU's new seat in this powerful organization will yield little more than a few nice meals and frequent flier miles for African officials.

The real work now beginning is that of selecting and developing a few key ideas that the AU might set forth as demands or proposals that Africans can rally around and that the AU can vigorously advance in the G20 and other international forums. Ideally something new, distinctive, memorable, morally compelling, and winnable — something that can refresh the newly gained momentum with real tangible results for African populations.

The quest for ideas can start from the *status quo*: Africans are most severely affected by global heating and by the grave injustices in the world economy and global governance. In 2015, the world's governments announced the Sustainable Development Goals — with principal goals #1: "end poverty in all its forms everywhere" and #2: "end hunger, achieve food security and improved nutrition and promote sustainable agriculture." At that time, 545 million Africans were counted as food-insecure; since then, this number has risen every single year, reaching 868 million in 2022, a 59% increase (FAO, IFAD, UNICEF, WFP, and WHO, 2023). If this trend persists, more than a billion Africans will be food-insecure in 2030 rather than zero as solemnly promised. Every one child going hungry despite her parents' best efforts shames us all.

What might the G20 do to reverse this abysmal trend? One great headwind against Africa is the massive drain through illicit financial flows facilitated by a vast global network of tax havens, secrecy jurisdictions, letterbox companies, fake trusts, and anonymous accounts, along with an army of shady lawyers, accountants, lobbyists, and financial advisors. Partly exposed through a series of whistleblower data releases (including the 2014 LuxLeaks, the 2015 Panama Papers, the 2016 Bahamas List, the 2017 Paradise Papers, and the 2021 Pandora Papers), this sophisticated infrastructure facilitates not only massive tax abuse, but also crimes of many other

[1] Consisting of leading think tanks and research centers from around the world, Think20 (T20) is the official engagement group of the G20. It provides ideas to the G20 leaders as well as research-based assessments and recommendations regarding their institutional-design and policy options.

[2] For the policy brief, see https://ris.org.in/Others/policy-brief/G21-policy-brief.pdf. It is discussed, for example, in *Nature* (Padma, 2023). The policy brief was jointly authored by Sachin Chaturvedi, Pamla Gopaul, Stephan Klingebiel, Klaus Leisinger, Michael Makanga, Thomas Pogge, Riatu Qibthiyyah, Jeffrey Sachs, Doris Schroeder, Elizabeth Sidiropoulos, and Peter Singer. Much of its real impact is owed to Yale Global Justice Fellow Sachin Chaturvedi who, as Director General of RIS (a think tank within India's Ministry of External Affairs) played a key role in India's chairing of the G20 and T20 proceedings.

kinds such as illegal trade in persons, drugs, and weapons, international terrorism, subverting democracy, bribery, embezzlement, and the money laundering associated with all such activities. Regarding Africa, this network is essential for kleptocrats looting their country's treasuries and often used for corrupting public officials. Multinational corporations (MNCs) also routinely use it to shift their profits out of African countries through fictitious or mispriced transactions with affiliates located in low-tax or no-tax jurisdictions. Such highly professionalized practices deprive African countries of a fair return for their exports of natural resources. And they also stifle the development of African companies which are forced to compete at a heavy disadvantage against MNCs that field various tax haven subsidiaries for purposes of tax avoidance. In short, the global haven industry massively aggravates national and global inequalities and greatly impedes progress in the less developed countries by enabling multinational corporations, autocrats, corrupt officials, millionaires, and criminals to drain them of capital and tax revenues.

Experts have clear ideas for how these abuses can be curtailed, and the OECD has put itself in charge of specifying and implementing appropriate reforms. But the wealthy countries have been dragging their feet. This is not surprising because, even while they also lose revenues to tax abuse by corporations and rich individuals, they also benefit from the enhanced profits of their MNCs and from invisible pathways for bribing and blackmailing officials in the global South. With participation of its new member, the G20 could bring new movement into ongoing efforts to reform the netherworld of offshore finance.

Another way in which Africa's development is stymied is through intellectual property rights, especially patents, whose exclusivity features enable patent holders to collect monopoly rents from users of modern technologies and to deny access to such technologies to those who cannot pay. Millions have died because they could not afford patented medicines that generic manufacturers would be willing and able to supply at very low prices — in 2013, sofosbuvir, an effective cure for hepatitis C, entered the U.S. market at $84,000 per course of treatment, roughly 3000 times manufacturing cost (Barber et al., 2020). Millions are dying from air pollution and millions more will die from the effects of global heating because the uptake of green technologies is severely impeded by monopoly rents — aggravated by $7 trillion in annual subsidies for the production and consumption of fossil fuels (Black et al., 2023).

The defenders of patents point out that we need strong innovation rewards to incentivize investment in R&D. This is completely correct. But such rewards need not take the form of patents. We should institute *stronger* incentives that also reward benefits to poor people as well as indirect benefits that go beyond the buyers and users of an innovation. Such stronger incentives might be provided through publicly funded sector-specific impact funds that would enable innovators to get rewarded according to the social benefit achieved with their innovation made available at a non-profit price.[3] Of course, impact rewards should replace patents neither everywhere nor all at once. Rather, the transition should be confined to domains where the exclusion of poor people or the disregard for third-party benefits really matters morally. Confined to Africa, the Ubuntu Health Impact Fund pilot we have proposed within the T20/G20 process is a plausible first step, involving at-cost provision throughout Africa of a handful of important medicines that are being newly manufactured in Africa (Chilufya et al., 2023). Should it go well, this pilot can be smoothly scaled up by enlarging annual disbursements and geographical scope — and perhaps by establishing additional impact funds for green

[3] For a detailed statement of this proposal for the pharmaceutical and green-technology sectors, respectively, see my “Just Rules for Innovative Pharmaceuticals” (Pogge, 2022), and “An Ecological Impact Fund” (Pogge, 2023).

technologies and agricultural or educational innovation. In all cases, innovator reluctance and possible political resistance should be minimized by leaving originators the choice between the two reward systems: innovators remain free to exploit their patent privileges but gain the option to exchange them — possibly just for a specific geographical region — for participation in the annual disbursements of a relevant impact fund.

Whether these ideas or others are the best for the AU to take forward is for Africans to decide. The crucial point here is: if the AU can transform itself into a critical discussion forum and launch pad for strong global reform ideas of special relevance to Africa, then it will be able to demand and achieve justice for Africans like no one else can. This opportunity comes with a great responsibility. Foreign scholars, practitioners, politicians, and citizens can and should lend support. But Africans must lead this effort to end exploitation of Africans through odious debts, kleptocrats, illicit capital outflows, tax avoidance, arms sales, brain drain, patent monopoly rents, uncompensated ecological destruction, and inequitable natural resource sales. Far too long have Africa's impoverished been struggling, and waiting in vain, for basic justice!

References

Barber, M. J., Gotham, D., Khwairakpam, G., & Hill, A. (2020). Price of a hepatitis C cure: Cost of production and current prices for direct-acting antivirals in 50 countries. *Journal of Virus Eradication*, 6(3), 100001. https://doi.org/10.1016/j.jve.2020.06.001

Black, S., Parry, I., Vernon, N. (2023). *Fossil Fuel Subsidies Surged to Record $7 Trillion*. IMFBlog. https://www.imf.org/en/Blogs/Articles/2023/08/24/fossil-fuel-subsidies-surged-to-record-7-trillion

Chilufya, Ch., Hollis, A., Ngcobo, Z., Ogola, F., Pogge, T. (2023). *The Ubuntu Health Impact Fund: Promoting Competitive Pharmaceutical Manufacturing in Africa*. T20 Policy Brief. https://www.orfonline.org/research/the-ubuntu-health-impact-fund/

FAO, IFAD, UNICEF, WFP, and WHO (2023). *The State of Food Security and Nutrition in the World 2023. Urbanization, Agrifood Systems Transformation and Healthy Diets across the Rural–Urban Continuum*. Rome: FAO. https://doi.org/10.4060/cc3017en

INED (2023). *Life expectancy at birth in Europe and other developed OECD countries*. Institut National d'Etudes Démographiques (INED). https://www.ined.fr/en/everything_about_population/data/europe-developed-countries/life-expectancy/

Padma, T. V. (2023). Researchers back African Union to join G20 group of largest economic powers. *Nature*, 2023 Apr 6. www.nature.com/articles/d41586-023-01014-z

Pogge, T. (2022). Just Rules for Innovative Pharmaceuticals. *Philosophies*, 7(4), 79-95. https://doi.org/10.3390/philosophies7040079

Pogge, T. (2023). An Ecological Impact Fund. *Green and Low-Carbon Economy*, 1(1), 15-21. https://doi.org/10.47852/bonviewGLCE3202583

Statista (2023). *Sub-Saharan Africa: Life expectancy at birth from 2011 to 2021*. https://www.statista.com/statistics/805644/life-expectancy-at-birth-in-sub-saharan-africa/

JOURNAL
OF
ACADEMICS STAND AGAINST POVERTY
e-ISSN 2690-3458 ISSN 2690-3431
Volume 3, Issue 1, 2023: pages 61-77
Research Paper

Debts, Human Rights, and the Poor: From London 1953 to Present Human Rights Violations

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Abstract: The London Debt Agreement's 70th anniversary provides an occasion to compare present "debt management" with the extremely generous debt reduction Germany received in 1953. After triggering two World Wars, Germany's creditors, among them developing countries, allowed a German national to tell them how much Germany should pay — an absolutely unique feature in the history of sovereign debts. Arbitration for any arising disagreement and a limit on payments were stipulated while massive social expenditures were allowed. Naturally, Germany's role in the Cold War explains this unique agreement. This example contrasts most sharply with so-called "Structural Adjustment" programs forced on debtor countries since 1982, in which social expenditures have been cut and debt service payments have been maximized, violating debtor protection, human rights, and the Rule of Law as creditors have acted as judges in their own cause. Economies and especially the poor have suffered horribly. Creditors alone have decided. Only NGO pressure has introduced trace elements of debtor protection, all arbitrarily decided by creditors. Meanwhile, the Bretton Woods Institutions (BWIs) have played an especially wicked role as debt administrators. After describing the London agreement and Indonesia's similarly politically motivated debt relief around 1970, this paper will analyze the glaring differences in debtor treatments. Germany, an adamant hardliner, was especially vile on Spain and Greece, two benefactors who had forgiven German debts in 1953. After itself benefitting from relief, still not having fulfilled all stipulated obligations, Germany turned arguably into the staunchest opponent against treating other sovereign debtors (including countries that had generously forgiven German debts) in a decent, Rule-of-Law and human rights-based manner. This is difficult to understand – unless German governments after 1945 still believe that different rules should apply to Germans than to everyone else.

Keywords:

1. Cold War
2. Debt Reduction
3. Germany
4. Human Rights
5. Structural Adjustment

2023 Journal ASAP

DOI: 10.5281/zenodo.10582024

Received 27 January 2023
Revised 10 December 2023
Accepted 15 December 2023
Available online 20 December 2023

1. Introduction

This year marks the 70th anniversary of the London Debt Agreement (LDA), the most generous debt relief ever extended to any debtor country, granted to Germany after WWII despite its horrendous war crimes and crimes against humanity. Among those literally forgiving German debts were developing countries. Greece, for example, a victim of outrageous German war crimes, was in this category then. She had been very generous, receiving German "gratitude" during the Greek debt crisis. After accepting huge relief from Greece in 1953, and stipulating payments of some debts later, Germany, no longer at the mercy of its creditors, did not pay Greece as stipulated in the LDA. Germany was merciless to its benefactor. Effects on the poor and devastation created in Greece were of no concern. As a country pressed down by the EU (Germany playing a leading role) and the International Monetary Fund (IMF), German and other EU firms capitalized by "buying" Greek assets at cheap prices.

Faith-based groups often quoted Matthew 18:23-35, probably because the then German government was headed by an alliance of two nominally Christian parties. Jesus, not a party member, though arguably a Christian, had a totally different view on the servant who, after his own debts had been generously forgiven by the king, then immediately had his own debtor thrown into prison. Too powerful again, Germany cannot suffer the just treatment Jesus suggested.

German conduct is actually worse than the behavior described in the gospel. In Matthew's gospel, the poor debtor thrown into jail was not a former creditor having generously forgiven his tormentor's debts. Sinking to German levels means sinking well below what Jesus condemned. It is no real consolation that this contempt for human rights and human dignity was inflicted on an EU member, Greece, rather than on Southern debtor countries, thus displaying equal (mis)treatment of debtors in the North and the South.

This paper demonstrates the deteriorating treatment of the poor during debt crises. Germany has always been the most adamant, implacable, and toughest hard liner after receiving unusual and undue clemency, while itself not paying as stipulated. Starting from the LDA, this paper also analyzes the generous debt relief offered to Indonesia. Germany lobbied against it, ironically, on the high moral principle that all debts must be paid, an "honest" view given the relief Germany itself had received just before and its refusal to pay as stipulated once it could get away with it. Finally, this paper will discuss how present debt management is killing millions of poor people every day. Here, a crucial difference between Germany and other sovereign debtors should be borne in mind: none of them had triggered two World Wars or massacred millions of civilians. Britain received no comparable relief, apparently failing to qualify by German criteria.

2. London 1953: Increasing Social Expenditure and Safeguarding Human Rights

Germany's generous debt relief allowed a new start, triggering the German economic miracle (*Wirtschaftswunder*). Southern Countries (SCs) — Ceylon (now Sri Lanka), Pakistan, Iran, the Republic of South Africa, as well as Yugoslavia, Greece, and Spain (classified as "developing countries" in those days) — generously forgave German debts. Spain also experienced German "gratitude" during the Euro crisis.

For Germany, maturities were stretched, interest payments were reduced (1/3 for arrears, 1/4 for current payments), the amount to be paid was limited (cf. Raffer 2010, p. 4-5). Hermann J. Abs (1983) stressed the idea that it was especially important for creditors to choose between getting interest *or* principal repayments. Mathematically, they are equivalent; the choice is merely a question of accounting and budgetary law. Getting both was excluded during the first five years. Repayment was so generously stretched that it was not yet wholly affected after Abs published his article in 1983, right at the time of the big debt crises when Germany lobbied on “high moral” grounds against any treatment of SCs even faintly similar to the one it had received, any treatment that would have saved lives (especially children’s).

Comparing Germany’s debt indicators when it got relief with those considered “generous" under the Highly Indebted Poor Countries Initiatives I and II (HIPC I and II) shows an inexplicable difference. Germany’s Debt Service Ratio (DSR, actual total debt service/exports of goods and services) before reduction was below 4%, the ratio of debt stock to exports below 100% (85% in 1952) versus 200-250% and 150% to qualify for HIPC I and HIPC II, respectively (Raffer 2010, p. 4). Even this was considered unsustainable for Germany. No doubt Germany's reparations after WWI, which the country had to pay against Keynes's advice, were an important reason why Germany's debt burden (negligible compared with Southern debtor countries nowadays) was considered to be unbearable and stifling to Germany's economy. Comparing Britain with Germany, Eichengreen & Ritschl (2009, p. 213) documented that Britain’s debt/GDP ratio was always well above 100 between 1953 and 1960 (152.3 in 1953), whereas Germany’s sank from 21.6 to 17.4 over this same period, a feat which would not have been possible without the LDA. If anything, Britain needed debt relief more urgently, but did not get it.

Germany’s debt indicators (measured as percentages of export earnings) had improved steeply after 1949. Scheduled Debt Service Ratios fell from 3.06% (1953) to 1.84% (1956), only once exceeding 2% slightly after 1956 (1958: 2.07%) when amortization started after a five-year grace period. Creditors accepted a German trade surplus, agreeing that, generally, debt service cannot exceed this surplus. As Keynes had remarked after WWI, only a real transfer is possible, meaning there must be exports of real goods and services, not just payments of printed German currency. This is clear logic politicians could apparently not understand, thus paving the way for Hitler and WWII. Now, Germany was only expected to pay if it had such surpluses.

Germany's economy boomed so dynamically that it outdid its schedule. Still, it always paid less than 5% of export earnings and never more than 60% of its trade surplus. Therefore, the German Jubilee campaign (*Erlaßjahr 2000*) demanded a debt service limit of 5% for SCs in the 1990s.

Germany did not need a “certificate” by the Bretton Woods Institutions (BWIs: the IMF and the International Bank for Reconstruction and Development, IBRD which pleases itself by calling itself the World Bank, although it is totally controlled by the North, especially the US), was not forced to adopt “Structural Adjustment” programs, and instead could pursue the very opposite, successful economic policies characterized by the term “social market economy” (*Soziale Marktwirtschaft*), which triggered the “Economic Miracle."

Independent arbitration was stipulated for disagreements with its creditors. Hypocritically, when arbitration was first proposed for SC debts (Raffer 1989, 1990), Germany was among the staunchest opponents.

Neither the IMF nor the IBRD estimated Germany’s capacity to pay. A German national(!), Hermann J. Abs, was asked to tell creditors how much they should cancel. This was not only unthinkable before WWII, when arbitration on sovereign debts was *the* usual solution, but even more so after 1982. Germany itself had “systematically defaulted on most of its foreign loans since the early years of the Nazi-era” and “had not made any payments prior to 1953 for over two decades” (Galofré-Vilà et al 2019, p. 7). Briefly, a “model debtor” whose morality had to be rewarded by generous relief. No present sovereign debtor has ever disregarded over two decades of payments, another difference to Germany, apparently justifying harsher treatment of others.

Not all German debts were included in the LDA. Pursuant to Article 5, LDA claims by countries at war with Germany or whose territory and citizens had been occupied, the costs of occupation, and resources plundered during German occupation (German term for this robbery: *Verrechnungskonten*) were deferred and only to be addressed following the “final settlement of the problem of reparations “(Agreement 1953, Art. 5.2). This explains why Greece’s demand that Germany finally pay its debts from WWII for the atrocities committed against Greeks was legally valid but powerless against new German political clout and even ridiculed in Germany. Again, Germany had simply ignored contractually stipulated obligations as one Chancellor, Hitler, had done after WWI.

After Germany had completely denied the existence of the LDA, NGOs found the official "non-existent" document when *Erlaßjahr* proved it existed. At first, the Chancellery claimed to have no records for a text easily accessible in, for example, Switzerland or the UK (Abkommen 1953, Agreement 1953). Both LDA signatories would surely have helped with a copy of the document Germany purported not to exist.

Kampffmeyer (1987), the first to draw attention to the German example of a *de facto* insolvency, proposed the application of this generous German solution to SCs. Germany’s opposition to this solution can only be explained if people in other debtor countries are not considered equal to Germans by German governments. Unlike public creditors, commercial bankers soon suggested sovereign insolvency (e.g., Suratgar, 1984; Herrhausen, 1989).

The most important, unique, and astonishing point not sufficiently stressed by campaigners is that creditors allowed Germany to finance large social expenditures. Not even Iceland, which successfully resisted IMF austerity, enjoyed comparable leeway (Bohoslavsky, 2017) relative to Germany who had just bitterly fought most of its creditors in a World War and committed war crimes against their peoples. Interestingly, this point has never been sufficiently highlighted by debt campaigners.

Abs, the German national who determined how much Germany could pay, immediately stressed to creditors that “an additional burden on the state budget could be expected through additional social spending” (quoted from Galofré-Vilà et al 2019, p. 9). This logically implies increasing debt relief to create necessary fiscal space for said spending. Money that could have repaid creditors remained exempt to allow financing social expenditures instead, quite in line with civilized insolvency laws or the Raffer (1989, 1990, 2016) Proposal for sovereign debtors, and contrary to the lemon squeezer approach after 1982 still enforced on debtor nations. Germany has turned into one of the fiercest opponents of treating others as it had been treated itself and of respecting human rights and the Rule of Law.

Galofré-Vilà et al. (2019, p. 1) highlight that the LDA created “fiscal space for investment and social expenditures.” There was a “substantial and statistically significant increase in real per capita social expenditures relative to other spending categories.” “The LDA mostly prioritized spending on social welfare because other spending was rather limited or blocked” (*ibid*.), such as military expenditure. In 1953, the *Economist* noted “an improved system of social welfare,” and that “a whole series of increases in social welfare payments has been added to the already very heavy German burden” (quoted from Galofré-Vilà et al. 2019, p. 9). “Hence, during the 1950s, the most important category of expenditure was social welfare (26.9 percent). This was followed by investment in defense, law and order (15.4 percent), education (8.9 percent), housing (8.6 percent), economic development (6.5 percent), and health (4.75 percent)” (*ibid*.). Hence, social spending rapidly increased after the LDA (*ibid*., p. 9) According to Vonyó (2018, p. 209), “social housing was not only one of the most activist instruments of public policy in post-war Germany […] it also created legacies that persist even today.”

The importance of increased social spending (which present debtors are forced to slash to increase debt service) as a main, if not *the,* engine of growth must be emphasized. Vonyó (2018, p. 175) concludes that “social policy rather than economic policy made the most critical contribution to the West German growth miracle.”

Large government surpluses accumulated and were soon used “to expand social security, and the government’s account was run down” (Eichengreen & Ritschl, 2009, p. 214). According to the authors, “what really seems to have mattered for Germany’s fiscal system was the absence of large interest burdens on the public budget.” Thus, tax rates could be kept low.

Finally, generous Marshall aid provided food and financed Germany’s reconstruction, a support SC debtors have never enjoyed.

Despite its 70th anniversary, the LDA is not yet history. Germany has still not paid part of its debts. According to Article 5.2:

> Consideration of claims arising out of the second World War by countries which were at war with or were occupied by Germany during that war, and by nationals of such countries, against the Reich and agencies of the Reich, including costs of German occupation, credits acquired during occupation on clearing accounts and claims against the Reichskreditkassen shall be deferred until the final settlement of the problem of reparation. (Agreement 1953)

Once again, Germany simply refused to honor its contractual obligations while simultaneously and staunchly advocating on high moral grounds that all debts must be paid. Apparently, obligations are to be honored differently, depending on whether the country is from the West or the East (Hockerts et al., 2006).

German Subterfuge to Avoid Stipulated Payments

Greece is quite a special case. When the Eurocrisis broke, Greece referred to still unpaid German debts pursuant to the LDA. That carried no weight with Germany, now at least as powerful as in 1939 if not more so. Obviously German debts, and in particular claims based on SS massacres and mass rapes, were not to be paid. Fleischer & Konstantinakou (2006) give a detailed description of German behavior aimed at avoiding paying to Greece as stipulated in the LDA. The Federal Republic repeatedly exerted pressure to free war criminals, speaking of “alleged” war crimes. Was the very idea of Nazis committing crimes unimaginable to Germany’s post-1945 governments?

Germany had repeatedly invoked the *Rechtswohltat* (legal benefit) of 5.2 LDA (cf., e.g., *ibid*. pp. 385, 447), changing its argument after decades of stalling that all “that” was so long past that it was by German interpretation no longer valid, conveniently forgetting that Germany itself (no doubt again on highest moral grounds) had deliberately enforced this delay referring to the LDA’s *Rechtswohltat*. The LDA and its obligations are still valid, but like Hitler, the *Bundesrepublik de facto* declared them unilaterally null and void. Since no final settlement of the problem of reparations had been reached due to German obstruction, these claims can still not be enforced. The legal benefit of Art. 5.2 continues to be valid, but so are German obligations. Obviously, Germany will never pay. Thus, costs of German occupation, money extorted from Greece called “credits,” which the Nazis recognized as loans, but the *Bundesrepublik* chose to deny, will never be repaid.

After receiving very generous debt relief from Greece and Spain, the *Bundesrepublik*'s acted to devastate these countries during the Eurocrisis.

For the sake of brevity, only one spectacular case will be described in detail. Even though many more massacres and rapes in Greece occurred, Villa Vigoni encompasses Germany's attitude in a nutshell. Successful lawsuits in Greek and Italian courts claiming reparations for an SS massacre and mass raping at Distomo allowed the seizure of German property. This was warded off by the International Court of Justice (ICJ) at German insistence since the building to be seized was property of the German State and thus immune.

> Germany requested the Court to declare that Italy had breached Germany's jurisdictional immunity by declaring enforceable in Italy decisions of Greek civil courts rendered against Germany on the basis of acts similar to those which had given rise to the claims brought before Italian courts. Germany referred in particular to the judgment rendered against it in respect of the massacre committed by German armed forces during their withdrawal in 1944, in the Greek village of Distomo in the *Distomo* case (ICJ, no year).

Germany admitted in its Memorial (2009, p. 23) to the ICJ that "more than 200 civilians, among them mostly women, children and elderly men, were mercilessly massacred. The village was burned to the ground. There can be no doubt that this was an abominable war crime." It did not mention mass rapes, nor use the term crimes against humanity here. Germany went on to say that the "European Court [of Human Rights] stated that it did 'not find it established […] that there is yet acceptance in international law of the proposition that States are not entitled to immunity in respect of civil claims for damages brought against them in another State for crimes against humanity'" (*ibid*., p. 25). Briefly, this "human rights" court also dismissed the case, clearly showing what the European Convention on Human Rights is actually worth.

"The Court further observed that, assuming that the rules of the law of armed conflict which prohibited murder, deportation, and slave labor were rules of *jus cogens*, there was no conflict between those rules and the rules on State immunity." (ICJ, no year) Thus, *jus cogens* may formally prohibit massacres or mass rapes, but it is not really *cogens.* State immunity trumps crimes against humanity, allowing perpetrators to go scot-free.

One notes that Germany admitted the massacre, an outrageous war crime against humanity, and even referred to similar crimes committed in Italy as though that were an excuse. The Greek court's ruling was not contested, only immunity ws pleaded. Formal immunity, the ICJ ruled, is more important than addressing Nazi crimes against humanity. Tough luck for the survivors of an SS massacre Germany openly admitted. Germany did not consider paying anything to the survivors and their families during the Greek crisis either, doubtlessly on high moral grounds. SS atrocities or forced loans (to describe German plundering politely) seem not to create normal debts that must be paid. Economically and legally extorting money is not normal, though normal practice during a certain period. Apparently, killing, raping, and torturing many people is not necessarily a reason for reparation if perpetrated by Germans.

The last news available shows that victims tried to seize accounts of the *Deutsche Bahn* (German Railways) in Italy (Dernbach, 2020). The *Deutsche Bahn* is undoubtedly not a sovereign entity. So far, Germany still seems to be able to fend off payments. Logically, there is only one conclusion: the present *Bundesrepublik defends*, though it hopefully stops short of approving, Nazi atrocities, refusing compensation to victims hiding behind state immunity if necessary.

While this author cannot confirm how the Villa was used when the ICJ ruled, it now offers seminars and meetings, quite clearly not sovereign activities, unless getting certificates for learning German at a low level were *acta jure imperii,* sovereign actions protected by foreign sovereign immunity. The author cannot confirm whether this was so already when the ICJ ruled, quite clearly making a powerful member happy, whether the ICJ checked or not. As of June 2023, Villa Vigoni offers *inter alia* a summer seminar for €350, hardly an offer *iure imperii*[1]. It was founded in 1986 by Germany and Italy, apparently, as far as one can judge from its own homepage for similar activities.

Greek victims are not the only example of Germany steadfastly refusing to pay fair reparations. After 1904, German troops committed the brutal genocide of the Herrero and Nama, not only murdering these indigenous populations but also incarcerating them in concentration camps, resembling a test run for a later, larger genocide. Naturally, Germany has refused to pay for decades, first at all, then fully. Under pressure it is now making gestures, but has still not taken full, especially pecuniary responsibility, surely again on high moral grounds.

3. Debt Relief for Indonesia

Abs was also the mastermind behind Indonesia's debt reduction around 1970, which resembled Germany's. He insisted again that the burden must not be too large. He was not formally an arbitrator, but it was clear that both parties would implement his decision. While Indonesia held mostly public debts, the composition also covered private claims. Abs insisted on strictly equal treatment of all (including private) creditors as "indispensable for any settlement of debts" (Abs, 1969, p. 9; Raffer, 2010, p. 5). Since Indonesia had substantial debts to Communist governments, this demand was politically important. Interestingly, Germany, now a creditor, already strongly opposed Indonesia's debt reduction on well-known high moral grounds.

As the fiercest advocate of full repayment, Germany was not alone in the Paris Club when Indonesia's relief was discussed. A group of so-called "Abs-countries" (Kampffmeyer, 1987, p. 58) supported his proposal against a group of opponents. The rift was so serious that "the future of the Paris Club was in doubt" (*ibid*.). Interestingly, the BWIs supported Abs (*ibid*., p. 61)

As in Germany's case, US political interests carried the day. The US wanted to stabilize the new government after Sukarno, a leader of the non-aligned movement, considered a mortal sin by the US. The fact that Suharto had thousands of real or alleged communists plus some others massacred (estimates go from 500,000 to 1.2 million, some even higher) qualified this defender of the "Free World" and human rights for proper debt relief. The odds were against anti-Abs countries, Germany had the problem that it could not argue against relief openly since Abs was the very architect of Germany's own generous debt relief. What remained, though, was a very pronounced desire of the Paris Club not to produce a precedent for further crises.

Abs had to find reasons why Indonesia was no precedent, a singular case inapplicable to other debtors. These "special characteristics," which it must have cost Abs quite some effort to compose, are (Abs, 1969):

- All old debts were contracted by a previous government.
- Indonesia's debts consisted predominantly of credits with little or no economic usefulness; practically the whole debt service had to be financed from the central budget.
- High inflation could only be brought under control by energetic policy and exceptionally generous help from outside.
- The country was unable to repay its debts in the future.

Indonesia's creditors, especially the Paris Club, obviously recognized these as valid reasons for debt reduction. Logic suggests applying these criteria to any similar cases without creating legal precedents if necessary. When Ghana demanded "Indonesian type" relief a bit later,

[1] https://www.villavigoni.eu/vigoni-sommerseminar-2023/?lang=de

creditors were reluctant to grant comparable terms, explaining this by their desire to avoid precedents. Eventually**,** Ghana was granted very “generous" terms undisclosed until today (Raffer, 2010, p.5).

4. Debtor Protection Denied and Creditor-Caused Damages

In contrast to the LDA, debtor protection was immediately denied to SCs in crisis. Creditors have knowingly caused damages to SCs. To be succinct, this paper will restrict itself to summarizing the most important points (for details, see Raffer, 2010, pp. 19-37, Raffer & Singer, 2001, pp. 158-197, and literature quoted there). To exempt money for social expenditures was just laughed at as idiotic and utopian, especially by German officials, when first proposed (Raffer, 1989, 1990). After all, those people were not German.

At first, Southern debt problems were ignored, then considered unimportant. Germany held that these SCs would “grow out of debts,” an opinion backed by routinely and wrongly overoptimistic forecasts from the BWIs under Northern control. What Germany had been considered unable to pay could be easily paid by much poorer countries.

Even the amount of debts of large debtors was unknown at first and remained so for some time. It is quite unusual for banks to not know how much they are owed. Checking loan-by-loan, Costa Rica managed to save almost 10% of interest in arrears: nearly $24 million (Bogdanowicz-Bindert, 1985, p. 145). Unfortunately, such checks were not routinely made nor requested by the BWIs or the Paris Club, thus aiding and abetting doubtful practices. SC debtors were forced to service “socialized” debts, initially private debts lent without any government involvement that governments were later forced to adopt as their own, increasing debt burdens illegally.

Until September 1995, the BWIs officially denied that multilateral debts were a problem. If they had actually financed viable projects and programs, these would have been self-liquidating, thus no problem. Unfortunately, multilateral claims were not earning their own debt service. Breaking the taboo of the multilateral debt overhang, which is of special relevance to the poorest countries, is a great merit of IBRD President Wolfensohn. Hence, HIPC I was realized. The IMF had opposed Wolfensohn’s idea with fervor, a fact not fully reflected by the present official assertion that HIPC was a “joint” BWI initiative.

The HIPC-Initiative relied heavily on non-IFI (International Financial Institutions, which means the private sector and some non-Paris Club members, such as China) creditors. Paris Club members would commit up to 80% reduction of eligible debt in present-value terms. Contrary to the LDA, “eligible” does not mean that paying non-eligible debts would be postponed. They were just not reduced. Other non-multilateral creditors were expected to provide relief on “at least comparable terms” (Boote & Thugge, 1997, p. 14), even though they had had no say in determining reductions, and the Paris Club has no legal right to demand this. But legality or human rights have never been of even the slightest importance to public creditors after 1982. Only if all other reductions should prove insufficient at the completion point were IFIs to reduce their claims in a way that preserves their wrongly (colleagues more critical than this author might even say fraudulently) claimed “preferred creditor status” (cf. Raffer, 2009).

Overoptimistic BWI forecasts “justified” smaller reductions, thus smaller (if at all) losses for IFIs, unfairly allowing IFIs to reduce their own claims relative to other creditors, outrightly contradicting Abs’ demands or Raffer’s (1989, 1990, 2016) Proposal. Creditors determining debt relief is unheard of in any Rule-of-Law compliant system.

As insufficient relief triggered new crises, IFIs thus secured their existence and profits. Simply by declaring higher debt sustainability, IFI losses diminished and generated new business by prolonging crises. The BWIs, determine how much they might like to lose. As they lose less, the poor lose more. Details on overoptimism are presented elsewhere (Raffer, 2010, p. 204-211). For decades, overly optimistic forecasts (even repeatedly recognized by the IMF as too optimistic) have inflicted serious damages on debtor countries, especially on the poorest. Crises were not solved but rather dragged on by public creditors. Further, there is no consideration to compensate victims; on the contrary, IFIs cash in on their wrongdoings.

Suffice to quote just one publication by the IMF and the International Development Association (IDA), which found

> past experience suggesting a systematic tendency toward excessive optimism. Indeed, while the specifics differed across countries, a common theme behind the historical rise in low-income countries' debt ratios was that borrowing decisions were predicated on growth projections that never materialized.

Thus

> An analysis of projections made by Fund staff over the period 1990-2001 suggests a bias toward over-optimism of about 1 percentage point a year in forecasts of low-income country real GDP growth. The bias in projecting GDP growth in U.S. dollar terms, however, was considerably larger, at almost 5 percentage points a year (IMF & IDA, 2004, p. 13).

In the Commonwealth of Independent States "overoptimism by multilaterals contributed to the high debt levels" (Helbling et al., 2004, p. 1). Furthermore, the IMF (2003, p. 30) itself stated that "overoptimism appears to be a feature of most large IMF-supported programs." One wonders why a clearly recognized and admitted error has not been corrected over decades. Obviously, one's Northern master's voice was obeyed, banning any fair and permanent solution, let alone emulating terms of the LDA.

Similar tactics would have shown in 1953 that Germany needed no relief and would be perfectly economically viable in 1954 without it. This would have been as realistic and accurate as BWI forecasts have been after 1982.

The BWIs have actively contributed to the suffering of the poor by knowingly producing wrong estimates for decades, supporting politically wanted fake facts that no or lower debt reductions, thus no protection of the poor, were necessary. Recovery has always allegedly been just around the corner, and the good life for the poor just about to come true. Of course, this has never been so. In fact, loans were granted even while knowing they would cause catastrophe (cf. e.g., IMF, IEO 2004, pp. 54-55, Raffer, 2010, pp.199-200).

As debt stock has traditionally been measured in present value terms, discounted values crucially depend on discount rates. Overoptimism in forecasting growth or export income "reduces" debt reduction "necessary" to reach "sustainability." Higher discount rates serve the same purpose. "Calculating" debt burdens, the BWIs have combined both ways of "reducing" necessary debt reductions. UNCTAD (2004, p. 54) revealed that: "as Uganda's reassessment under the enhanced HIPC Initiative showed, high discount rates combined with overly optimistic export projections can make a country's debt appear sustainable, even though it is not."

After HIPC II (Cologne) and Topping-Up, (another debt reduction initiative) the G7/8 initiated the Multilateral Debt Relief Initiative (MDRI). All these initiatives were the result of massive NGO pressure, which would not have been needed if either a fair solution had been allowed by public creditors or debt relief comparable to Germany's or Indonesia's had been granted early on, treating people equally irrespective of race, nationality, or color. Needless to say, none of these initiatives solved the debt problem; they were probably not supposed to. Arbitrary creditor determination of "eligible" debts prevailed, bailing out creditor countries and IFIs.

5. NGO Pressure Finally Introducing Minimal Debtor Protection

Although it was a step forward, HIPC I still did not consider protecting human rights or the poor. As a mere anecdotal point: this author strolled along the Rhine with a high-ranking member of a highly regarded G7 institution during the Cologne Summit. Answering the author's question on whether it was right that such different standards were applied to people according to where they lived, he answered clearly: yes. Obviously, this is how Northern decision makers have been thinking which explains Northern debt policies perfectly. This has barely, if not all, changed. Race matters, even though the Euro crisis proved that white skin does not guarantee you protection either.

At Cologne, the G7 wanted to discontinue HIPC I. Only strongest NGO pressure, supported by more than 17 million signatures collected worldwide (Jubilee 2000 and its master mind Ann Pettifor deserve special mention), forced the G7 to agree on HIPC II. Unlike in 1953, enormous pressure was necessary.

Under pressure, an official anti-poverty focus eventually introduced at least the idea of debtor protection, more honored in the breach than the observance. Although HIPC I had already paid some lip service to anti-poverty measures, this was an important innovation. Arguably, HIPC II was even more disappointing than HIPC I. In 2000, the NGO community spoke of the "betrayal of Cologne: twelve months of failure" (Raffer & Singer, 2001, p. 190). Reductions quickly proved too small. Even HIPC III was considered necessary, being realized under another name.

Again, to avoid debt reductions necessary to protect human rights and the poor, overoptimistic projections "justified" Highly Insufficient Payment Cuts (HIPC), prolonging the problem and increasing the number of people suffering and dying because of debts. Pure creditor arbitrariness in deciding which countries would receive HIPC treatment is another sad point (Raffer & Singer, 2001, p. 191-192). Nigeria, a Severely Indebted Low-Income Country was initially classified as a HIPC but removed from the list in 1998. As her debts were substantial, she was taken off the list , as was Indonesia. With debt/exports ratio and DSR in 1998 well above the Cologne thresholds, Indonesia qualified for HIPC. But as the amount of debts was substantial ($150.8 billion) treating Indonesia according to objective criteria would have been costly. Official creditors simply chose not to follow their own criteria.

6. The Pernicious Evolution of the BWIs: From Helpers to Human Rights Violators

It is a sad fact that official creditors only moved towards protecting human rights under extremely strong public pressure. The BWIs were initially created to help; the IMF to finance short run financial problems unconditionally and the IBRD to provide cheap financing for the reconstruction of Europe and international development (added due to SC pressure). No BWI was of any importance to the LDA, and neither to Indonesia's settlement. Now, they have turned debt administrators.

After the demise of the Bretton Woods system, economic reason would have suggested dissolving the IMF. Looking for new reasons to exist, the Fund started adjustment programs in SCs, first with no or very lenient conditionality. Acquiring "customers" to "justify" its existence was fundamental. Once the foreseeable debt crisis struck, the IMF became powerful. The crisis provided a new "justification" for its existence as a debt manager, which was not what it had been founded for.

Founded mainly to finance projects, the IBRD also shifted to so-called "program lending." Stern (1983, p. 104), the mastermind behind the IBRD's program lending, saw a "unique opportunity to achieve a comprehensive and timely approach to policy reform." For Stern, "Structural Adjustment" was the response to a "feasible [...] call for increased sacrifices" (*ibid*., p. 91) by the population. In Germany's case, calls for increased sacrifice had obviously been deemed infeasible in 1953. After a brief turf war between the BWIs, both started to administer SCs in a brutal, neocolonial way. The BWIs forced debtor countries to adopt policies that, rather than solving debt problems, made them worse.

Early econometric attempts to prove success were short-lived. Empirical evidence remained, at best, inconclusive. There was no statistically significant difference between "adjusters" and "non-adjusters." Statistical methods, such as country groupings, were repeatedly attacked as purpose serving, meaning that groups had been regrouped only according to the purpose of "showing" success (Raffer, 2010, p. 118-120). One of the extremely few statistically significant results came from Khan (1990), a high-ranking IMF econometrician. In the *IMF Staff Papers,* he found a predicted reduction in growth rates of at least 0.7% of GDP each year countries had an IMF program. Even the World Bank (1990) acknowledged that "Structural Adjustment" lending had achieved some success regarding the improvement of the balance of payments (largely due to import compression, critics rightly pointed out) but did not encourage investments nor enable debtors to grow out of debts. This approach has not yet been fundamentally changed. The General Agreement on Tariffs and Trade (GATT, 1980, p. 25) was more outspoken: "virtually the entire burden of adjustment" had been put on SCs. "What is worse, adjustment has involved mostly import contraction rather than export expansion", which threatens to result in a "vicious circle of reduced imports and reduced export potential." It (*ibid*., p. 95) observed import cuts "large enough to affect the future productive capacity of these countries." No "adjusting" debtor recovered sustainably, unorthodox debtors did. Even according to the IMF, gross capital formation declined by one third between 1979 and 1985 (Raffer, 2010, pp. 119-120).

Economically, this is good for IFIs: crises generate fees and income, but only if any financial responsibility for one's failures is totally abolished. Supported by the North, which usually cannot stop preaching good governance and the Rule of Law, the IFIs, especially the BWIs, have established an economically perverted system allowing them to profiteer on their own failures and overoptimistic projections.

Changing, even violating, one's own statutes became necessary. Before the Second Amendment, the IMF's statutes "contained a provision suggesting that others would have preference on the Fund" (Martha, 1990, p. 825). While this provision has been done away with, there is still no legal preference of IMF claims, as the IMF knows and seldom officially acknowledges. Nevertheless, this does not keep it from knowingly and wrongly claiming its preference at the highest costs to the globe's poorest. The Paris Club, mostly eager to support policies against the poor and their human rights, supports this claim. Private creditors accepted it early during debt crises, when IFI claims were quite low, practically as "commissions" for forcing austerity on debtors, allowing them to receive more benefits than observance of human rights, the Rule of Law, or negotiations on an equal footing would have produced. The first few attempts to do it themselves very quickly convinced banks that such "commissions" were money well invested. It appears that banks therefore agreed to let IFIs have de facto preference. If one looks at present IFI exposures, such as the IMF's in Argentina, where the Fund is a main creditor, this arrangement has also turned against the private sector. While quite convenient to private banks initially, high IMF exposures are threatening their possibilities of receiving higher repayments. Pacts with the BWIs, as those with the devil, are finally in his favor.

The IBRD (1982) has the statutory obligation to help members in distress yet has openly refused to obey its own constitution. Article IV.4.c of its Statutes confers a right onto members suffering "from an acute exchange stringency" (threatening default) to ask for relief:

> If a member suffers from an acute exchange stringency, so that the service of any loan contracted by that member or guaranteed by it or by one of its agencies cannot be provided in the stipulated manner, the member concerned may apply to the Bank for a relaxation of the conditions of payment. […] (ii): The Bank may modify the terms of amortization or extend the life of the loan, or both.

Stipulating no conditions but the member's urgent need for help, Article IV.4.c specifically demands taking both the Bank's and such member's interests into account. No conditions are stipulated except the member's urgent need for help. The Bank has never done so, even though obeying its statutes would have defused quite a few catastrophes. For whatever reason, no member seems to have ever dared invoke its statutory right. Profiting on emergency lending, and not accountable to act according to the Rule of Law or good governance, BWIs violate their own constitutions in favor of larger profits. Referring to default (for which the Bank has to build up reserves), Art.IV.7 urges the IBRD to provide relief as necessary. Not specifically mentioning default, the IDA's Articles of Agreement are similar, though somewhat more vague (Raffer, 2009). Either way, both institutions have violated their statutes; a few more people avoidably dying of hunger are of no concern to them.

The IMF has no explicit duty to reduce claims. Like other IFIs it has charged the costs of establishing loan loss provision to clients. IFIs charge insurance payments against default, refusing to use them when default occurs.

Rodrik's (1996) opinion on the "Asian Crisis" caused by adhering to BWI-advice to change successful policies in favor of catastrophic ones also seems to explain "Structural Adjustment." Debt crises were opportunities seized by orthodox economists for a "wholesale reform of prevailing policies." Rodrik (1996, p. 17) interprets this as the chance "to wipe the slate clean and mount a frontal attack on the entire range of policies in use." Taking advantage of this, official creditors, especially the BWIs, have been able to establish a neocolonial system. To do so, anything even faintly resembling the LDA must remain banned. Germany's government might see racial differences justifying such different treatment. Thinking that citizens of debtor states might judge how much their countries should pay is totally "ridiculous" nowadays that Germany is a creditor.

7. The IMF's New Method of Profiteering on the Poor

The really important coup against the poor happened in 1997. The IMF introduced so-called surcharges. Usurious profiteering started. Surcharges are additional interest payments the IMF imposes on countries with large outstanding debts, a trick that paid off. "These [surcharges] could reach as much as US $7.9 billion over" (Munevar, 2021) the period 2021-2028, when over 60% of IMF income from these members would be the result of surcharges. Economically understandable, "the Executive Board decided to lower the threshold for level-based surcharges from 300 percent of quota to 187.5 percent" (IMF, 2016). In plain English: even more profiteering from the poorest by surcharging drawings not subject to surcharges before. One may expect further lowering of thresholds.

Conveniently "forgetting" facts, the IMF's argument (if one did not shy away from calling blatant untruths arguments) is that these surcharges would secure its existence. The IMF alone decides whether members are allowed to draw. Thus, if the IMF actually decided on general economic principles (like private creditors rightly judging on their possibilities to create income unless they are sure to be bailed out) in the member's interest, the IMF would be statutorily obliged to deny economically doubtful drawings (IMF loans are technically called drawings, and indeed different from a normal loan), taking the members' interest into account. It simply chooses not to do so to profiteer, in Argentina, as once in Asia and elsewhere. Therefore, higher surcharges would be unheard of if the Fund obeyed its own constitution or economic reason.

One has to qualify Gallagher's verdict: "The IMF's surcharges are unfit for purpose." Although correct, in the way he argues (Gallagher, 2021), from the economically dubious point of view of ripping off debtor members and making the poor suffer, they serve their purpose perfectly. IMF profits are prioritized over human lives.

Valid arguments against these surcharges are not taken into account. Arguing convincingly against this money-making IMF ruse, Stiglitz & Gallagher (2022) conclude:

> They worsen potential outcomes for both the borrowing country and its investors, with gains accruing to the IMF at the expense of both. This transfer of resources to the IMF affects not just the level of poverty, health, education, and overall wellbeing in the country in crisis, but also its potential growth.

Right as they are, all this is irrelevant to an IMF only looking at its own profits, deriding human rights and human dignity. Arguments or ethics will go nowhere when addressing an institution that seems to accept death and penury of the poor for the sake of increased profits.

IMF surcharges must be abolished. Officially, they act as disincentives to large drawings, the microeconomic argument that increasing prices reduces demand. Regarding the Fund, it is utterly wrong. The Fund is not obliged to grant drawings amounting to a multiple of the quota, well above 1,000 % in the case of Argentina. This multiple of the quotas has been increased by the IMF over the years. The IMF still is (and clearly was before the era of profiteering) not supposed to make extra profits from members in distress. Quite on the contrary, if drawings are unlikely to help, let alone likely to make things worse, the IMF has the obligation to refuse them. But increasing surcharges with increasing drawings are highly lucrative, especially so as the normal economic disincentive to lose money if lending negligently or even while knowing that this would destroy the borrower's economy does not apply to the IMF. Higher rates are thus not compensation for higher risk. As the IMF always gets paid with interest and surcharges (HIPC cases excepted) bad programs are lucrative for the Fund. They create additional high income, increase the Fund's importance, and make new jobs "necessary" — *the* classic moral hazard situation. Logically this might be described somewhat cynically as "IFI-flops securing IFI-jobs" (Raffer, 1993, p. 158). It fosters lending without any regard for the real needs of debtors, even against members' interest, rewarding knowingly inflicting damage on the poor.

This absurd IMF incentive structure, irreconcilably inimical to the very idea of the market mechanism and to any principle of sound management, human rights, or the Rule of Law, produces a systemic bias towards accommodating other goals, including lending that causes catastrophe. It did not exist in the 1950s but is now supported by the North. The present surcharge system is logically explained by the IMF's determination to increase its income at the cost of human lives**.**

8. Conclusion

Analyzing the LDA and Germany's record before the Agreement one cannot help but see an embarrassing difference to present debt management. This difference gets all the more embarrassing as Germany has been the strongest and staunchest advocate of merciless debt policies, demanding that others must not be treated as leniently as it had been treated. People more critical than this author may feel the ideas dominating Germany before 1945 to live on. Germany opposed even decent, let alone generous treatment of Greece and Spain, countries that had generously forgiven German debts, not to mention non-Europeans.

Debt management after the 1970s, to which mostly but not only SCs were subjected, differs dramatically not only from the LDA, but also from any acceptable legal, moral or ethical standard: it has created misery and death in debtor countries and continues to do so. Any fair, Rule-of-Law based solution, such as the Raffer Proposal, let alone emulating the LDA is resolutely blocked by IFIs and other official creditors, staunchly determined to preserve a system of global apartheid and financial colonialism. Unfortunately, Germany is one important pillar of this discriminatory system.

References

Abkommen (1953). über deutsche Auslandsschulden, Abgeschlossen in London am 27. Februar 1953, fedlex, Die Publikationsplattform des Bundesrechts. https://www.fedlex.admin.ch/eli/cc/1954/3_3_3/de#fn1

Abs, H. J. (1969). Das Problem der indonesischen Auslandsverschuldung und Überlegungen zu seiner Lösung. 30 June, (mimeo).

Abs, H. J. (1983). Deutsche Banken und Außenwirtschaft. In H.J. Hahn (ed). *Institutionen des Währungswesens* (23-31). Baden-Baden: Nomos.

Agreement (1953) on German External Debts [with Annexes and Subsidiary Agreements], London, February 27, 1953, Treaty Series No. 7, 1959, London HM Stationary Office. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/269824/German_Ext_Debts_Pt_1.pdf

Bogdanowicz-Bindert, C. A. (1985). Debt and Development Crisis: The Case of Small- and Medium-size Debtors. In Haq K. (Ed.). *The Lingering Debt Crisis*. (141-151) Islamabad: North-South Roundtable.

Bohoslavsky, J. P. (2017). Iceland: A Human Rights Sensitive Approach to Deal with Financial Crises. In Bohoslavsky, J.P. & K. Raffer (Eds). *Sovereign Debt Crises – What Have We Learned?* (103-122) Cambridge: Cambridge University Press.

Boote, A. R., & K. Thugge (1997). Debt Relief for Low-Income Countries, *IMF Pamphlet Series* no. 51.

Dernbach, A. (2020). Kolonial- und Kriegsverbrechen vor Gericht: 'In Konflikt mit den Menschenrechten', Tagesspiegel, 3 January, https://www.tagesspiegel.de/politik/in-konflikt-mit-den-menschenrechten-4123534.html

Eichengreen, B. & Ritschl, A. (2009). Understanding West German economic growth in the 1950s. *Cliometrica*, vol.3, 191-219.

Fleischer, H., & Konstantinakou, D. (2006). Ad calendas grecas? Griechenland und die deutsche Wiedergutmachung. In Hockerts, H.G. Moisel, C. & Winstel, T. (Eds.) (2006) *Grenzen der Wiedergutmachung, Die Entschädigung für NS-Verfolgte in West- und Osteuropa 1945-2000*, (375-458). Wallstein, Göttingen.

Gallagher, K.P. (2021). The IMF's surcharges are unfit for purpose. *FT,* March 3, https://www.ft.com/content/cc82f5bf-36c6-454f-b7f0-a4a18576ff2b

Galofré-Vilà, G., Meissner, C. M., McKee, M., Stuckler, D. (2019). The economic consequences of the 1953 London Debt Agreement, *European Review of Economic History* 23(1), 1-29.

GATT (1980) *International Trade 1979/80*, GATT: Geneva

Helbling, T., Mody, A., & Ratna S. (2004). Debt Accumulation in the CIS-7 Countries: Bad Luck, Bad Policies, or Bad Advice?, IMF Working Paper (WP/04/93). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878916#PaperDownload

Herrhausen, A. (1989). Die Zeit ist reif — Schuldenkrise am Wendepunkt, *Handelsblatt*, No.124, 30 June.

Hockerts, H.G., Moisel, C., & Winstel, T. (eds.) (2006). *Grenzen der Wiedergutmachung, Die Entschädigung für NS-Verfolgte in West- und Osteuropa 1945-2000*. Wallstein, Göttingen.

IBRD (1982). *Articles of Agreement (as amended effective June 27)*. https://thedocs.worldbank.org/en/doc/722361541184234501-0330022018/original/IBRDArticlesOfAgreementEnglish.pdf

ICJ (International Court of Justice) (no year) Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), Overview of the Case, https://www.icj-cij.org/case/143

IMF & IDA (2004). Debt Sustainability in Low-Income Countries — Proposal for an Operational Framework and Policy Implications, 3 February, http://www.imf.org/external/np/pdr/sustain/2004/020304.pdf

IMF (2016). "Press Release: IMF Executive Board Reviews Access Limits, Surcharge Policies, and Other Quota-Related Policies", No. 16/166, April 11, https://www.imf.org/en/News/Articles/2015/09/14/01/49/pr16166

IMF, IEO. (2004). *Report on the Evaluation of the Role of the IMF in Argentina, 1991–2001*, http://www.imf.org/external/np/ieo/2004/arg/eng/pdf/report.pdf

IMF, Independent Evaluation Office (IEO). (2003). Evaluation Report, The IMF and Recent Capital Account Crises: Indonesia, Korea, Brazil, http://www.imf.org/external/np/ieo/2003/cac/index.htm

Kampffmeyer, T. (1987). *Towards a Solution to the Debt Crisis: Applying the Concept of Corporate Composition with Creditors*. Berlin: DIE.

Khan, M. S. (1990). The Macroeconomic Effects of Fund-Supported Adjustment Programs, *IMF Staff Papers* 37(2), 195-231.

Martha R. S. J. (1990). Preferred Creditor Status under International Law: The Case of the International Monetary Fund, *International and Comparative Law Quarterly* 39(4), 801-826.

Memorial of the Federal Republic of Germany (2009) to the ICJ, Case Concerning Jurisdictional Immunities of the State. https://www.icj-cij.org/case/143

Munevar, D. (2021). "A guide to IMF surcharges," Eurodad, https://www.eurodad.org/a_guide_to_imf_surcharges

Raffer, K. (1989). International Debts: A Crisis for Whom? In H.W. Singer & S. Sharma (Eds). *Economic Development and World Debt* (Selected Papers of a Conference, at Zagreb in September 1987), (51-63). London & Basingstoke: Macmillan.

Raffer, K. (1990). Applying Chapter 9 Insolvency to International Debts: An Economically Efficient Solution with a Human Face. *World Development* 18(2), 301-313.

Raffer, K. (1993). International Financial Institutions and accountability: The Need for Drastic Change. In S.M. Mushed and Raffer K. (Eds.) *Trade, Transfers and Development: Problems and Prospects for the Twenty-First Century*, (151–166). Cheltenham/Northampton, Elgar. Or https://homepage.univie.ac.at/kunibert.raffer/ifiacc.pdf

Raffer, K. (2009). Preferred or Not Preferred. Thoughts on Priority Structures of Creditors, Paper presented at the 2nd International Law Association's Sovereign Insolvency Study Group, 16 October, Washington DC 2043, https://homepage.univie.ac.at/kunibert.raffer/ila-wash.pdf

Raffer, K. (2010). Debt Management for Development — Protection of the Poor and the Millennium Development Goals, Cheltenham/Northampton: Elgar (Paperback 2011).

Raffer, K. (2016). Debts, Human Rights, and the Rule of Law: Advocating a Fair and Efficient Sovereign Insolvency Model. In M. Guzman, J. A. Ocampo & J. E. Stiglitz (Eds). *Too Little, Too Late, The Quest to Resolve Sovereign Debt Crises* (253-269). New York: Columbia University; Pre-publication paper: http://policydialogue.org/files/publications/Debts_Human_Rights_and_the_Rule_of_Law_Advocating_a_Fair_and_Efficient_Sovereign_Insolvency_Model.pdf

Raffer, K., & Singer, H. W. (2001). *The Economic North-South Divide: Six Decades of Unequal Development*. Elgar, Cheltenham (UK)/Northampton (US), [paperback eds: 2002; 2004].

Rodrik, D. (1996). "Understanding Policy Reform." *Journal of Economic Literature*, XXIV(1), 9-41.

Stern, E. (1983). World Bank Financing and Structural Adjustment. In John Williamson (Ed). *IMF Conditionality* (87-96), Washington DC: IIF & MIT.

Stiglitz, J., & Gallagher, K. P. (2022). IMF surcharges: A lose-lose policy for global recovery. https://cepr.org/voxeu/columns/imf-surcharges-lose-lose-policy-global-recovery

Suratgar, D. (1984). The International Financial System and the Management of the International Debt Crisis, In D. Suratgar (Ed). *Default and Rescheduling Corporate and Sovereign Borrowers*. (151-161). Euromoney, London.

UNCTAD (2004). *Economic Development in Africa, Debt Sustainability: Oasis or Mirage?* UN Conference on Trade and Development: Geneva.

Vonyó, T. (2018). *The Economic Consequences of the War: West Germany's Growth Miracle after 1945*. Cambridge: Cambridge University Press.

World Bank. (1990). *Adjustment Lending: Ten Years of Experience*. World Bank: Washington DC.