

COMPENSATION OF OIL SPILL VICTIMS IN NIGERIA: THE MORE THE OIL, THE MORE THE BLOOD?

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Abstract

This paper sets out to examine the compensation of oil spill victims in the Nigerian oil industry. The compensation of these victims has become clumsy and dark in the wake of oil Bunkering, pipeline vandalism, sabotage, since in the past, oil spill was as a result of the activities of the oil companies or operators. The object is to discuss who is responsible for payments of compensation to oil spill victims who are entangled in a political system that lacks legislative and administrative guidelines and framework that will effectively deal with the issue of petroleum compensations arising from sabotage, bunkering and even activities of multinational oil companies. Nigeria has become one of the most petroleum-polluted environments in the world. The impact of the oil spill include habitat degradation, pollution from gas flaring and these are cumulative and have acted synergistically with other environmental stresses to impair ecosystems and severely compromise human livelihoods and health. These unfortunate incidents make the victims individuals and host community, landowners, pond owners and other property owners to demand compensation. It is hereby recommended that the Nigerian government should set up oil pollution compensation funds that will make provision for compensation for oil pollution damage resulting from activities of not only multi-national oil companies but that of oil thieves, saboteurs and pipeline vandals. More so, legislations that will protect the environment of host communities and ensure timely adequate and fair compensation to them are to be urgently enacted.

Keywords: Compensation, Oil spill,, Sabotage, Vandalization and “Bunkering”.

INTRODUCTION

Oil, more than any other commodity, illustrates both the importance and mystification of natural resources in the modern world.

Fernado Coronil (1997: 47)

For nearly a century, petroleum production and consumption has probably brought out both the best and worst of modern civilization. The industry has contributed enormously to world economy growth and a higher standard of living in our time. On the other hand, the downside of petroleum development has left profound adverse effect on the global environment. Nigeria is no exceptional. The annals of oil are an

uninterrupted chronicle of naked aggression, genocide and the violent law of the corporate frontier. In year 2000, the US department of state in its annual encyclopedia of “Global Terrorism” identified the Niger Delta – the ground zero of oil production in Nigeria – as a breeding ground for increasingly militant improvised ethnic groups’ for whom terrorist acts (abduction, hostage taking, kidnapping and extra-judicial killings) against foreigners were legion. The CIA concurred in 2000, laying emphasis on the catalytic effects of environmental stresses in the oil rich southern Delta on “Political tension”.

The mythos of oil and oil-wealth has been central to the history of modern industrial capitalism. But in Nigeria, as elsewhere in the discovery of oil, an annual oil revenues of N50 billion currently, has ushered in a miserable, undisciplined, decrepit, and corrupt form of “petrol-capitalism. After over a half century of oil production from which almost N400 billion in oil revenue have flowed directly into the federal exchequer (and perhaps 100 billion promptly flowed out only to ‘disappear overseas), Nigerian per capital income stands at \$290 per year for the majority of Nigerians, living standards are no better now than at independence in 1960. A repugnant culture of excessive venality and profiteering among the political class – the department of state has an entire website devoted to so – called ‘419’ fraud cases – confers upon Nigeria the dubious honor of sitting atop Transparency International’s ranking of most corrupt states.

Paradoxically, oil producing states in the federation – the Niger Delta – have benefitted the least from the oil-wealth. Devastated by the ecological costs of oil spillage and the highest Gas flaring rates in the world, the Niger Delta is a political tinderbox. Oil Bunkering, Terrorism, kidnapping, pipeline vandalism has taken over the host communities, and criminal activities of all kinds thrive and prosper in Niger-Delta. Unbelievably, the Niger-Delta being a minority group in Nigeria, produced a president for the country for the first time in 2009 president Goodluck Jonathan was formerly Vice-president but became the Nigerian President after the Death of late President Musa Yar’adua according to constitutional provisions. He was later elected as a president in 2011 till date.

Sadly, a terrorist Islamist group called “Boko Haram” (No to western education) emerged from the Northern part of Nigeria immediately Goodluck Jonathan was sworn in as president. Is it a political crime for a person from the Niger-Delta to be the Country’s president since 95% of Nigeria’s Annual income comes from that part of the country. Since the emergence of “Boko Haram”, over 4,000 Nigerian’s have lost their lives and properties worth billions of dollars as well. One of the reasons this terrorist group keep killing innocent Nigerians daily is because they do not want someone from the Niger – Delta to be the president but a Northerner. They destabilize the security in the country and destroy thousands of lives and properties since they believe the Northern political leaders will longer be in charge of the oil money and authority. No wonder Perry Anderson said,

“Blood may be thicker than water but oil is thicker than either” (2001:30).

This indicates a need for a comprehensive approach that would not only coordinate the rules concerning liability and those concerning sources of compensation but would also make the compensation of pollution damages and integral part of a thoroughly rational and consistent environmental policy. The assessment of the risks posed to the environment by oil production is frightening since discoveries have been made about the long-rang harmful effects to the national habitat and farmland. What is needed therefore is a reappraisal of the policies and principles under which oil-spill damages can be recovered, taking into account present-day knowledge of types and harmful effects of oil pollution, present –day knowledge of and policies concerning the allocation of costs and expenses caused by oil pollution and present-day methods of risk management and risk distribution.

Compensation for oil spill damages should be an integral part of a coherent and rational environment policy. The purpose of this study is to make suggestions for a needed reconsideration and reappraisal of

compensation principles and methods in Nigeria. Prevention of damage is usually preferable to compensation both because it is more economical and because compensation rarely succeeds in giving the injured full satisfaction.

STATEMENT OF PROBLEM

The constant Environmental damage as a direct result of Oil spill in Nigeria and lack of reasonable measures of restoration to the victims is alarming. Usually, once there is oil spill, it is assumed that the oil company must have been the source or cause, while the victims expect adequate and fair compensation from the multinational oil companies after investigations, arbitration or litigation. But, the persistent activities of oil thieves, oil bunkers and pipeline vandals is a strong impediment and limitation on compensation of such victims and have led to loss of properties and lives even that of NNPC officials.

The cogent question to be asked at this juncture is, who bears the responsibilities of compensating, the victims of oil spill when lit is due to the activities of pipeline vandals and oil thieves; would it be the oil company or the government –(local, state or federal) or who?. So many Nigerians have lost their` lives in the struggle to ensure adequate compensation to oil spill victims. Would blood be spill as long as oil is produced on Nigerian soil? Thus, this paper broadly discusses the urgent need for a legal framework on compensation of oil spill victims in Nigeria.

OBJECTIVE OF PAPER

The main objective of this paper is to examine problems associated with compensation of oil spill victims in Nigeria. With the alarming rise in cases of oil theft, oil Bunkering and pipeline vandalism, and oil spill as a result, who ensures adequate and fair compensation to oil spill victims?.

The need for the federal government to set up oil spillage compensation funds that will make provision for compensation from oil pollution resulting from oil spills of multi-national oil companies is also explored in this paper.

METHODOLOGY

This paper relies on secondary data that are sourced from textbooks, journals, articles, periodicals, magazine, news items and the internet. To a great extent, Most of the materials sourced from journal articles, magazine, news item and periodical are also available online. The data collected from all these sources are critically content – analyzed in line with the objective of the paper, to wit; ensuring the payment of compensation to victims of oil spillage in Nigeria.

LITERATURE REVIEW

Assessment of Damages

Before compensation is paid, the damage is evaluated. By virtue of cap E13, laws of the federation of Nigeria (2004), the Estate Surveyors and the valuers (Appraisers) are the sole professionals statutorily recognized in Nigeria to provide advice on the value of pecuniary interests in land or landed property for various purposes including compensation arising from oil spillage.

The Estate surveyor and valuer; prepares the valuation upon which the claimant/defendant seek redress and/or prepares his defense, as the case may be. This Evaluation is most times, Scientific and also a matter of Evidence. The Estate Surveyor and valuer also prepares the brief or proof of evidence for the claimant or the defendant solicitor and may also appear as expert witness before a regular court or

tribunal and any other jury. His role is to help the court arrive at a just and fair judgment on the quantum of compensation that is reasonable and adequate in the circumstance.

The need for expert witnesses in environment cases has been mentioned in the case of seismograph services v Ogbeni. The case was dismissed because there was no expert to prove damage. For example, if the spill occurs offshore, a marine surveyor is employed to give an estimate of the damage done. The amount of damage done may be proportional to the amount of oil lost during the oil spill but this is not conclusive as a lot of factors can affect the extent of damage.

If the claim is in respect of farmland, estate surveyors will quantify the damage. The soil expert will determine the length of time the soil will remain unproductive. This varies depending on the extent or degree of the damage. The crop or trees on the farm are then enumerated. Each crop is given a value. Although the value given to each crop is approved by the government, those values also depend on a number of factors like the age and size of the crop.

The value of the product on the farm is multiplied by the number of years that the farm will be unproductive, for instance, if the value of the product is N50,000 and the soil will be unproductive for the next five years, the victim will be paid $N50,000 \times 5 = N250,000$. In addition to this, the victim is paid some amount for loss of farming rights. The rates used by the oil company are usually approved by the state government. These rates are only used as a guide and in many cases, not strictly use. The oil companies can decide not to use the government rates and pay higher to the victims so as to promote good relationship. But if the oil companies are paying higher rates to the victims, does it mean that the government rates are low? Most often they are! What should be given to the claimant is the amount he would have obtained from the crops if it had matured and not been damaged by the oil spill.

In Ejamah-Ebube Community V.Royal Dutch/shell, the learned judge ruled inter alia.

“I agree entirely with the expert finding of the valuer. The evidence of this expert valuer was subjected to rigorous cross-examination and I find this valuer’s evidence credible. Accordingly, I hereby award in respect of continuing damage to plaintiff’s land and vegetation a sum of N540,000.00 damage”.

Most of the time, multinational oil companies have complained that compensation claims by oil spill victims are outrageously high and in realistic. Could this be the reason for oil companies to lack interest in compensation claims at first? The victims to be compensated on the other hand have argued that their claims are high due to social, cultural, economic and political reasons. Due to lack of financial capacity on the part of individual victims, the host community encourages the few victims of polluted farmland to have a class-based litigation and then, the community finances the litigation fee. With these, claims are escalated and even when an individual is laying claims, he already knows that his community takes a portion of his compensation fund. Furthermore, the victims feel a sense of loss as the revenue derived from oil which is taken from their undeveloped area is used to develop other areas.

If the victims secure compensation through a class-litigation or through village chiefs all the money paid may not get to the individually in the long-run. Bearing all of these in mind, victims request exorbitant compensation from oil companies whenever there is the tiniest drop of oil spill. Therefore, Estate Surveyors and valuers play a pivotal role in adjudication involving compensation for oil spillage which claim often runs into Billions of Naira. To perform this role creditably, the valuation process and ultimate valuation must be seen by all parties and particularly the court, to be credible, logical and strongly persuasive such that it leaves room for minimum or no contention.

Legal Framework on Compensation

Although Nigeria has a number of Statutes that provide for compensation in matters relating to land or landed property acquisition, only the Oil Pipelines Act Cap145, LFN, 1990 contains provisions that are directly related to compensation arising from oil spillage. Other statutes such as the Land Use Act (1978), Minerals Act Cap 121 of 1946, and Petroleum Act No. 51 of 1969 now Cap 350 LFN 1990, Mining Act No 24 of 1990, Oil in Navigational Water Act, Cap 337 LFN 1990 (all consolidated in the latest Laws of Nigeria (LFN, 2010), make only tangential reference to compensation for oil spillage as they deal primarily with acquisition rather than injurious affection. The latter does not transfer interest in land in any way.

The Oil Pipelines Act (Cap 145 LFN 1990)

Section 11(5) of the Oil Pipeline Act provides that the holder of a licence shall pay compensation to any person whose land or interest in land is injuriously affected by the exercise of the right conferred by the license, for any such injurious affection not otherwise made good: AND any person suffering damage as a consequence of any breakage of or leakage from the pipeline or an ancillary installation, for such damage not otherwise made good. Damages arising from sabotage and malicious acts of third parties are exempted.

Section 11 of the Act further provides that where the amount of such compensation cannot be agreed between any such person and the licensee, it shall be fixed by a court in accordance with the relevant section of the Act. According to Section 20 of the Act, the court may award such compensation as it considers just, having regards to:

- a. Any damage done to any buildings, crops, or profitable trees by the holder of the license;
- b. Any disturbance caused by the holder the exercise of such right;
- c. Any damage suffered by any person as a consequence of any breakage of or leakage from the pipeline or an ancillary installation and
- d. Loss (if any) in value of the land or interests in land by reason of the exercise as aforesaid. Furthermore, Section 20 (3) provides that in determining the loss in value of land and or interest in land of a claimant, the court shall assess the value of the land or the interest injuriously affected at the (time immediately before the grant of the license and shall assess the residual value of the claimant of the same land of interest consequent upon and at the (time of the grant of the license and shall determine the loss suffered by the claimant as the difference between the values so found, if such residual value is a lesser sum. Compensation shall not be awarded for unoccupied land as defined in the Land Use Act, except to the extent and in the circumstances specified in the (Act Section 20(4)).

Section 20(5) stipulates that in determining compensation in accordance with the provisions of this section the court shall apply the provisions of the Land Use Act far as they are applicable and not in conflict with anything in the Act as if the land or interests concerned were land or interests acquired by the President for a public purpose.

Section (29) of the Land Use Act provides for calculation of compensation as follows:

- (i) For land, an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked;

(ii) For building, installation or improvement thereon, the amount of the replacement cost of the building, installation or improvement, that is to say, such cost may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer;

(iii) For crops on land apart from any building, installation or improvement thereon; an amount equal to the value prescribed and determined by the appropriate officer.

From the foregoing, the law relating to compensation for oil spillage in Nigeria, while providing specific items for compensation, leaves opened a number of crucial issues including the exact 'heads of claim' as well as the basis and the method of valuation applicable. Apparently, the discretion is left to the valuer, and of course, the court, which is the final arbiter.

When an aggrieved person goes to court, he brings an action under the lost of nuisance, negligence or the rule in *Rylands V Fletcher*. An action in negligence requires the company to prove that he has been negligent. This involves proving that the defendant owes him a duty of care and that the duty has been breached.

This is a heavy burden on the victim. The difficulty of proving negligence is even more complex in cases involving high skill and technology because the burden of proof becomes higher on the plaintiff who finds it difficult to prove that the operator was negligent. This was the decision of the court in *J chinda & org v shell B.P.* In *Umukoro Adhemore v shell B.P* it was held inter alia that the plaintiff encounters problems in view of the fact that the operations in the oil industry are highly specialized, and, usually, only those in the oil industry have access to this knowledge.

The victim can also rely on the tort of nuisance. However, must be able to prove that he has suffered damage. An action brought under private nuisance constitutes no problem, but if the action is brought under public nuisance, some difficulties may be encountered. Apart from the fact that usually the state can bring an action for the crime of public nuisance, an individual who brings an action under public nuisance must be able to prove that he has suffered by other as emphasis in the cases of *Amos & org V shell B.P* and *Olaye V N.A.O.C.* This will probably be very difficult because public nuisance usually affects all or part of a community.

These are the Guidelines to be applied by the court in assessing or awarding compensation. However, this is only applicable to oil spill from pipeline or an ancillary installation. All said and done, Nigeria needs more laws and statues on the compensation of oil spillage to afford the victims adequate, timely and fair compensation.

LIMITING FACTORS ON COMPENSATIONS

Among the lessons learned from the Exxon Valdez disaster is that of the dangers of complex and protracted class-action litigation. The central case for damages resulting from the Exxon Valdez spill, *Exxon shipping CO. V. Baker* was not resolved for nearly 20years after its filing date. In Nigeria, oil spill cases also take a long time to be resolved in courts. Some of the claimants even die before the case is resolve, while the case may start de novo in case the judge retires or dies. The case of *Ejamah-Abube Community V Royal Dutch/Shell* was in court for over 33 years due to all these procedural hitches. Among the hidden costs of such litigation are administrative costs to the court system, costs in limiting

productivity, increased insurance costs and societal costs. Immediate costs include transactional costs for the plaintiffs and defendants. Multi-national oil companies need to avoid traditional tort litigation in a court of law by implementing a compensation fund which will be of benefits to both plaintiffs and defendants.

Sabotage of oil facilities is another means whereby the environment is polluted by crude oil. The sabotage activities include cutting off of oil pipelines thereby causing oil spillage; capture and or destruction of vital equipment of the oil operator leading to inefficiency in operations. This activity has risen in recent years due to a number of factors including, the pressure on the available land as a result of pollution on the land. This leads to constant battle between the host communities and the oil and gas operators, youth restiveness as a result of lack of jobs and other opportunities and worst of all, lack of adequate and fair compensation for use of host's Community ancestral lands, to mention a few.

Therefore, once oil spill resulted from sabotage, compensation will not be awarded to the victims even though they may have proved damage. The rate of oil sabotage in Nigeria has gone so high. Unfortunately, the law does not allow payment of compensation in cases of sabotage. Hence in *Anthony Atunbin & Org V shell B.P*, the plaintiffs claimed 8 Million Naira for the damage done to their farmland as a result of oil which escaped from the defendant.

Dismissing the claim, Ovie Whiskey, J. held.

“the hole in the pipe was deliberately drilled by an unknown mischievous person over whom the defendant company had no control. Even if the oil spillage had caused damage to the property of fishing right of the plaintiff, in this case, the defendant, could not be held liable for damage which was caused by mischievous third party in the absence of any negligence on their part”.

Apart from the Attitude and decisions of the Bench towards award of compensation resulting from sabotage, some statutes also provide that oil spill resulting from acts of sabotage in the oil industry is without remedy.

Section 15 (c) of the oil pipelines act states that any person who suffers damage as a result of his own fault or the act of the third party is not liable to compensation. It is recommended here that a compensation fund be set up by the federal government to ensure award of compensation to victims of oil spill resulting from sabotage. But, the question is, how can a group of people deliberately sabotage oil pipelines and expects the victims which may be other community member to be compensated. The community needs to be reoriented on the disadvantages of this unpatriotic act of sabotage.

From the above, could it be that acts of sabotage is a psychological and physical reaction to the treatment meted out to the host communities by the government? Most of the oil producing communities already have their environment degraded, lost their farmlands and Rivers for fishing to oil spillage. All these automatically limit and prohibit social, cultural, physical, psychological and educational developments. In view of this, both the oil companies and federal government should endeavor to provide basic infrastructures for oil producing community and award adequate & fair compensation in cases of oil spill. More so, communal relationship will go a long way to solve the problem of sabotage.

Lack of legal cost is another impediment to litigation. In the Niger –Delta region, most of the people who live in the oil producing areas are peasant farmers and fishermen who are not financially and economically buoyant to bear the cost of litigation in case of litigation in case of any environmental degradation. What most affected communities do is to have class- action litigation so as to afford-payments law firms. The costs charged potential clients on law related matters by private law firms are

most times unnecessarily outrageous, invariably making it too expensive for individuals to afford and discourages victims to pursue litigation on compensation.

Unfortunately, there is no legal aid from the government for victims of environmental degradation due to oil spillage in Nigeria. It is usually perceived by victims that government usually take sides and support multi-national oil companies. The government ought to give a legal aid scheme for oil spillage victims so as to boost the communal relationship and the psychology of the individuals therein.

Truthfully, the evolution of litigation is inevitably related to the success of individual or class litigations. A number of legal innovations need to be introduced and these innovations will benefit host communities. There is an increase possibility of higher compensation awards to village communities. This seems to have had an impact on the quantity of litigation. Another impediment to compensation is oil theft and vandalism. When a pipeline is vandalized or oil is stolen from it, the thieves will not close the pipeline back, leaving the oil to spill. The victims of the oil spill that may have their farm produce or rivers destroyed cannot claim compensation from any source. This is rather unfortunate. These limiting factors on compensation buttress the need for government to set up a compensation fund for oil spillage victims in such circumstances.

AN ENVIRONMENT DEGRADED WITH OIL AND BLOOD?

Oil is the life blood of Nigeria's economy oil economy. Oil earnings have come to account for over 90% of all government revenue in Nigeria, a nation of more than 160 million people. Although corruption sees much of that money frittered away, it still provides needed funding for projects in the country.

Militancy among the Niger-Delta Youths has led to loss of properties and lives. Kidnapping of foreign workers of oil companies and the request for a ransom before their release was the order of the day for these militant groups. Vandalization of oil pipelines owned by the government and multinational oil companies was not left out. Oil theft was another major activity carried out by these militant groups. All these led to not only oil spillage but "blood spillage". In 2010, the federal government granted Amnesty to these militant groups and till date pays "salary" to the youths that surrendered their arms and ammunition. Despite the amnesty granted, there are recent cases of kidnapping, vandalism and oil "Bunkering" in the Niger-Delta area of Nigeria. Does that mean that there is no end in sight of these criminal activities that lead to oil spillage? Pipeline vandalism is common in Nigeria despite the risk of deadly fire or punishment including prosecution or being shot on site by security forces and ultimately blood spillage

Worthy of note is the fact that it is not only in the Niger-Delta region that oil spillage occurs in Nigeria. Oil theft, sabotage and pipeline vandalism is carried out by criminals in difference states like Ogun, Oyo, Enugu and Lagos states to mention a few. More so, oil spillage occurs from oil tankers across the states in Nigeria. Due to the breakdown of operations of Refineries in the country, oil tankers transport petrol and kerosene from the southern parts to the Northern parts of Nigeria.

Thousands of lives have been lost when oil tankers spill the product they carry and properties worth billions of naira lost. When this happens who compensates the victims of such accidents? Are these oil tankers insured? Assuming they are, does the insurance cover the victims? If it does not, who then bears the burden of responsibility of paying compensations?

There have been several cases of oil spillage in Lagos state in recent years, ironically, Lagos state is not an oil producing state and this is with the attendant loss of property and lives. The recent case was the incident of Arepo, in Ogun – Lagos border where oil pipeline of Nigerian National petroleum Company

(NNPC) was damaged by vandals, with several lives lost in the process. During an inspection visit to the site, 4 NNPC officials were killed by these criminals.

The following is a list of oil pipeline explosions that led to thousands of people losing their lives and properties worth billions of naira lost.

Oct 17, 1998:- In Jesse, a petroleum pipeline exploded and up to 1,500 villagers, most of whom were scavenging gasoline died. This is regarded as the worst of all oil blasts in the country.

July 10, 2010:- Another explosion near Jesse town kills about 250 people.

July 16, 2000:- 100 villagers in Warri killed when an oil pipeline was vandalized by oil thieves.

November 30, 2000:- A leaking pipeline caught fire near the fishing village of Ebute, in Lagos Killing dozens of people and destroying properties.

June 19, 2003:- A pipeline punctured by oil thieves exploded and killed 125 villagers near Umiahia, Abia state.

September 17, 2004:- Another pipeline vandalized by oil thieves exploded and killed dozens of people in Lagos.

May 12, 2006:- A pipeline punctured by oil thieves at Atlas Creek Island in Lagos, exploded and killed 150 people.

December 26, 2006:- Another vandalized pipeline exploded in Lagos killed at least 500 people.

May 16, 2008:- NNPC Pipeline explosion in Ijegan Lagos state, killing dozens of people and till date, the ijegan people have not been compensated by NNPC. All the well water in the Area has been contaminated without any form of compensation.

July 12, 2012:- In a village in Rivers state, 200 people lost their lives when they rushed to collect petrol that had spilled from an oil tanker that had overturned.

June 27, 2013- an explosion at the Atlas core jetty, Apapa, Lagos, killing dozens of people. This was also blamed on suspected oil thieves.

From the foregoing, when oil is spilled in Nigeria, "Blood" automatically spills. What prompts people to vandalize, sabotage and steal oil? What prompts them to scoop oil from an overturned oil tanker or a vandalized pipeline when they could lose their lives? Poverty, unemployment, economic insecurity or what? The authors are of the opinion that the various governments in Nigeria are to ensure the provision of basic amenities for the citizenry. Also, the citizens need to be re-orientated socially, culturally and economically.

Economically, Nigeria loses N10,039,065 on a daily basis to sabotage, vandalism and oil theft.

For how long will Nigeria be an environment full of degradation where not only oil is spilled but blood as well, without any compensation or clean ups?.

CONCLUSION

Operations of multi-national oil companies have always been associated with various impacts on the economy and environment of Nigeria. Closely associated with oil spillage is the issue of compensation.

Unfortunately, some experts believed that laws relating to oil spill in Nigeria are too weak to make way for adequate and fair compensation to the victims in the case of damages to their properties by multinational oil companies.

With the emergence of illegal oil bunkering, pipeline vandalism, sabotage and oil – theft, a compensation fund must of necessity be set up urgently by the Federal government since the end result of these illegal activities is oil spillage which most times lead to loss of properties and oil blasts that leads that leads to loss of levees including that of NNPC officials.

The litigants, multinational oil companies, counsels and judiciary should expedite actions on compensation matters to avoid protracted litigation since justice delayed is justice denied.

RECOMMENDATION

Oil pollution compensation set up by the federal government that will make provision for compensation for oil pollution damage resulting from activities of not only multinational oil companies but that of oil thieves, saboteurs and pipeline vandals.

Legislations that will protect the environment of host communities and ensure timely, adequate and fair compensation are to be urgently enacted. The passage of Petroleum Industrial Bill (PIB) has been long overdue and no wonder Kingsley Kuku, special adviser to the president on Niger – Delta and chairman of Amnesty Program said that *‘people should not play politics with the PIB....., it brings hope for the future of the oil sector in Nigeria and accountability by all stakeholders’*. Furthermore, relevant Government ministries are to come up with administrative policies that will ensure that oil spillage victims are compensated on time, fairly and adequately.

Immediate necessary environmental recovery efforts to be made by the oil company after any oil spill. The multi-national oil company must effectively attempt to rectify the harm caused to the victims of oil spill. Payment of compensation presents an opportunity for the oil companies to address and repair some of the environmental damages. Oil companies should endeavor to have flexible attitude towards determining adequate compensation values for claimants. Opportunities for information and communication are to be increased so as to appease victims.

Oil companies are to secure their pipelines so as to prevent oil theft, sabotage and vandalism by using helicopters for daily surveillance. This will ultimately prevent oil spillage by these activities and the issue of victims not being compensated due to these activities will not arise at all. NNPC pipelines are to be guarded by government security forces to avoid oil theft, sabotage and vandalism so as to avoid oil spillage loss of lives of NNPC officials and oil blasts that usually claim the lives of thousands of Nigerians. Laws to Ensure Security of pipelines are recommended to be included in the PIB.

Oil companies in Nigeria do not operate according robust international, social and environmental standard. Most of them still use obsolete equipment in operation and this also cause oil spillage. Multinational oil companies in Nigeria should change all the obsolete equipment of operation to current and modern ones to avoid oil spillage since it is better to prevent oil spillage than to pay compensation after degradation to the environment. Eventually, high rise in case of severe pollution of air land and water with disastrous impacts on health and livelihoods will decrease.

Inadequate inclusion of communities in decisions affecting their lives by both government and multinational companies especially on issues of compensation should stop.

To avoid the heavy financial burdens and prolonged stress suffered by private citizens obliged to go to court to win compensation, governments should either take over the cases on behalf the claimants and stop taking side with the multinational oil companies, or provide the victims with legal aid to pursue claims which in the opinion of an independent valuer, are reasonable and have a fair chance of success.

Government should constantly relieve pollution victims of the stress and financial hardship that currently accompanies attempt to win fair compensation through litigation or arbitration.

Undeniably, all of these recommendations will make one to wonder if an end to oil and blood spill in Nigeria is in sight.

Only time will tell!

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LIST OF ABBREVIATIONS

NNPC – Nigeria National Petroleum Company

PIB – Petroleum Industry Bill