



Briefing

No. 12 | October 2016

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Main Points

The menace of artisanal petroleum refineries in Nigeria continues despite the extensive campaign of the Nigerian military, who have burned illegal refining sites, vessels and storage facilities for illegally acquired crude oil.

Despite the best intentions of the military, they are ill-equipped to handle crude oil. Indeed, the way that the soldiers have destroyed artisanal refining camps have exacerbated pollution and impacted adversely on local livelihoods.

Addressing the problem would require actions to ameliorate poor access to energy services, impoverishment and youth unemployment in communities. Military action alone cannot solve the problem without addressing persistent scarcity and the high cost of consumer fuels, weak environmental standards of oil and gas companies, and corruption in the security services.

While modular refineries provide a practical option for improving fuel supply, the participation of local communities in the ownership and management of such refineries is imperative for tackling illicit refining.

POLICY OPTIONS FOR ADDRESSING ARTISANAL CRUDE OIL REFINERIES AND POLLUTION IN NIGERIA



The burning of artisanal crude oil refineries by the military Joint Task Force (JTF) compounds the environmental damage caused by operators of such illegal sites in the creeks of the Niger Delta

In 2014, Social Action published a report which contributed to highlighting the enormous environmental and social costs of crude oil theft and artisanal refineries in the Niger Delta of Nigeria.¹ Apart from causing massive pollution, artisanal mining operations are often linked to local gangs and corrupt law enforcement officials that pervert justice in the Niger Delta area. Accidents are commonplace in refining camps. Many labourers hired to operate illegal refineries were burnt, especially before 2014. The report amplified the calls from the Nigerian public sphere and the international community for the Nigerian government to work with local communities and other interested parties to stop the menace. There has been an understanding that addressing oil theft and associated artisanal

¹Social Action (2014).Crude Business: Oil Theft, Communities and Poverty in Nigeria. http://saction.org/books/Crude_Business_2014.pdf

refineries in the Niger Delta would require actions to ameliorate impoverishment and youth unemployment in communities, scarcity and the high cost of consumer fuels, weak environmental standards of oil and gas companies, and corruption in the security services.

This briefing is based on monitoring of institutional responses and policy implementation since early 2015. The monitoring exercise was carried out in Koko, Oteghele, Bennett Island, Oghara, Tagola Creek, Lolomu Creek, Jones Creek, Ugbuwangue in Delta State. Other locations monitored included Mbiama and some communities in Ogoniland in Rivers State, as well as Brass in Bayelsa State. Social Action examined developments to determine the nature and effectiveness of government responses (including state security measures) to address the problems of artisanal refineries in particular. We have made recommendations based on our findings.

ARTISANAL REFINERIES: THE SITUATION SO FAR

Two years after the publication of our 2014 report, the situation with artisanal refineries in the Niger Delta has not changed much despite an extensive campaign by the Nigerian military. Equipment used for refining crude, as well as storage facilities for illegally acquired crude oil, have been destroyed. However, after soldiers destroy many illegal refining sites, operators tended to move into more remote locations, operating mostly at night, or adopting methods to evade or collude with state officials.

In the later part of 2015, Social Action's monitoring of illegal artisanal refining activities in the Ogoni area of Rivers State showed a drastic reduction. During visits to artisanal

refining sites in Bodo West in Gokana Local Government Area, which is near Bonny, Okrika and Ogu/Gbolo Local Government Areas, we found that illegal refining of petroleum products had been drastically reduced in the area. Operators of artisanal refineries reported that men of the military Joint Task Force (JTF) that were stationed on houseboats in the creeks had destroyed most of the camps. The soldiers often carried out air surveillance (with helicopter) on the artisanal refining sites in the area thus making it difficult for the illegal operators to resume their business. However, by the second quarter of 2016, artisanal refineries were reestablished in the Bodo area and its vicinity. These new sites are located further into the remote creeks.

Also monitoring in Oteghele, Otegbene-Agbara, Bennett Island and Jones Creek, all in Warri South-West Local Government Area of Delta State showed that the business of illegal crude oil refining was thriving as at the middle of 2016. The expansion of artisanal refineries followed scarcity of consumer petroleum fuels early in the year and the concomitant increase in pump price of petrol in May 2016. The Nigerian government had increased the price of petrol from N86.50 to N145 per litre as a measure to ensure the availability of imported products at a time when the value of the Naira was falling against the US dollar. Interviews with some artisanal refiners by our team in Mbiama, Rivers State also corroborate the stories of those obtained by our monitors in other parts of the Niger Delta States. The gist is that artisanal refineries were often destroyed by the military only to resurface, despite the risks involved and increased operations of JTF in the area.

In Brass, Bayelsa State, our monitors discovered that one of the transnational oil

companies, the Nigeria Agip Oil Company (a subsidiary of the Italian ENI) was using fuel from illegal artisanal refineries for some of its vehicles as at late 2015. That a major oil producing company, which operates an extensive crude oil and gas infrastructure could rely on produce from artisanal refineries demonstrates the fact that demand is the primary driver of the illegal business. Indeed, all businesses and homes in the Brass area, including bakeries depend on fuel from artisanal refineries. This underscores the point that military action alone when pursued in isolation of measures to improve access to energy, cannot address the problem of artisanal refineries.

The government should act to make consumer petroleum fuels more readily available to homes and businesses. While the government is committed to deregulating the price of consumer fuels, such policies do not necessarily ensure access which is affected by affordability. Energy policies should accommodate actions to make the abundant natural gas resources, solar and other alternative energy sources more readily available for local consumers.

SECURITY AND LAW ENFORCEMENT

The Role of the JTF

The Military Joint Task Force (JTF) is a continuation of a tradition of militarization of the Niger Delta which commenced in the 1990s. It has different sectors in the states of the region with members drawn from the army, navy, air force, and the mobile police. The original mandate of the JTF was to restore order in areas affected by inter-communal clashes over access to government and oil company patronage. However, the military formations in the Niger Delta also participated in quelling peaceful

community resistance in Ogoniland and elsewhere in the region. With the emergence of armed resistance, the role of the JTF was expanded in the area and has become sort of permeant feature of the social landscape. In many ways, the JTF has taken over policing function even though its members are not trained and equipped for law enforcement.

In recent times, fighting the menace of oil theft has constituted a focus for security forces, and this has led to the apprehending of hundreds of suspects taken into custody. Suspects are often extorted and or tortured. Some have died in detention. Similarly, equipment worth several millions of dollars have been either confiscated or destroyed, and millions of metric tons of stolen crude and illegally refined products are routinely destroyed in all the places monitored by Social Action, and as has been reported elsewhere.² In one of the major operations of the JTF in 2015 in Oteghele in Warri South-West Local Government Area, seventy dugout crude oil reservoirs of the artisanal refiners, each the size of a basketball pitch, were discovered and destroyed by the troops. The pool was set ablaze with the fire destroying surrounding vegetation.³

Hearts and Minds Efforts of JTF

Beyond destroying the infrastructure of illegal refineries, the JTF decided to undertake the concept of hearts and minds to achieve community support for its operations. This approach is informed by claims that operators of illegal refineries are not always members of the affected communities.⁴ This claim is supported by the apprehension of many non-indigenes of Niger-Delta including foreigners as suspects by the Nigerian security and law enforcement agencies.⁵ The hearts and minds

²Ships and Ports (2016). Navy arrests 40 suspected smugglers, oil thieves. Ships and Ports, 27th April 2016. <http://shipsandports.com.ng/navy-arrests-40-suspected-smugglers-oil-thieves/>

³Ogundele, B. (2015). Curbing Illegal Refineries. The Nation, 17th April 2015. <http://thenationonlineng.net/curbing-illegal-refineries/>

⁴Oyadongha, S. (2015). JTF Adopts New Strategy on Oil Theft. Vanguard Newspapers, 3rd March 2015. <http://www.vanguardngr.com/2015/03/jtf-adopts-new-strategy-on-oil-theft/>

⁵Edwin Clark. (2015) Crude Oil Theft: Edwin Clark Blames Military, Foreigners...Exonerates N'Delta Youths. Urhobo Today, 10th March 2015. <http://urhobotoday.com/?p=15382>

operations involve the military providing limited medical services and other outreach measures to members of some communities.

Raids and burning of Artisan Refineries: The Ecocide on the Niger Delta

Despite the best intentions of the military, they are ill-equipped to handle crude oil. Indeed, the way that the soldiers have destroyed artisanal refining camps have exacerbated pollution and impacted adversely on local livelihoods. The default method of the JTF is the setting ablaze of vessels or containers of crude oil. The resultant conflagration destroys the equipment of oil thieves. However, burning also destroys large swathes of land and natural habitats.⁶ While the soldiers make advances against the illegal refineries, the environmental costs of setting vessels or containers loaded with crude oil or illegally refined produce ablaze are massive.⁷ In one operation in Delta State, the Nigerian Navy Ship (NNS) Delta, under the command of Commodore Musa Gemu destroyed stolen crude oil running into thousands of metric tons in the Warri South-West Local Government Area.⁸ At the end of the operation, the number of illegal refineries destroyed was more than 260 units, and the amount of crude and refined products destroyed was approximately 5000 metric tons and encompassed many of the communities in the council area such as Oteghele, Otegbene-

While the soldiers make advances against the illegal refineries, the environmental costs of setting vessels or containers loaded with crude oil or illegally refined produce ablaze are massive

Agbara community, Bennett Island and Jones Creek. The environmental impact of thousands of metric tons of crude destroyed in these communities was of no concern to the soldiers.

JTF Connivance

Even as the JTF is working to limit oil theft and illegal artisanal refineries, elements within the military apparatus are complicit in the illegalities of the oil fields.⁹ Over the years, allegations of JTF connivance with oil thieves in the Niger-Delta and elsewhere in Nigeria abound.¹⁰ Top commanders and the rank and file of the JTF routinely collect bribes from operators of illegal artisanal refineries. Indeed, President Muhammadu Buhari has pointedly accused the JTF of conniving with other government officials to steal one million barrels of crude oil daily.¹¹

Community members, operators of illegal artisanal refineries and other observers express the view that the JTF acts mostly when there is political pressure from the highest level or when its officers come under attack in the creeks. At other periods, they continue with business as usual – which explains the resurgence of illegal refineries weeks or months after JTF operation in particular locales. There is a need for a holistic review of the JTF's activities to minimise the environmental damage from their operations and to ensure sustainability of outcomes.¹²

⁶Odunsi, W. (2016). Navy arrests key pipeline vandals in Niger Delta. Dailypost, 1st June 2016. <http://dailypost.ng/2016/06/01/navy-arrests-key-pipeline-vandals-in-niger-delta/>

⁷Yafugborhi, E. (2016). Oil thieves break more pipelines as Navy lauds officers. Vanguard Newspapers, 2nd January 2016. <http://www.vanguardngr.com/2016/01/oil-thieves-break-more-pipelines-as-navy-lauds-officers/>

⁸Ogundele, B. (2015). Naval Officers Relieve Ordeal Battling Oil Theft. The Nation, 24th July 2015. <http://thenationonline.net/naval-officers-relive-ordeal-battling-oil-theft/>

⁹Sweet Crude (2015). Oil theft: Buhari to probe military JTF in Niger Delta. Sweet Crude, 25th July 2015. <http://sweetcrudereports.com/2015/07/25/oil-theft-buhari-to-probe-military-jtf-in-niger-delta/>

¹⁰Idowu, S. (2015). JTF hits hard on oil thieves in Delta, destroys 32 illegal refineries. My News Watch, 18th June 2015. <http://www.mynewswatchtimesng.com/jtf-hits-hard-on-oil-thieves-in-delta-destroys-32-illegal-refineries/>

¹¹Sweet Crude (2015). Oil theft: Buhari to probe military JTF in Niger Delta. Sweet Crude, 25th July 2015. <http://sweetcrudereports.com/2015/07/25/oil-theft-buhari-to-probe-military-jtf-in-niger-delta/>

¹²Sweet Crude. (2015). Oil theft: Buhari to probe military JTF in Niger Delta. Sweet Crude, 25th July 2015. <http://sweetcrudereports.com/2015/07/25/oil-theft-buhari-to-probe-military-jtf-in-niger-delta/>

Delay in Prosecution of Suspected Oil Thieves and Connivance of JTF

One of the excuses the law enforcement agencies tender is the lack of prosecutorial power. This has resulted in slow pace of prosecution. In many cases, oil thieves and illicit artisanal refiners are never brought to justice.¹³ The JTF agrees that delays in prosecution serve as encouragement to the culprits to persist in the illegal business.¹⁴

The Role of NOSDRA and NSCDC

The Nigeria Security and Civil Defense Corps (NSCDC) has reported several raids on artisanal refining sites. It destroyed over 250 illegal refineries and secured the conviction of 40 perpetrators out of the 118 arrests made in the last one year in the Niger Delta region.¹⁵

The NSCDC and the National Oil Spill Detection and Response Agency (NOSDRA) have also agreed to work together to checkmate the activities of pipeline vandals, oil thieves, and illegal artisanal refiners in the Niger Delta region. The two agencies agreed to collaborate on what to do with the crude oil and petroleum products recovered from oil thieves rather than the regular practice of destroying them and polluting the environment in the process.¹⁶ However, NOSDRA is underfunded and ill-equipped to address issues of oil pollution in the Niger Delta. The agency has been faulted over and over again for not responding to spills and for depending on the oil companies for logistics and other necessary support for Joint

Investigation Visits (JIVs) and Post Cleanup Inspection (PCI). It is yet to be seen what the agency can do to curb the pollution of the environment wrought by the military and NSCDC during raids on artisanal refining sites.¹⁷

SEARCHING FOR SOLUTION

Modular Refineries as Alternative to Illicit Artisanal Refining

There have been calls on the Government of Nigeria over the years to support the initiative of modular refineries.¹⁸ These mini-refineries have an output of between 1000 to 10,000 barrels per day. They are expected to ameliorate supply shortages of consumer fuels especially in the Niger-Delta region where the scarcity of refined petroleum products bites far harder than elsewhere across Nigeria.¹⁹

Following the approval of licences for modular refineries by the administration of Goodluck Jonathan, his successor, President Muhammadu Buhari granted such permits to 65 Nigerian companies. This measure was to ensure an increase in the domestic refining capacity to meet local demand and accordingly reduce the huge import bills. This action supposedly pointed to the direction of his policy with regards to tackling the menace of small scale oil theft and the dangers of the continued operations of the artisan refineries on the ecology and economy. The Directorate of Petroleum Resources (DPR) also reduced the licensing fee for new refineries from \$1 million to \$50,000.²⁰

¹³Hemba, S. (2015). *How Buhari can stop crude oil theft*. Nigerian Pilot, 13th September 2015. <http://nigerianpilot.com/how-buhari-can-stop-crude-oil-theft/>

¹⁴NAN. (2015). *Why oil theft persists in the Niger Delta – Navy Commander*. News Agency of Nigeria (NAN) 15th August 2015.

¹⁵Abdulkareem Haruna (2016). 250 illegal refineries uncovered, destroyed in Niger Delta. 17th July 016. <http://www.premiumtimesng.com/news/top-news/207057-250-illegal-refineries-uncovered-destroyed-niger-delta.html>

¹⁶Obas Esiedesa (2016). The JTF NOSDRA, NSCDC partners to combat oil pipeline vandalism. The Authority, 15th April 2016. <http://www.authorityngr.com/2016/04/NOSDRA-NSCDC-partners-to-combat-oil-pipeline-vandalism/>

¹⁷Obas Esiedesa (2016). The JTF NOSDRA, NSCDC partners to combat oil pipeline vandalism. The Authority, 15th April 2016. <http://www.authorityngr.com/2016/04/NOSDRA-NSCDC-partners-to-combat-oil-pipeline-vandalism/>

¹⁸The Union (2015). *Varsity Wants Illegal Refineries Legalised*. The Union, 2nd March 2015. <http://theunion.com.ng/energy/varsity-wants-illegal-refineries-legalised/>

¹⁹Eze, C. (2016). *Legalise Modular Refineries to Check Fuel Scarcity, Ijaw Youths Tell FG*. Dailytrust, 7th March 2016. <http://www.dailytrust.com.ng/news/general/legalise-modular-refineries-to-check-fuel-scarcity-ijaw-youths-tell-fg/136829.html#iwQKr8Tb00PWST.99>

²⁰Nwachukwu, C. (2015). *Buhari approves 65 licences for private refineries*. Vanguard Newspapers, August 28, 2015. <http://www.vanguardngr.com/2015/08/buhari-approves-65-licences-for-private-refineries/>

However, the impact of the licencing is yet to be determined as owners are yet to build refineries. Besides, if the granting of licenses does not directly address the participation of elements directly involved in illegal refining, then there is no immediate disincentive for illegal artisanal refineries.²¹

The proliferation of illegal artisanal refineries is partly borne out of a feeling of marginalisation within Niger Delta communities where members feel no benefit from decades of crude oil exploitation. To address this problem, there should be a conscious effort to get community participation in legal refining via modular refinery licencing. Leaders of oil and gas bearing communities point to government policy on solid minerals which supports the granting of licences to artisanal miners and ask for a similar approach to dealing with artisanal crude oil refiners. Just as the Nigerian Minister of Solid Minerals, Kayode Fayemi called on artisanal miners to form cooperatives to be able to benefit from licencing, the view in the creeks of the Niger Delta is that local cooperatives could be encouraged by the government.

Furthermore, there should be government-backed collaterals, and other incentives, provided for prospective modular refinery investors from the many oil and gas host communities across the Niger-Delta who may be interested in partaking in the legitimate business of oil refining.

Alternative Education and Employment

Poverty in the Niger-Delta is endemic with a vast number of the populace especially the youth unemployed.²² There is a

misunderstanding as to what the communities expect from the oil companies and the government as against what is being provided. There is a huge population of unemployed able-bodied youths who have known nothing but the business of illegal oil refining, 'militancy' and other extra-legal ways to make a living. Social Action spoke to operators of illegal artisanal oil refineries that paid their way through university mostly from the proceeds from artisanal refining. However, the majority of operators would require re-orientation away from years of artisanal refining based livelihoods.

To curtail oil theft and the associated crimes in the area, there should be alternative education and skills acquisition towards creating ventures to provide legitimate livelihoods. Lessons learnt from the Amnesty Programme should be applied to dealing with operators of artisanal refiners. However, rather than paying for schooling, education should focus on direct job creation in the Niger Delta region.

Need for Inclusive Dialogue

There is a need to bring together members of the oil bearing communities, the stakeholders in the oil and gas industry, the state and federal government and the security outfits to an inclusive roundtable to seek shared understanding of the problem. This would inform better strategies by the government to tackle the menace of artisanal refineries. Such strategies should contribute to bridging the community-industry expectation gaps, the role of the government in the tripartite arrangement and the best way for the military and other security agents to effectively tackle the issues of criminality within the ambit of the law and environmental sustainability.

²¹Anyadike, O. (2015). Crude awakening: can oil benefit the people of the Niger Delta? IRIN/ERA News, 4th November 2015.

²²Imam, N. and Edozie, V. (2015). How oil thieves, cabal milk Nigeria dry. Dailypost, 26th July 2015. <http://www.dailytrust.com.ng/news/others/how-oil-thieves-cabal-milk-nigeria-dry/104955.html>

Some advocates have stressed that the solution cannot be found in gazing at oil theft and artisanal refineries alone. Rather, there is a need for political measures including addressing the structure of the Nigerian state – with roles for the federal, state and local government clearly defined in the context of federalism and resource democracy.

Furthermore, the Petroleum Industry Bill (PIB), which provided for the payment of 10% of royalties to petroleum bearing communities would contribute significantly to addressing the feeling of marginalisation while providing much-needed funds for alternative income generating schemes in communities.

CONCLUSION

It is evident that the problems of oil theft and artisan refineries will not abate immediately as long as factors that ensure its sustenance

remain. Short-lived measures only spur the operators to change location or strategies to continue in the business. Insincerity and lack of political will on the side of the government, poverty, unemployment and lack of basic energy infrastructure are some of the fuel that keep the fire of artisanal refineries and associated activities in the Niger Delta burning. The JTF and other security outfits have also added to the problems faced in the area as they have been fingered severally of allegedly colluding with the oil thieves or confiscating their illicit product only to sell them in the local markets. Brazen destruction of oil vessels used by the operators of the illegal trade disposes thousands of metric tons of crude oil on water and land of the immediate environment thereby causing other problem of ecocide resulting in further impoverishment, poverty, sicknesses and death.



SOCIALACTION
SOCIAL DEVELOPMENT INTEGRATED CENTRE

Published by **Social Development Integrated Centre (Social Action)**, October 2016

Head Office:

33, Oromineke Layout, D-Line
Port Harcourt, Nigeria
Tel: +234 (0)84 360 903
www.saction.org

National Advocacy Centre:

20 Yalinga Street (House 1)
Wuse 2, Abuja, FCT

Authors: Gibson Ikanone, FyनेfaceDumnameneFyनेface
Photograph: Gibson Ikanone
Series Editor: Isaac 'Asume' Osuoka

This report is based on monitoring activities carried out within the framework of Social Action's Resource Justice programme, which is supported by **Ford Foundation** and **Development and Peace-Caritas Canada**.