

**Looting by the Ruling Elites, Multinational Corporations and the  
Accountants: The Genesis of Indebtedness, Poverty and  
Underdevelopment of Nigeria**

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## **Abstract**

While the World Economic Forum (WEF) has been issuing ‘corruption index’ for Nigeria, either by design or default, the same institution has been ignoring the collaboration of the Western multinational corporations with the local ruling elite and accountants in looting the Nigerian public treasury, which has contributed to extreme poverty and hunger and may be the real obstacle in the way of achieving the United Nations 2015 millennium goal and vision 2020 respectively. It is in the above context that this paper develops the theory of globalisation and the profession, particularly accountancy, to extend the earlier study by Bakre (2007), by providing up to date evidence of the cases of continued corruption by the successive Nigerian ruling elites, politicians and public officials, which seems to have been breeding ground for trans-organised financial crimes by multinational companies operating in Nigeria. It further provides the evidence of the collaboration of the membership of the World Economic Forum, mostly from multinational companies with the ruling Nigerian elite in perpetrating bribery, tax avoidance and other trans-organised financial crimes, despite the available national and international laws, conventions and accounting standards criminalising trans-organised financial crimes globally. The paper concludes that any genuine efforts to control corruption in Nigeria must involve an effective legislation that prosecutes the erring local ruling elite, politician, and public officials; tames the excessiveness of the Western economic powers-based multinational corporations and sanctions the professional misconduct of accountants.

**Keywords:** Western Economic Powers, Multinational Corporations, Tax Avoidance, Capital Flight, Ruling Elite, Politicians and Public Officials, Poverty, Shady Deals

## 1.0 Introduction

About US\$170 billion from the Nigerian public treasury is currently looted into private bank accounts in some anti-corruption and anti-money laundering-preaching Western nations (Collier, 2003; Guardian, December 22, 2003). In expressing his concerns about the endemic looting of the public treasury by the successive Nigerian leaders, the former World Bank president, Wolfowitz (2006) noted that, “about 75 percent of Nigerians now live on less than one dollar per day “yet over the past 40 years, about US\$300 billion oil wealth has disappeared from the country”. He further stressed that “Nigeria presents a classical example of how people in a resource rich country could wallow in abject poverty”. However, the reason for this paradox lies in the corrupt nature of the ruling elite, which seems to have filtered down and infected the fabric of the socio-political, economic and cultural environment of the society in a way that some people have concluded that the Nigerian culture may have been embedded in monumental corruption (see Powel, 2004)<sup>1</sup>.

Constantly available evidence shows that the presidency that has the political and moral mandate to use the huge oil resources of Nigeria to provide infrastructure, efficient public utility and necessary wealth redistribution geared towards growth and development have been employing the services of cronies, multinational corporations and accountants to loot the public treasury into private bank accounts abroad<sup>2</sup>. Further evidence indicates that some members of the Senate and House of Representatives who were elected to make appropriate laws for the smooth running of the country and provide check and balances in the activities of other arms of government (including the

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<sup>1</sup> The former American Secretary of State, Colin Powel, was quoted as describing Nigeria as a country of scammers (see Guardian, February 10, 2004).

<sup>2</sup> Available evidence shows that all the past military and so called democratic leaders have looted the public treasury into private bank accounts abroad (see Daily Sun, June 16, 2008; Daily Champion, March 12, 2008; Vanguard, March 13, 2008; Daily Independent, November 9, 2007; This Day, May 6, 2008; Daily Sun, June 10, 2008; Sikka, 2003).

presidency), have both been enmeshing themselves in fraud and bribery scandals<sup>3</sup>. Some “Honourable” members (Senate and House of Representatives) have been colluding with the presidency, ministers and even multinational corporations to loot public treasury into private bank accounts abroad (see Obasanjo-Bello and M. Schneider Austria, 2008)<sup>4</sup>. In fact, it has been allegedly concluded that the Nigerian Senate is full of fraudsters (see Aliyu, 2008), nearly all members of the Senate take bribes (Nzeribe, 2002) and most of the members are corrupt (Yerima, 2008). On a continental assessment, a report of a team of eminent persons from the African Union (AU) which was in Nigeria on a month-long review mission in March (2008) reveals that:

*Corruption is still endemic in Nigeria despite the activities of the anti-corruption agencies such as the Economic and Financial Crime Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC). (see African Union Report, 2008).*

Another continental report prepared by an African Peer Review Mechanism (APRM) team of experts who in March 2008 also undertook another one-month assessment of developmental projects in Nigeria laments that “corruption has ruined Nigeria”. The report further claims that if the US\$300billion a former World Bank President, Mr, Paul Wolfowitz, claimed was stolen from Nigeria in four decades had been used for public good, Nigeria would have been an exemplary nation in Africa. The report gave a paradoxical conclusion that:

*It was disheartening that a country that is the sixth largest oil producer in the world had the third largest concentration of poor people in the world. (see APRM Report, 2008).*

It is the above internal monumental financial corruption that seems to have been encouraging multinational corporations operating in Nigeria (particularly the oil

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<sup>3</sup> (see Anyim, 2002; Nzeribe, 2002; the Guardian, February 6, 2004; News watch, November 17, 2002; Vanguard, November 17, 2002; Daily Times, February 19, 2004).

<sup>4</sup> Former Senate President, Wabara and former Minister of Education, Osuji were charged to court for allegedly offering N55million bribe to the Senators to enable the Senators to increase the education budget (see Punch, March 17, 2008; This Day, June 5, 2008).

companies) to have found Nigeria as a fertile land for pursuing the accumulation of their capital, while making their area of oil exploration, particularly the Niger Delta the most devastated and bastardised place in the world (Okopido, 2007). Despite the generous tax incentives and holidays, which are sometimes against Nigerian public policy, but granted to the oil companies by successive Nigerian governments, the oil companies are still continued to be implicated in predatory enterprise culture in Nigeria (see cases of Chevron, 2007; Shell, 2006; Mobil, 2006). Paradoxically these unethical practices have been in the face of various legislations, laws, conventions and environmental safety regulations in place in Nigeria and internationally.

Multinational oil companies have continuously disobeyed Nigerian environmental safety regulations (see cases of Shell, 2007; Mobil, 2007), accounting standards (see the case of Chevron, 2007) and have consequently been implicated in environmental pollution, oil spillage and accounting malpractices (see cases of Mobil, 2007; Shell, 2007). Multinational oil companies have disobeyed court orders to compensate other aggrieved stakeholders in the area of their operation (see the case of Mobil and Akwa Ibom State Revenue Court, 2006; Shell, 2007; Shell, 2006). Multinational oil companies have bribed the officials of the Federal Inland Revenue Services to reduce the amount of taxes payable to the Nigerian government (see cases of Halliburton, 2004; Bristow Helicopters, 2007), and sometimes collaborate with some public officials to avoid paying democratically assessed and agreed taxes on their operations in Nigeria (see the case of Daukoru and Shell, 2006). Multinational companies have been implicated in bribery, kickbacks and other predatory enterprise culture to enable them win oil contracts in Nigeria (see the case of Shell and Wilbros, 2007). Multinational oil companies have purchased ammunition for and offered financial incentives to the Nigerian security forces to commit genocide on some other Nigerian stakeholders in the

Niger Delta (see the case of Chevron and Francisco Court ruling, 2007; Shell and Ogoniland, 1995) Over and above all, multinational corporations utilise the professional services of their accountants and external auditors to effect illegal capital flight out of the poor Nigerian economy (see cases of Shell and Mobil, 2008; Chevron, 2005).

The above internal and external exploitation have contributed to the high rate of destitution, hunger, diseases, deprivation and extreme poverty in Nigeria and may become an obstacle in the way of Nigeria in achieving the United Nations Millennium goal of eradicating poverty globally by 2015 and the Nigerian government- vision 2020 - making Nigeria a developed economy by 2020.

The remainder of this paper is divided into nine sections. Section two examines some prior cases. Section 3 analyses the theory of globalisation and the profession, particularly accountancy to understand the collaboration of the ruling elite with multinational corporations in creating poverty in developing countries in general and Nigeria in particular. Section 4 provides the evidence of the corruption activities of the successive Nigerian dictators and the so called democratically elected leaders. Section 5 examines how democracy that was expected to bring good governance and dividends to the people again turned to another looting spree, which may be an obstacle in the way of achieving the millennium goals of eradicating poverty by 2015. Section 6 specifically examines the activities of the “Honourable” members of the National Assembly in abandoning law making and enmeshing themselves in fraud and bribery scandals. Section 7 examines the reliance of the multinational corporations, particularly the oil companies on the corrupt socio-economic environment of Nigeria to continue to use predatory enterprise culture to pursue the accumulation of their own capital in Nigeria. Section 8 provides the evidence of the connection of the accountants in looting

of the public treasury and other trans-organised financial crimes. Section 9 concludes the paper in the form of a summary and conclusion.

## **2.0 Globalisation - Developing Countries and Profession Relationship**

As capitalism has arguably reached the limits of its own expansion, this has necessitated crucial fundamental changes. In the course of these changes, Wallerstein, (1991) has shown how the interstate system is in fact the political system of the world capitalist economy and how the core periphery hierarchy and the exploitation of the periphery by the core are in fact necessary to the reproduction of capitalism as a system. This therefore suggests that these changes may have been to the benefit of most developed capitalist economies, and to the detriment of the economic growth and development of mostly developing countries (see Hoogvelt, 2001). These changes are becoming visible in an information-technology (IT)-driven new political economy of development that characterises the production process and it's global, though not worldwide, embrace (Giddens, 1991). As a result, the contemporary process of globalisation signals a 'higher' level of intensifying economic, financial, cultural and social cross-border networks than ever before (Wallerstein, 1979). However, in liberalising the movement of persons, goods and services across borders, globalisation unwittingly eased the difficulty in committing trans-border financial crimes (Aas, 2007). In a situation where a world order founded on the state as the unit of law enforcement could not cope with borderless trans-organised financial crimes, global anti- financial crimes regime was born (Andreas, 2000). In another situation where the transnational corporations and capitalists from the developed capitalist world that jointly put in place the anti-trans-organised financial crime laws are again collaborating with the ruling elite, mostly in developing countries to violate these laws, the

effectiveness of these laws will become questionable (see Kurer, 1997). This situation has become compounded by the lip services sometimes paid to some of these global trans-organised financial crime interconnections between the ruling elites mostly in developing countries and some transnational corporations mostly from the developed capitalist world that preaches anti-corruption globally (see Bakre, 2007).

In the above context, the evidence provided in this paper examines globalisation process not only as primarily a ‘top down’ process of transnational corporations exploitation and dominance of developing economies, but also as ‘bottom up’ global initiatives and interconnections between the local capitalist and transnational capitalist (Hall, 2006), both having drastic consequences on the economic development of most developing countries, particularly Nigeria (see Bakre, 2006). Thus, in a situation where the ruling elite who have the legal and moral responsibility to use the local laws and legislation to enforce compliance, have chosen to exercise such power to align with some transnational capitalists to plunder their national wealth into private bank accounts, such trans-organised financial crimes interconnection would become difficult to combat (see Hoogvelt, 1997). This is the case of Nigeria where the ruling elite, politicians and public officials wield enormous power to collaborate with multinational corporations and other foreign capitalist to continue to plunder the Nigerian wealth into private bank accounts in Western nations (see the case of Abacha, 2003).

In the above context, globalisation as further examined in this paper is the intertwining of the local and transnational capitalists. Seeing from this perspective, they cannot be treated as two distinct entities: they are a new synthesis, involving both transnational and local elements (Robertson, 1995). In this context, the argument of Hobbs and Dunnigham (1998: 289) about the relevance of ‘glocal organised crime’, emphasising the importance of the local context as an environment within which

criminal networks functions form the basis of understanding the evidence provided in this paper. In this context, Giddens (1990) examines globalisation as a technology that compresses the world into a small enclave and also enables local events to be shaped by events happening many miles away. Thus, globalisation as further examined in this paper is how a network of multinational corporations with the support of their home countries and collaboration of the local elites, have been employing technology such as accounting techniques and practices as instrument of globalisation. This technology (accounting techniques and practices) has enabled multinational corporations and the local ruling elite to accumulate capital through tax avoidance, tax evasion, bribery of public officials, kickbacks and other trans-organised financial crimes and eventual capital flight that have contributed to poverty creation in many developing countries (see Tax Justice, 2006). This latter perspective of globalisation seems to agree with the earlier study by Wade (1996) in which he provided the evidence that suggests that globalisation, instead of moving investments to developing countries as claimed by the proponents of globalisation, has, in reality, resulted into the movement of capital from developing countries to developed countries.

This situation may sometimes become more complex and even compounded by the contradictory position in which the Western capitalist governments that advocate good governance and anti-corruption world wide may have found themselves. In a situation where the Western capitalist countries compete for capital inflow into their respective economies, it will become paradoxical for anybody to realistically expect the same competitors to also become the guidance against illicit wealth or dirty money coming into their respective economies (see Sikka, 2001). This could be so, especially where the illicit wealth or dirty money is needed to boost the Western capitalist world

economic growth and development, which could make the politicians to remain in power and public officials to remain in office (see Offe, 1985).

In order to meet the above requirements of reproducing capitalist relations at home on behalf of their home governments under the acclaimed globalisation therefore, multinational corporations and Western controlled institutions (IMF and World Bank) need to adopt aggressive capital accumulation policies in the local economies in which they operate, while relying on their Western capitalist world authorities for protection (see Powell, 2004). Thus, while the Western capitalist countries continue to portray globalisation as the only wheel for economic growth and development of developing economies, available evidence in most developing economies has shown that globalisation has practically been aggravating hunger, poverty, diseases and dispossession among the masses of most developing economies (see African Parliament Group Report, 2004).

In addition, globalisation has been responsible for mass exodus of developing countries able and capable work forces that have been rendered jobless, homeless and dispossessed and are now forced to become illegal economic migrants in most Western capitalist countries, especially in Europe and America. The above interconnection seems to therefore suggest that the origin of poverty in most developing countries may not be properly diagnosed and understood without properly diagnosing and understanding the capital accumulation ambition of the Western capitalist world, their multinational corporations and controlled institutions (IMF and World Bank) (see Kurer, 1997). However, instead of diagnosing this interconnection, Western economic powers have been shifting the causes of poverty in most resource-endowed developing countries, particularly Nigeria on the vulnerable successive Nigeria regimes alone. Against this background, Prakash (2002) observes:

*From the development perspective, corruption can be considered a two-way street. Graft is not possible without collusion among giant private corporations and public agencies, foreign contractors, or consultants. **Foreign companies practically argue that bribery is nothing but one of the costs of doing business in a country.** (Emphasis added).*

Paradoxically, such one of the costs of doing business in a country has been regarded as crime against humanity by the governments of the local environment in which they operate, their respective home countries and even the United Nations and as a consequence been criminalised by various local and international law, legislation and conventions<sup>5</sup>. However, despite the national, international laws and conventions criminalising bribery, kickbacks and other trans-organised financial crimes, available evidence indicates that these predatory enterprises cultures are still very much on an increase (Sikka, 2008), particularly in developing countries such as Nigeria (see African Peer Review Mechanism Report, 2008; African Union Report, 2008).

This situation has become more serious in the case of Nigeria, where the ruling elites, politicians and public officials who are supposed to use the available local laws and legislation to prosecute the erring local and foreign culprits are the real perpetrators of these financial crimes (see the case of Obasanjo and the Energy Project, 2008). The successive ruling elites in Nigeria<sup>6</sup> have collaborated with foreign officials, multinational corporations and employ the services of professionals, particularly lawyers and accountants to continue to siphon the collective wealth of Nigeria into private bank accounts abroad (see the case of Shell and Daukoru, 2006). This collaboration has been responsible for inadequate provision of basic infrastructure;

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<sup>5</sup> For example, the Organization for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997; UN Convention against Transnational Organized Crime, 2000; Financial Action Task Force, 1977; American Foreign Corrupt Practices Act, 1977; the EU Programme against Cross-boarder Corruption Act, 1994; United Nations (UN), European Union (EU), United States (US) conventions and the International Financial Reporting Standards (IFRS).

<sup>6</sup> Nigerian President, vice presidents, members of the Senate, House of Representatives, Ministers, public officials, state governors and even officials of local governments

efficient public utility and necessary wealth redistribution geared towards economic growth and development of Nigeria (see Bakre, 2007; 2006).

The above analyses seem to suggest that globalisation that arguably encourages bribery, kickbacks, tax avoidance and other trans-organised financial crimes particularly in developing countries cannot be successfully operated without the technology of capital flight in which professionals such as bankers, lawyers and particularly accountants and auditors play vital role (see UK Guardian, January 21, 2007). According to report from the African Union:

*More than US\$150 billion a year is looted from Africa through tax avoidance by giant corporations and capital flight using a pinstripe infrastructure of Western Banks, lawyers and accountants. This £75 billion equivalent shortfall easily eclipses pledges made by leaders of the world's richest nations to increase aid and write off debt at the G8 summit in Gleneagles in 2005. (UK Guardian, January 21, 2007).*

It is further estimated that through the professional services of the accountants and professional advice of the auditors under the acclaimed globalisation, about 30 per cent of sub-Saharan Africa's annual GDP has been moved to secretive tax havens, many under the jurisdiction of the British government. The next section examines prior cases of looting of public treasury, bribery, tax avoidance and other trans-organised financial crimes that have got devastating effects on developing economies.

### **3.0 Review of Prior Cases**

In the context of the above theory, globally, the Tax Justice Network estimates that US\$11.5 trillion has been siphoned offshore by wealthy individuals alone (i.e. not including the massive offshore wealth of corporations) (see Tax Justice Network, 2007). If the income from this offshore wealth was taxed at the moderate rate of 30%, the resulting revenue – around \$255 billion annually – could finance the United Nations Millennium Project in its entirety. However, substantial part of this amount has been

siphoned from developing countries through tax avoidance, bribery, kickbacks and other trans-organised financial crimes by the ruling elites in collaboration with some multinational corporations (see Bakre, 2006).

Bakre 2007 examines the role of the ruling elite, politicians and public officials in collaborating with some multinational oil companies by employing the professional services of accountants and auditors to siphon the collective wealth of Nigeria into private bank accounts abroad.

Despite the 1997 US sanctions on the Burmese regime, such sanctions have not been effective because fuelling the military junta that has ruled for decades are Burma's natural-gas reserves, controlled by the Burmese regime in partnership with the U.S. multinational oil giant, Chevron, the French oil company Total and a Thai oil firm, who have all been prioritising the accumulation of their capital over the blood of Burmese.

Research by the Ghanaian Ministry of Justice has revealed that 12 sampled companies owed nearly Cide 12 billion in unpaid taxes between them (see Tax Justice Network, 2007). Grossing up the results to include all companies suggests that government revenues from corporate profits could be boosted by approximately 50 per cent by tackling organised tax avoidance in Ghana.

One third of Sudan's potential tax yield is lost to tax evasion (see Tax Justice Network, 2007). Tackling this problem would go a long way towards overcoming the government's budget deficit (estimated at US\$429 million in 2005).

In South Africa, up to R30 billion (45% of government revenue) of due taxes remain uncollected, according to the South African Revenue Service, largely due to evasion by rich individuals and avoidance by companies. Recent calculations suggest that from 1980 to 2000 an average of 6.6% of GDP has left South Africa each year as capital flight.

In 2002, a Canadian Engineering Consulting firm, Acres International, was convicted in a Lesotho High Court for paying bribes through an intermediary to win contracts on a multi-dollar dam project (see Common Dream, June 13, 2003). Multinationals involved in the Bujagali power plant in Uganda are also under investigation by the US Justice Department after a former manager in a UK-registered subsidiary of Veidekke, a Norwegian contractor in the project, gave US\$10,000 in bribes to a Ugandan civil servant (see Common Dream, June 13, 2003).

Mobutu Sese Seko of Zaire is widely believed to have looted US\$5 billion from Zaire public treasury. A report prepared by the UN after Mobutu's downfall implicated 54 government ministers and 85 multinational companies based in Europe, the British Channel Islands, Canada, US, the Caribbean, Asia and Africa for violations relating to the illegal exploitation of Congolese resources (see Tax Justice Network, 2007). It is within the above patterns of looting of the public treasury by the ruling elite mostly in developing countries, which continue to pave way for collaborative trans-organised financial crimes by multinational corporations and the consequent poverty creation that the specific case of Nigeria is examined next.

#### **4.0 Looting of Public Treasury: Past Leaders' Hands in the Till**

While the presidency of any nation should be looked upon as the apex seat of good governance, transparency and accountability, which should filter down to the citizens, socio-economic, political and cultural environment of the country, such situation has not been realised in Nigeria since the independence of 1960 (Oputa, 2004). Successive Nigerian leaders (military and civilian) have been coming to power to loot the public treasury and paying little attention to the welfare of the citizens or development of the country (see Bakre, 2008). As a consequence, the infrastructure has been in dilapidated

condition, public utility is almost non-existence and redistribution of the national wealth geared towards growth and development has continued to be in the hands of few capitalist elite (see Bakre, 2007).

For example, it was claimed that Sheu Shagari's administration met about US\$36million in the public treasury when it came to power in 1979. In addition, his administration also made billions of dollars from petroleum. However, this administration left millions of dollars debt in the treasury when it was overthrown by a military junta in December 1983. There was no noticeable development of infrastructure or public utility, while poverty was on an increase. Available evidence from the various probe subsequently conducted revealed that almost everybody in the administration was implicated in the looting of public treasury, but none of these identified looters has yet faced any prosecution in Nigeria. When General Buhari who overthrew Shagari was Petroleum Minister before the Shagari's administration, about US\$4billion disappeared from the department of petroleum (see Daily Independent, November 9, 2007). Yet, no meaningful probe has been instituted so far to investigate this massive looting of the public treasury.

In 1992, a well known human right activist, Gani Fawehinmi filed a suit challenging the then Head of State, Ibrahim Babangida, erstwhile Petroleum Minister, Professor Jubril Aminu, former Central Bank Governor, Alhaji Abdulkadir Ahmed, Nigerian National Petroleum Corporation (NNPC) and the Auditor General of the Federation for looting public treasury (see This Day, May 6, 2008). According to the suit, about N2.5billion (US416,538,461), nearly 10 per cent of the Gross Domestic Product (GDP) disappeared from government coffers each year during Babangida's regime, through active collusion of the above public officials, particularly the professional expertise of the Auditor General of the Federation. A subsequent probe

panel set up by the late General Sani Abacha and headed by Dr Pius Okigbo, had in 1994 revealed that Nigeria under the leadership of Gen. Babangida realized US\$12.4 billion from oil sale while the Gulf war lasted (see Okigbo's Report, 1994). The report concluded that the said revenue was not properly accounted for by the government. However, while Babangida defied the call from many Nigerians and the law of the land mandating him to appear before the Okigbo panel, Babangida has never been forced by any administration or legal institution in the country to give account of his stewardship while in power between 1985 and 1993. Even though the Federal High Court in Lagos has now claimed to have fixed June 17<sup>th</sup> 2008 to decide on the legality or otherwise of a suit brought against Babangida and four others in this case, knowing fully well the corrupt nature of the Nigerian judiciary, no Nigerian expects any meaningful outcome from this suit that has been pending in the same court room since 1992. In all, over US\$30billion was allegedly stolen during the regime of Ibrahim Babangida (see Daily Independent, November 9, 2007).

Abacha, who succeeded Babangida as Head of State, also colluded with many foreign capitalist elites and multinational companies to loot more than US\$34 billion from the Nigerian public treasury. Of this amount, Abacha personally laundered over US\$4 billion in private bank accounts in the UK, USA, Germany, and Switzerland etc (see Sikka, 2003). He lost over US\$30 billion to international fraud syndicate (foreign capitalist elites and multinational companies). In 2002, Obasanjo froze the Abacha family's alleged loot close to US\$2billion. Abacha's son, Mohammed Abacha, followed his father's looting spree step, by also utilising the professional service of the then Minister of Finance and a fellow of the Institute of Chartered Accountants of Nigeria, Michael Ani, to also loot US\$2billion in the so called Russian buy back debt,

which although he negotiated for US\$500 million, but however used the assistant of Michael Ani, to loot US2.5 billion from the Nigerian public treasury.

After seeing the scale of corruption during the nine months rule of Abdulsalam Abubakar, who succeeded Abacha and ruled Nigeria between late July 1998 and May 29 1999, Dr. Christopher Kolade Probe panel's report set up to probe his administration said that Nigerians should thank God that Abdulsalam Abubakar did not rule more than nine months (see Daily Sun, June 10, 2008). In fact, after vacating office, Abubakar still used his power to win a power project for a company he is the Chairman, Energo Nigeria Limited. The contract was for N19 billion (US\$126,000,000) transmission substation contracts (see Vanguard Online, March 13, 2008). Without any evidence of performance as stipulated by the due process, Abubakar further used his influence to collect N13billion (US\$86,000,000) out of the contract price, but has so far achieved less than five per cent implementation (see Report of House of Representatives Committee on Power and Steal, 2008). With the evidence of monumental looting of the public treasury by the past leaders, Nigerians enthusiastically voted for a civilian administration in May 1999, with a great expectation of achieving the United Nations millennium goal of eradicating extreme poverty and hunger by 2015 and the Nigerian government economic business plan intended to make Nigeria fully developed economy by 2020. On the contrary, available evidence in Nigeria points to the fact that the scale of democratic looting spree currently going on in Nigeria could well become the real obstacle to the achievement of vision 2015 and 2020 respectively; such evidence is taken up next.

## **5. 0 Democratic Looting Spree: Road Map to Unrealistic Visions 2015 and 2020**

Former president and Vice President Olusegun Obasanjo and Atiku Abubakar came to power during the oil boom that witnessed the price per barrel of oil from US\$40 in May 1999 to around \$100 as at May 29, 2007 they reluctantly left power. However, the more revenue Nigeria made from oil from 1999 when he came to power, the more looting of the treasury allegedly committed by Obasanjo's administration and his cronies in power leaving Nigerians poorer and with more socio-economic misery than they met them when they took over power in 1999. For example, available evidence shows that Obasanjo spent US\$16 billion on power and energy between (1999-2007) (see Senate Committee on Power and Energy Report, 2008). However, on investigation at the end of his tenure in 2007, the Senate Committee on Power and Energy Project found that Obasanjo has collaborated with many local cronies and some multinational companies to siphon more than fifty per cent of the money into personal accounts abroad (see Senate Committee on Power and Energy Report, 2008). Some of the local and foreign companies that got the contracts to provide electricity did not start the project while they have been paid more than fifty per cent of the agreed contract cost (Director of National Independent Power Project, 2008). Some were even overpaid for work not done at all. Obasanjo personally instructed the Nigerian Independent Power Project (NIPP) to award contracts to some of his cronies and multinational corporations without going through any 'due process' claimed to have been established by the same Obasanjo's administration (Director of National Independent Power Project, 2008).

The former president, Olusegun Obasanjo, allegedly withdrew US\$29 billion from the Federation Account without recourse to the other two tiers of government (the Senate and National Assembly) as required by the Nigerian Constitution (see Senate Committee on Finance, National Planning and Appropriation Report, 2006). The former Vice

President, Abubakar Atiku, abused his supervisory mandate on the controversial Petroleum Technology Development Fund (PTDF)<sup>7</sup>, by illegally diverting US\$125 million of a public trust fund into his personal businesses (see the Report of the Senate Ad hoc Committee on the PTDF, 2006).

In August 2006, the Central Bank of Nigeria, (CBN) was directed to transfer US\$25million public funds from the Petroleum Technology Development Fund (PTDF), account for the establishment of the African Institute of Technology, without the approval of the Federal Executive Council as required by the Constitution (see OnlineNigeria.com, March 3, 2007). On investigation, it was discovered that the Federal Executive Council only approved the US\$25million already transferred in October 2006; three months after the money had been in the custody of someone (Atiku, 2007). While this person was yet to be identified, in fact the so called African Technology Institute for which the money was actually transferred, does not exist anywhere (Atiku, 2007).

The NNPC that was under the personal control of the former president, Obasanjo, for 8 years (1999-2007), could not account for a total sum of N555 billion (US\$4.44 billion) from the Federation Account from December 2004 to April, 2007 (see Tribune, August 13, 2007). Again, during the same period, the top officials of the NNPC under the ministerial control of the former president, Obasanjo, allegedly milked the nation's cash cow of another N502 billion (US\$4 billion) through various frauds including producing crude oil far in excess of assigned Organisation of Petroleum Exporting Countries (OPEC) quota and converting part of the proceeds to political electioneering and laundering the balance into private bank accounts abroad (see Daily Sun, August 13, 2007). The House of Representatives Committee on Public Accounts is currently probing

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<sup>7</sup> The PTDF was established following the repeal of the Gulf Oil Training Fund Act 196 Cap. 355 and the promulgation of Decree 25 of 1973. It was established for the purposes of training of "Nigerians to qualify as graduates, professionals, technicians and craftsmen in the fields of Engineering, Geology, Science and Management in the petroleum and gas industry in Nigeria or abroad" (Section 2 of the Act).

another whopping US\$4.4 billion missing from the PTDF in 2004, 2005 and 2006 respectively (see Punch, March 25, 2008).

Moreover, about N1.3trillion (US\$9,285,714,285) claimed to have been spent on transport without any result all over the country is currently under probe by the Senate Committee on transport (see Daily Independent, May 14, 2008). Even though the Senate Committee is yet to make its findings public, however, what the Nigerian public do know presently is that out of this amount, a former Minister of Works, Chief Tony Anenih, was alleged to have looted N300 billion (US\$2,142,857,143) during his tenure as Minister of Works. He has defied court orders and yet to be prosecuted by any court in Nigeria (see Daily Independent Online, May 12, 2004).

A Special Committee on Review and Verification of Contracts awarded by the Nigerian Ports Authority (NPA) between 2001 and 2003 revealed that “the NPA awarded 24,252 contracts during the period under review with a total value of N46.946,402,776;US\$36,913,986.84;£24,905,588.23;DM461,936.65;EURO147,926,957.99 and SEK4,087,918.70” (see This Day, February 22, 2006). However, the awards of these contracts were alleged to have been marred by large scale frauds, widespread financial recklessness, and massive inflation of contract prices.

A railway modernisation project initiated by Obasanjo’s administration was alleged to have been inflated by US\$5.8bn (see Punch, June 15, 2008). According to the investigations, going by international rates per kilometre on railway modernisations, the contract “should cost about US\$2.5bn. However, it was awarded to a Chinese firm called, China Civil Engineering Construction Corporation (CCECC), which did not even register with the Corporate Affairs Commission, at the cost of US\$8.3bn. Thus, in addition to fraud in the award of the contract, the award of this contract was in breach of Section 54 of Company Law, which forbids foreign companies from doing business in Nigeria

unless they are registered with Corporate Affairs Commission. Despite the legal and constitutional impediments to the contract, the Chinese firm was paid a mobilisation fee of US\$250m.

On the basis of the available evidence of the above massive looting of the public treasury by the presidency and other arms of the government, the various Senate and House of Representatives Committees set up to investigate the alleged cases of corruption have been promising Nigerians to bring all the culprits to justice (see Vanguard, March 22, 2008). Also, having discovered mounting evidence of corruption in the US\$16billion power project, the chairman of the House of Representatives Committee probing the alleged scandals in the power project said Obasanjo and Atiku have a case to answer (see Elemelu, 2008). However, whether the “Honourable” members of the National Assembly who seem to have changed their civic duties from law making to law breaking by being constantly implicated, investigated and prosecuted for frauds, kickbacks and bribery scandals, can have the moral courage to bring all the culprits to justice will be seen in the next section.

## **6.0. National Assembly: “Honourable” members in Bribery Scandals**

The Nigerian Constitution gives the executive power to the National Assembly (Senate and House of Representatives) to both act as check and balances to the activities of the Presidency and other arms of the government (see Nigerian Constitution, 1999). However, the National Assembly can only morally carry out this constitutional mandate in the Nigerian public interest, if only the members of the Senate and House of Representatives are themselves morally committed. In this context, the financial crime activities that have now eaten deeply into the fabric of the men and women in the National Assembly have made many national dailies to describe the deemed

“Honourable” members as dirty Senators (see News watch, November 18, 2002; The Guardian, February 6, 2004; The Guardian, November 9, 2002). In fact, a retired Deputy Inspector General of Police who is now a Senator, Senator Aliyu claimed:

*To be in possession of a list of federal legislators he had investigated for sharp practices while in service and wondered how some of the alleged corrupt lawmakers made it to the Senate*

However, before assuming office in 1999 and 2003, all the public officers had sworn to abide by the Code of Conduct contained in the Fifth Schedule of the Constitution. The provisions of the Code of Conduct Bureau and Tribunal Act (Cap 56 of the 1990 Laws of the Federation), forbid any public officers from accepting bribes, kickbacks or committing frauds. Part two of the Schedule provides for Tribunal to try any breaches of the code and punish offenders. In violation of these provisions, Senator Arthur Nzeribe was implicated and charged for fraud and forgery for removal of more than N20million (US\$150,000) from the kitty of the Senate (see Newswatch, November 18, 2002). Having been expelled from the Senate, he opened can of warms, by revealing that the Senate President, Pius Anyim, had also improperly enriched himself to the tune of N100billion (US\$777million) from the Senate slush funds (see Guardian, February 6, 2004). He told a world press conference in Abuja that the Senate president also took N60million from him to crush the move to impeach former President Obasanjo (see Guardian, November 9, 2002). He further alleged that the deputy Senate president, Ibrahim Mantu, helped him to distribute N300million (US\$2,236,363) to other Senators, who all queued, signed and collected the N3million (US\$22,500) bribe each, but were not privy to the source of the money (see Vanguard, November 17, 2002). In fact, the bribery allegations by Nzeribe became buttressed by the action of one of the Senators who collected N3million (US\$22,500), Senator Mamman Ali, who confessed in the Senate and even returned the N3million (US\$22,500) he had collected to the clerk

of the Senate, suggesting that the claim of bribery by Nzeribe was in deed authentic. A former education minister, Fabian Osuji, withdrew N55 million (US \$410,000) from government coffers, which he shared out between the then Senate president, Adolphus Wabara, five other senators and a member of the House of Representatives, the lower house of parliament to pass his department's bloated budget (see Punch, March 17, 2008). The first woman speaker of Nigeria's Federal House of Representatives, Patricia Etteh, flouted House rules when she awarded contracts worth N628 million or \$5 million to renovate her official residence and that of her deputy (see House of Representatives ad-hoc committee Report, 2007). As one of the honourable members, Haruna Yerima, openly confessed:

*Whoever tells you there is no corruption in the House is in fact corrupt. Ministers and heads of parastatals are often asked to bring money by some honourable members so that their budgets can be passed. Most of us are contractors. Most of us come here to make money, make what you can make and leave. Most of our debates are beer parlour debates. No research. We argue like ordinary people on the streets. Our debate is shallow.(Emphasis added, Interview with House Correspondent, Abiodun Adelaja)*

While Nigerian government has been borrowing money from International Institutions, about N360billion (US\$2.8billion) unspent budget of 2007 was illegally put into some secret accounts ready to be looted by the various Senate and House of Representatives Committees in collaboration with the top officials of their respective ministries, with the professional help of their respective accountants. In fact, the Senate Committee on Health headed by Senator Iyabo Obasanjo-Bello, has already collaborated with the Minister of health, her Deputy and other top officials (including the director of accounts) to share the unspent N300million belonging to the Ministry of Health (see Punch, March 27, 2008). With the much circulated evidence that Iyabo Obasanjo-Bello personally got N10million (US\$75,000) out of the loot, the Nigerian Senate that every Nigerian expect to allow justice to prevail is now ready to obstruct the course of justice

by pledging support for an alleged looter among them, Iyabo Obasanjo-Bello. This support is in spite of the fact that Iyabo Obasanjo-Bello has also been accused by an Austrian firm of 'fraudulently' presenting herself as 'Mrs Damilola Akinlawon', while entering into contractual agreement with the Austrian company to defraud Nigeria (see This Day, December 25 2007; Daily Independent, April 11, 2008). This agreement was to float a Nigerian company which won part of the fraudulent power project contracts for which her father, former president Obasanjo fraudulently presided over for 8 years (1999-2007) (see Tribune, May 13, 2008).

As a consequence of the implication of many of its members in many bribery and fraudulent practices against the interest of the same Nigerians they all claim elected them to protect their interest, the Senate that has insisted and finally resolved to probe the past government (see Vanguard, May 14, 2008), has been paying lip services to all the probes they claimed to have conducted so far. For example, the House of Representative Committee on Power and Steel headed by Senator Elemelu, having discovered evidence of mass corruption in looting US\$16billion in the energy sector and direct implication of Obasanjo by his own appointed Ministers and Directors in these monumental corruption, vowed to make Obasanjo and Atiku appear before the panel to give account of their stewardship. However, on invitation, the 'powerful' Obasanjo and Atiku who both believe they are above the law and constitution of Nigeria they have both paradoxically taken oaths to defend, failed to honour the invitations mandated by the same constitution. In fact, behind the scene, Obasanjo claimed that his administration only spent US\$6.5 billion and not US\$16billion (see This Day, May 13, 2008). While many Nigerians had expected the Senate Committee claiming to be probing the energy sector in the Nigerian public interest insists on its vow to the Nigerians and in deed, international community, that Obasanjo and Atiku be

compelled by law to appear before the Committee to explain the disappearance of the difference, instead, the Committee defied the majority of the Nigerians opinion by withdrawing the invitation with an excuse that:

*The withdrawal is intended to avoid desecrating the office of the president. It is not about Obasanjo. It is about the office and stature of a former president of this country. It would set a bad president to put him in the dock at the National Assembly and subject him to the kind of questioning that former ministers have been subjected to in the last few months*

However, if president Clinton of the USA where the so called the presidential system in Nigeria was copied from can appear before the US Senate Committee probing the case of Monica Lewinsky, which did not involve crime against humanity, while Clinton was still in office, it is paradoxical that the Nigerian Senate can shield Obasanjo from appearing before the Senate Committee to answer charges of crime against humanity. In fact, some erring members of the House of Representatives did not hide their corrupt attitudes by urging Nigerians, who have suffered for eight years under the corruption-ridden governance of Obasanjo, to stop humiliating the same architect of humiliation and misery of most Nigerians for eight years, Obasanjo (see Tribune, May 14, 2008).

It is in light of the above massive looting of the public treasury by the successive Nigerian leaders, the bribery, kick-backs and other fraudulent practices that marred the Senate and House of Representatives that one should understand the seemingly exploitative roles of multinational corporations, particularly the oil multinationals in the corrupt socio-political, economic and cultural environment of Nigeria. In the above context, in the course of pursuing the accumulation of their own capital, multinationals have continued to be implicated in bribery, kick-backs, tax avoidance and other trans-organised financial crimes, sometimes, at the expense of the Nigerian blood, which have also contributed to creation of hunger, diseases and poverty in Nigeria, the evidence to which I now turn.

## **7.0 Multinational Companies: Collaborators in Poverty Creation**

The oil and gas companies operating in the Niger Delta area of Nigeria were statutorily required to pay three per cent of their annual budget to the Niger Delta Development Commission (NDDC) (see Omotehinse, 2008). However, all the oil companies have not been complying with this law. As a consequence, the oil and gas companies operating in the Niger Delta region of the country owe the Niger Delta Development Commission (NDDC) N35billion (US\$272million) (see This Day, June 2, 2008). This has to a large extent, slowed down the pace of economic development in the Niger Delta area.

In addition to poverty creation, the activities of the multinational oil companies in Nigeria also create diseases and other environmental disaster. For example, in the Netherlands, gas flaring as a percentage of gross production in the petroleum industry is zero. In Britain, it stands at below three per cent; United States about 0.4 per cent; Algeria three per cent, while in Nigeria it is as high as 72 per cent. On account of this disturbing statistics, the Nigerian authorities decided to put in place environmental accounting in accordance with global standards of environmental performance and international best practices. As a result, the Federal Ministry of Environment conducted a work shop on environmental practices and management in Abuja on March 13, 2007. The main purpose of the work shop was to make the stakeholders among other things, to take a critical look at the scale of environmental degradation in oil-producing communities, evaluate their performances to date and share fresh ideas, especially in preparing environmental performance reports for critical stakeholders. However, the Federal Ministry of Environment which conducted the workshop lamented that:

*It was shocking display of nonchalance by multinational oil prospecting companies in Nigeria that none of them participated in the work shop despite formal invitation by the Federal Ministry of Environment*

Despite this evidence of lack of respect for duly constituted authority in Nigeria, there was no evidence of any sanctions being imposed on any of these erring oil companies by the ruling elite in Nigeria. This reluctance of the Nigerian authority to sanction the erring oil companies is in spite of the constantly available evidence of the implication of the oil companies in Nigeria in environmental pollution (Shell, 2006; Chevron, 2006; Mobil, 2006) and oil spillage (Mobil, 2007; Shell, 2006). Multinational oil companies in Nigeria have been investigated and prosecuted for non-compliance with accounting standards (Chevron, 2003) and frauds and financial misdeeds (Chevron, 2005). Multinational oil companies have been implicated in the killing of villagers for capital gain in the Niger Delta (Chevron, 1998 and 1999) and fueling the Niger Delta crisis (Chevron, 2005; Shell, 2005). The evidence of the above predatory enterprise culture of the three largest multinational oil companies in Nigeria and some other multinational companies operating in the country is provided next.

### **7.1 Shell Petroleum: “Veritable” State in the State of Nigeria**

The largest oil producing company in Nigeria, Shell petroleum, is currently facing pressure to pay its share of almost US\$3billion representing outstanding payments due to the government from the Production Sharing Contracts from the Bonga and Erha Oilfields contract signed in 1993 (see London Financial Times, May 23, 2008). As experts have suggested, this difference may be due to strange discoveries in the 1993 contracts, which afforded the multinational oil companies a tax holiday that may have been at variance with the facts and with the doctrine of public policy (see Guardian Editorial, June 16, 2008). This is because the oil industry is a highly technical terrain involving slippery gradients and scientific elements that cannot be said to be mutually intelligible to both the multinationals oil companies and the Nigerian officials. It was

also suggested that the difference may have arisen from the activities of the Nigerian negotiators in 1993 who may have corruptly or ignorantly acquiesced in vital aspects of the contracts involving huge offshore oil fields, thereby intentionally or unwittingly and unduly benefiting themselves and the more knowledgeable authorities of the multinationals oil companies. On another note, it was further suggested that some form of fraudulent practices may have even been detected in the contract in which the representor had no honest belief in the truth of his statement. Whatever the case may be, any of these circumstances will render the contract void or voidable. This is because in any contract involving this situation, that is, where one party alone possesses full knowledge of almost all the material facts, the law requires that party to show uberrima fides (utmost good faith). The knowledgeable party must make full disclosure of all material facts known to him; otherwise the contract may be rescinded. Nevertheless, when contacted about the non-payment, the Shell spokesman was quick to say that:

*The matter was under discussion, and that **Shell Nigeria Exploration and Production Company Ltd (SNEPCo) conducts its business in “compliance” with all laws and regulations.***  
(Emphasis added, London Financial Times, May 23, 2008).

But, in its further reaction to the matter, Shell, which seems to know all the technical grounds on which it can contest the payment in the court of law, drew the Federal Government's attention to the dangers inherent in a retrospective abrogation of bilateral agreements thus:

*We would like to reinforce that following recent statements relating to retroactive changes to fiscal terms, we are very concerned about the future potential implications for investor confidence in Nigeria....*

Even though the president of Nigeria has immediately directed the Federal Inland Revenue Service (FIRS) to pursue the payments due from Shell, but going by the past cases and considering the above warning, “veritable” Shell in the state of Nigeria will soon head to the court in Nigeria to contest the payment (see Bakre, 2007).

In what seems to be their determined pledge to continue to pave way for the pursuance of their capital even at the expense of the Nigerian blood, the Nigerian government is currently trying the leader of the Movement for the Emancipation of Niger Delta (MEND), Henry Okah, for treason in what the government claimed to be his role in illegally importing and proliferating ammunition in the Niger Delta. Paradoxically, the same government and some Nigerian “merchant of death” have been giving approval to and becoming arms contractors by importing ammunition for the multinational oil companies, particularly Shell, to commit genocide in Nigeria. While both the government and Shell have been denying their alleged genocide against Nigerians, such denial became public as a result of a shocking revelations made by an aggrieved Nigerian arms supply contractor to Shell, Chief Gabriel Akinluyi. While testifying in a suit for alleged breach of contract in payment default by Shell, filed by his firm<sup>8</sup>, in a Lagos High Court, on Monday June 10, 2008, Chief Akinluyi alleged that in 1995 at the peak of the Ogoni crisis led by the slain leader of the Movement for the Survival of Ogoni People (MOSOP) Ken Saro Wiwa, Shell Management had made fruitless efforts to get the approval from the Inspector General of Police, Ibrahim Commassie, to import arms and ammunitions. He was then invited by Shell to persuade the former Inspector General of Police, to give approval to Shell to import ammunition, which he successfully achieved and Shell imported some sophisticated ammunition<sup>9</sup>. The contractor claimed that he decided to institute the action because of the failure of the Anglo-Dutch oil giant to fulfill the contractual agreement made to him. Further

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<sup>8</sup> Messrs XM Federal Limited, an XM International Company- Representative: Messrs Humanitex (Nig) Ltd., Lagos against Shell and Victor Oteri, the then security adviser to the company

<sup>9</sup> Here is the manifest of the controversial order as pulled from the contract document presented by the aggrieved contractor: Berreta Model BM 128 9mm semi-automatic riffle or Berreta style equivalent suitable for 9mm short ammunition- 134 units; Berreta Model 92 FS 99 Pistol or Berreta style equivalent suitable for short ammunition- 80 units; 12 GA pump action short gun, six shots including sling- 82 units; 9mm short ammunition- 200, 000; 12 bore cartridges- 100, 000; Gun oil for servicing weapons- 35 sets; Gun cleaning kits- 35 sets; Rounds C. S. Hand grenade (smoke)- 500 units.

evidence of the Shell's arms deal was Shell's letter to the Nigerian Inspector General of Police, captioned: Re: Acquisition of Ammunitions and Upgrade of Weapons, dated 17th August, 1994 and signed by V. A. Oteri, Security Adviser, SPDC in which he said:

*We refer to our letter dated 24th June 1994, material requisition attached there, and the Inspector General's approval Ref No. SH-3100/DFA/9 dated 27th July 1994 and wishes to formally request for additional weapons and ammunition. Much as we appreciate all the efforts and help rendered so far, we shall be grateful if the order is expedited as we are under immense pressure (Emphasis added, Voice of Nigerians, June 17, 2008).*

The call for the supply of the arms cache was done by Shell in a letter captioned: Enquiry No 100045- Supply of Arms and Ammunition dated 6th February, 1995 and signed by W. J. C. Dick, the then Health Safety and Security Manager, Shell. The arms and ammunitions contract was originated by Shell's Security Adviser, V. A. Oteri, who also consigned the delivery, additional evidence that would make it difficult for Shell to deny its direct involvement in the order, procurement, warehousing and the deployment of the weapons.

The question the solicitor, Nigerians and indeed, the international community are and should be asking is that why should Shell, a foreign multinational oil company, registered for the sole purpose of exploring and producing oil in Nigeria apply and was granted permit to acquire very sophisticated arms and ammunitions. For what purpose were these ammunitions acquired by Shell? It is important that the Nigerian National Assembly should immediately institute an inquiry into this serious threat to the National Security. The government and the then Inspector General of Police should be made to answer these questions. In fact, Okah's solicitor has also said that these questions are very pertinent because:

*We may need to ascertain whether Shell and other foreign multinational oil companies were involved in arms importation just at a particular time or are still doing it for use to protect their interests in the Niger Delta.*

After collaborating to shed the blood of many Nigerians, particularly those of Saro Wiwa and eight other activists for capital by Abacha and Shell and committing genocide on the Odi community population by Obasanjo and Shell, the collaborated capitalistic policy of the Nigerian government and Shell is currently having their consequence on the world economy. This is because the resistance of the people, particularly in the Niger Delta, is now denying the Nigerian government, the multinational oil companies, particularly Shell the exploitative accumulation of their capital in the Niger Delta. As a consequence of the lingering crisis between multinational oil companies, particularly Shell and the other stakeholders in the Niger Delta, between 2006 and 2007 alone, Nigeria is estimated to have lost a minimum of 500,000 barrels per day at a conservative average price of US\$60 per barrel or US\$21.9billion (see Adaji, 2008). The Nigerian government and Shell made crisis, which the Western economic powers continue to pay lip services to because of their capitalistic interest, is currently contributing to the obstacles manifesting itself in the world oil prices and militating against the world economic growth and development. This is because this crisis has contributed to shortage of supply of oil world wide, thereby pushing the world price to a high record of US\$140 per barrel as at June, 2008. As a consequence, the President of Nigeria, probably on the pressure from the Western economic powers, has hinted that:

*Since there is a total loss of confidence between the Ogoni people and Shell, government believes it would be wise to allow another operator acceptable to the Ogonis to take over exploration activities in the area.  
(see This Day, June 5, 2008).*

In its response to the above threat to capital accumulation ambition of Shell in Ogoni land, even though “powerful” Shell has ruled out the possibility of suing the Federal

Government over the revocation of Ogoni oil fields, the Nigerian Managing Director of Shell, Mr. Mutiu Sunmonu has said:

*Royal Dutch Shell would continue to be shareholders in the Ogoniland operations even though it has been announced by the Nigerian President that Nigerian National Petroleum Corporations (NNPC) will become the new operator.*

This means that irrespective of the action taken by the Nigerian government; “veritable” Shell will still either directly or indirectly continue to use the services of its Nigerian elite collaborators to accumulate its capital in Ogoniland, even if it will mean at the expense of the Nigerian blood. However, this threat, if finally materializes, will no doubt be a bold step ever taken by any government in the history of Nigeria, especially against the most “powerful” and “veritable” oil company in the country, Shell Petroleum.

Nevertheless, SNEPCo, which conducts its business in “compliance” with all laws and regulations in Nigeria was in 2006 investigated by the House of Representatives Committee on Petroleum Resources and found to have collaborated with the then Nigerian Minister of State for Petroleum, Edmund Daukoru, to violate the Nigerian laws and regulations by defrauding Nigerians a total sum of \$3.2billion tax underpayment (see Daily Independent, August 24, 2006; This Day, August 24, 2006; Daily Sun, August 24, 2006). Shell Petroleum Development Corporation (SPDC) violated the Nigerian Economic and Financial Crime Commission Act, 2004 (EFCC, 2004), by collaborating with some erring Nigerian public officials to become beneficiaries of the US\$6million bribe distributed by American oil service company, Willbros Group to secure contracts for the Eastern Gas Gathering System (EGGS) in Nigeria (see This Day, December 1, 2007). While the US court has already found Willbros guilty and imposed a fine of US\$32million on Willbros for bribing Nigerian officials, the Nigerian government that has earlier vowed to prosecute all the officials

found guilty in the bribery allegations, has failed to investigate any of its erring officials and Shell Petroleum for this trans-organised financial crime (see This Day, May 16, 2008). In fact, no evidence of any investigations being conducted by the home country of Shell petroleum that preaches good corporate governance and anti-corruption in Nigeria.

In another case of ‘veritable’ Shell’s power in Nigeria, forty-nine years ago, Shell Petroleum acquired on a lease a 153.3 acre of land from a family in River State of Nigeria for 99 years. In 1999, Shell obtained Certificate of Occupancy from the River State Government, without the knowledge of the original landowners from which it had originally acquired the lease. In delivering its judgment in this case, a River State High Court in Port Harcourt has ordered Shell Petroleum Development Company of Nigeria (SPDC) to either vacate the land or pay N6billion as compensation to the original land owners (see The Guardian, June 11, 2007). Again, in its reaction to what it deemed to be injustice, Shell Petroleum Development Company, which conducts its business in ‘compliance’ with all laws and regulations in Nigeria’, contended that “the suit was not properly constituted because the plaintiffs lack legal standing to maintain it, and hence the case should be dismissed”

In a report released on November 3, 2005, Amnesty International linked Shell Petroleum to a violent clash in Odioma community in Bayelsa State in January 2005 leading to the death of about 29 people (see Amnesty Report on Niger Delta, November 3, 2006). Again, no investigations have so far been conducted by the Nigerian government or the home government of Shell petroleum in respect of this crime against humanity that violates the Nigerian laws, the law in the home country of Shell petroleum and even international law and conventions. It is the above atrocities of Shell Petroleum in Nigeria that has been a model of emulation by other multinational oil

companies in what seems to be their determined pledge to be prioritising capital over the other Nigerian stakeholders' interest of which the case of the second largest oil giant in Nigeria, Exxon Mobil, is next examined.

## **7.2 Exxon Mobil: Prioritises Capital over other Stockholder's Interest**

A report of Committee set up by the government of Nigeria in late 2007, to determine whether any revenue opportunities have been lost by Nigeria in the implementation of the Production Sharing Contracts (PSCs) for the two deep-offshore oil fields at Bonga and Erha, also implicated the second largest producer of oil in Nigeria, Exxon Mobil Nigeria in huge tax avoidance (see London Financial Times, May 23, 2008). According to the report submitted to the president of Nigeria, Mobil is to immediately pay about US\$1billion to the coffers of the Nigerian Federal Inland Revenue Service (FIRS) (see Guardian, May 21, 2008).

The above fraudulent act is not the only case involving Mobil Producing Nigeria Unlimited in Nigeria. On October 31, 2006, Akwa Ibom State government filed actions against Mobil Producing in the State's Revenue Court, accusing Mobil of evading payment of taxes totaling more than N4.1billion (US\$27,123,076) for about 15 years (see Daily Independent, November 26, 2006). As usual of powerful multinational oil companies in Nigeria, Mobil ignored the criminal summons to appear before the court and answer to charges of evading payment of N4.1billion (US\$27,123,076) tax to the Akwa Ibom State government. As a consequence, the Revenue Court Judge issued a bench warrant for the arrest of five directors and officers of Mobil Producing Nigeria Unlimited (see Daily Independent, November 26, 2006). However, it is not known whether the Akwa Ibom State government was finally able to collect the amount due from Mobil or not.

Despite the Senate resolution compelling oil companies operating in the Niger Delta to abide by all environmental regulations in Nigeria, Mobil Nigeria has been consistently implicated in environmental pollution and oil spillage in Nigeria (see This Day, November 7, 2007). As a consequence, fishermen from Akwa Ibom and River States stormed the Senate demanding N38billion (US\$295million) from Mobil in compensation for the destruction done to their source of livelihood by oil spills from Mobil's facilities in the region (see Vanguard, February 1, 2007). Also the Ibeno local government area had previously demanded N11.1billion (US\$73.6million) for oil spillage by Mobil of 1998, 2000, 2002 and 2003 respectively. Moreover, some individuals and group of fishermen who suffered another oil spill in 1998 had also demanded compensation in the sum of N1.5billion (US\$9.8million) from Mobil. While Mobil admits and acknowledges that these oil spill incidents were its own making, the oil giant has consistently refused to pay any compensation to the aggrieved parties. Even with the intervention of Senator Oyofe promising the aggrieved parties of the Committee's determination to facilitate an amicable settlement of the conflict and the subsequent court orders, Mobil has refused to honour its obligation to the people it has rendered jobless while continuing to declare billions of dollars in profit at the expense of its other Nigerian stakeholders (see Vanguard, February 1, 2007). However, Nigerians and indeed the international community are watching whether Exxon Mobil will also refuse the ruling by the US Supreme Court ordering Exxon Mobil to pay the fishermen and other property owners of the Valdez Alaskan oil spill by Exxon Mobil in 1989 a total sum of US\$507.8million (see London Times Online, June 25, 2008).

While the operational activities of Exxon Mobil suggest that it prioritises the accumulation of capital over the interest of other Nigerian stakeholders, the operational activities of the third largest producer of oil in Nigeria, Chevron, paradoxically from

USA – a staunch apostles of anti-corruption in the world, has even gone extra length by prioritising capital over the Nigerian blood, the evidence to which I now turn.

### **7.3 Chevron Nigeria Limited: Prioritises Capital over Nigerian Blood**

An audit of Chevron, by an accounting firm of ABZ Integrated Limited, who are tax consultant to the Nigerian Economic and Financial Crime Commission (EFCC) in 2005, revealed a can of worms of the third largest Petroleum Company in Nigeria, Chevron's massive financial crimes and tax avoidance (see ABZ Report, 2005). Chevron was in 1998 and 1999, alleged to have diverted US\$75million government tax through dividends. Chevron evaded tax through claims to unmerited capital allowance, based on fictitious qualifying capital expenditure by US\$190million. Chevron evaded tax through claims to unmerited tax credits, such as Reserve Additional Bonus and Intangible Drilling Cost (IDC) by US\$222million. Through conspiracy with the Nigerian tax officials, Chevron was assessed to lower amount of tax than expected by US\$96million.

Over and above all, Chevron was accused to have been involved in money laundering during the period under investigation because it did not provide details of debtors and creditors amounting to US\$260million in its 1998 and 1999 audited accounts, as required by the Nigerian Companies and Allied Matters Act of 1990. Moreover, Chevron Nigeria Limited was expected to make 104 monthly Petroleum Profit Tax (PPT) installments to the Federal Reserve Bank account for the domiciliary revenue for eight years to year 2002. However, investigation revealed that Chevron failed to make 42 installments, while its partner, TOPCON also followed suit by failing to pay 24 installments. Some payments claimed to have been made to the Federal Reserve Bank account for the domiciliation of PPT revenue by Chevron were not

traceable to this account. Chevron was accused of using illegal revisions of their PPT estimates to manipulate their tax liabilities. These were revisions made beyond the statutorily permitted accounting year of December 31 of each year. Chevron was further accused of manipulating revenue from royalties for which Department of Petroleum Resources (DPR) is responsible for determination of liabilities but ironically does not issue receipt to the oil companies for payment. Instead, the office of the Accountant-General of the Federation usurped the responsibilities even though it is not a government revenue generating agency. Conspiracy between revenue officers and Chevron had led to replacement of Assessment Notice for higher amount of US\$21,838,977 with that of US\$12,005,455. The difference of US\$9, 833,492 denied the federation has been established to be a fraud actualized by duplicating an expense on licenses and miscellaneous taxes in 1996.

Apart from the accusation of tax avoidance and money laundering, a law suit brought against Chevron in 1999 in San Francisco Federal Court by nine Nigerian plaintiffs for alleged deaths and other abuses in the two incidents in 1998 and 1999 has again found Chevron guilty of killing Nigerians for capital and committing other human right abuses in Nigeria. In a series of ruling issued, the United States District Court Judge, Susan Illston ruled that:

*Chevron was directly involved in the alleged attacks by acting in consonance with Nigerian government security forces (see This Day, August 16, 2007).*

This ruling is paving the way for a trial which the company had made spirited attempts to avoid for eight years in and outside Nigeria, in which Nigerians suffer political repression and pollution where oil and gas are extracted, and live in dire poverty.

However, it is interesting to note that the American Secretary of State, Condoleezza Rice served on the Chevron board of directors for a decade. She even had

a Chevron oil tanker named after her. In fact, it was while still on the board that Chevron was sued for involvement in the killing of nonviolent protesters in the Niger Delta region of Nigeria (see *The Daily Camera* (Boulder, Colorado, October 8, 2007). Amnesty International has also indicted Chevron Nigeria Limited over its alleged role in crisis rocking the Niger Delta region in Nigeria (see *This Day*, November 4, 2005). It is the above patterns of pursuing the accumulation of capital by any means possible and irrespective of the consequences on the Nigerian people and economy that have been the model of emulation by other multinational companies operating in Nigeria, some evidence, which is taken up next.

#### **7.4 Other Multinationals: Reproducing Capitalist Relations at Home**

The above pattern of trans-organised financial crimes being constantly perpetrated by the oil companies can now be felt in the operational activities of other multinational companies, who although declare millions of dollars from the Nigerian economy every year, but are unwilling to contribute to the economic development of the country. For example, the Nigerian Corporate Affairs Commission (CAC) law forbids any company (local or foreign) from operating in Nigeria without formerly registered with the CAC. On the contrary, the Minister of Aviation has recently accused some foreign airline operators in Nigeria of defrauding the country to the tune of a whopping US\$500million (see *This Day*, December 5, 2006). This was done through non-registration of the companies at the Corporate Affairs Commission in contravention of the law. The Minister specifically singled out a European Union-based Lufthansa in this Scam by noting that:

*Lufthansa makes 60 per cent of its international profit from the Nigerian route and that it was only fair if the company pays what is due to the Nigerian people and economy.*

(see *This Day*, December 5, 2006).

It is paradoxical that while European Union continued to be critical of endemic corruption in Nigeria, any of its members (particularly a Germany-based Lufthansa) would again be implicated in tax avoidance in Nigeria.

In 2003 and 2004, another multinational company in Nigeria, Bristow Helicopters was implicated in US\$.4million tax fraud (see Africa Oil and Gas, October 2007). The US regulatory authorities accused Bristow Helicopters of bribing Nigerian tax officials to the tune of US\$423,000; in exchange for reduced employment taxes (see the Nigerian Security and Exchange Commission Report, 2007). However, Bristow neither admitted nor denied the charges, but agreed to stop violating Nigeria's anti-bribery laws, suggesting that Bristow may have indeed committed the offence. When contacted, the Area Manager of Bristow Nigerian operations, Captain Dapo Oyeleke, maintained that:

*The matter had been trashed out in one of their management meetings as well as the company's audit report, arguing that the company had nothing to hide over an issue he described as 'old'.  
(see Daily Sun, December 10, 2007).*

In all the above cases of looting of the public treasury, tax avoidance, bribery scandals and other trans-organised financial crimes, available evidence globally continues to points to the fact that these financial crimes cannot be easily perpetrated without the collaboration of the accountants and auditors, further evidence which is examined next.

## **8.0 Prioritising Capital over Nigerian Blood: Accountants' Connection**

A recent report by Christian Aid highlighted the fact that accountants are key players in the global tax avoidance and tax evasion schemes (see Sikka, 2008). The above analyses seem to suggest that the US\$300billion looted by the Nigerian past leaders (military and civilian), billions of dollars looted by the so acclaimed democratically

elected Obasanjo and his deputy, Atiku, and the various arms of the government cannot be easily looted without the professional services of accountants and auditors. In fact, it was Michael Ani, a professional accountant, partner of a reputable audit firm in Nigeria, Ani, Ogunde & Co and a fellow of the veteran Institute of Chartered Accountants of Nigeria, who used his professional expertise to aid Abacha's son to loot a huge sum of US\$2billion from the Nigerian public treasury. The various financial scandals, fraud and looting of public treasury at the National Assembly in flagrant violation of the Financial Regulation Act as revealed by the Auditor General's Report of 2005 cannot be easily perpetrated by these supposedly 'law makers' without the knowledge of the director of accounts, accounting supervisors and other accountants at the National Assembly.

Both Shell petroleum and Exxon Mobil collaborated with some erring Nigerian public officials to avoid paying taxes of almost US\$2billion in the 1990s, while the two companies were declaring billions of dollars in profit every year. Apart from the collaboration of some erring public officials, this tax avoidance that have contributed to hunger, diseases and poverty in Nigeria cannot be successfully planned and executed without the professional collaboration of their accountants, professional cover up from their respective external auditors and the collaboration of the accountants at the Federal Inland Revenue Service (FIRS). The bribery of US\$6million in which Shell petroleum was again implicated cannot be planned and executed by Wilbros without the knowledge and professional advice of Wilbros accountants and external auditors. In the case of US\$.4million tax avoidance by Bristow Helicopters, the investigators found that Bristow Helicopters actually offered bribe of US\$423,000 to the officials of the Federal Inland Revenue Service (FIRS) to reduce Bristow Helicopters' tax liability to the

Nigerian government. However, such predatory culture cannot be possible without the knowledge of Bristow Helicopters accountants and external auditors.

A probe which was centred on the recovery of unspent budgetary allocation of ministries, parastatal agencies and agencies of the Federal Government and which had led to the recovery of about N3billion (US\$19.7million) in December 2006, has implicated accountants and even the Auditor-General of the Federation (see Tribune, November 14, 2007). In this probe, a whopping N60.3million (US\$452,250) was recovered from the office of the Auditor-General of the Federation, who should be the watchdog of the accountants, auditors and the other custodians of the nation's treasury. Moreover, the accountants at the Ministry of Health have been suspended for their professional role in the looting of N300millions (US\$2.1million) unspent budget of the Ministry of Health (see Tribune, March 26, 2008). In fact, the Auditor-General of the Federation who has indicted members of the House of Representatives on N184million (US\$1.3million) expenditure (see Punch, May 31, 2008), has himself been dragged to Court by the Independent Corrupt Practices and Other Related Offences Commission (ICPC) for allegedly stopping the ICPC operatives from scrutinising the account books of his office (see Tribune, November 14, 2007). This further suggests the contradictory role of accountants and auditors in the endemic financial corruption in Nigeria and supports the earlier conclusion by Bakre (2007) that there is no way money can be looted from the public treasury without the knowledge, collaboration or at the very least, connivance of the accountants.

Moreover, Act No 22 of the Nigerian Accounting Standards Board (NASB) empowers the board to enforce compliance with accounting standards by corporate bodies in the preparation of their financial reports (see NASB, 2003). However, the Attorney General of the Federal Republic of Nigeria has accused Chevron, its

Managing Director, Mr. Fredrick Dan Nelson and Auditing firm of PriceWaterhouse Coopers of conspiring to commit a felony to wit, non-compliance with NASB Act in the preparation of Chevron's account for the year ended December 31, 2003 (see Guardian, July 17, 2007). Chevron and Price water House Coopers were also accused of obstructing the NASB by their failure, refusal or neglecting to attend meetings scheduled on or about the 19<sup>th</sup> and 29<sup>th</sup> day of September 2006, by the Inspectors of the NASB to ascertain whether the provision of the Act or any regulations made there under are being complied with.

In another charge presented before the court, the auditing firm, Price water House Coopers and its managing partner were also accused of giving favourable certification to a misleading financial statement of Chevron Nigeria Limited contrary to Section 23 (1) of the NASB Act No 22 of 2003. On discovery of the Price water House Coopers; collaborated irregularities in the Chevron financial statements, the Inspector of NASB imposed penalty of N5, 500,000 (US\$41,250) on Chevron and its managing director for contravention of the provision of the Nigerian Accounting Standards and further instructed Chevron and its managing director to effect any necessary revisions to the misleading financial statements within 60 days. However, Chevron and its managing director willfully refused to restate the said misleading financial statement within 60 days of the notice to that effect. Chevron and its managing director also failed to pay or remit a penalty of N5, 500,000 (US\$41,250) to the appropriate authorities as instructed. These patterns of accounting and accountants-aided financial corruption, lack of respect for constituted authorities and arrogantly disobeying court orders have been the routine of the operating activities of almost all the multinational oil companies operating in Nigeria.

However, successive Nigerian leaders and the home countries of the multinational oil companies who both rely on these erring oil companies to pursue the accumulation of their own private capital and to effect inflow of much needed capital into their respective developed economies, have been both powerless to call these erring oil companies to order. The consequence of the lip services being paid to the atrocities of the oil companies in Nigeria by the Nigerian Government and the home governments of these oil companies is that it is the 150million Nigerians who own the resources that are continued to be thrown into hunger, destitution and poverty, while the home governments of the oil companies contradictorily campaign for poverty reduction in developing countries.

## **9.0 Summary and Discussion**

This paper has provided the evidence, which suggests that financial crimes being constantly perpetrated by the Nigeria leaders, public official have manifested itself in the activities of the multinational corporations operating in Nigeria, particularly the oil companies. Nigeria is a country blessed with abundance supply of natural resources such as petroleum. However, instead of using these resources to provide efficient public utility, modern infrastructure and necessary wealth redistribution towards the growth and development of its people, the successive Nigerian leaders have been pursuing the accumulation of their private capital at the expense of their people. In order to smoothen the path of their capital flight, Nigerian leaders have collaborated with foreign capitalist elites and multinational companies to continue to exploit their own country and people they claim to be protecting their interest.

The evidence further shows that it is this pattern of capital accumulation by the leaders that has also encouraged many multinational corporations operating in the

country, especially the oil companies to continue to carry on their exploitative business activities in Nigeria. As a consequence, despite the various global and Nigerian laws, legislation and conventions criminalising tax avoidance, tax evasion and other trans-organised financial crime, many of the oil companies, such as Shell petroleum, Chevron, Mobil etc have consistently been investigated, implicated and prosecuted for tax avoidance, evasion, money laundering and other trans-organised financial crime in Nigeria. Despite the global and Nigerian anti-bribery laws and legislation, multinational oil companies in Nigeria have consistently been implicated in various cases of bribing Nigerian public officials, particularly the Federal Inland Revenue Service to enable their companies to avoid paying tax or pay low taxes on their operational activities in Nigeria.

Despite the existence of various legislation, regulations and accounting standards on environmental accounting, some of the oil companies have been reluctant to comply with the provisions of these legislation, regulation and accounting standards in the course of their operations in Nigeria. As a consequence, some of the multinational oil companies have been and continued to be implicated in environmental pollution and oil spillage. This problem has rendered the agricultural land of the people in the Niger Delta of Nigeria, in particular unsuitable for farming. However, these oil companies have collaborated with some Nigerian officials and professionals, such as lawyers and accountants to continue to disobey civil protests and court orders.

As the successive Nigerian rulers are beneficiaries of the predatory culture of the multinational oil companies, this has reduced their power to enforce the various legislation, regulation and law put in place to fight these exploitation in Nigeria. In fact, some multinational corporations such as Shell and Chevron employed some Nigerian rulers and officials as instrument of terror against their own people. These oil giants by

pass the government of Nigeria to buy ammunition and some times provide Helicopter to the Nigerian law enforcement agency to terrorise and some times to kill harmless protesting Nigerians.

However, the home countries of the multinational corporations who preach good political and corporate governance in developing countries such as Nigeria are some times also confronted with contradictions on how to control the unethical behaviour of their multinational corporations operating in Nigeria. This is because, these corporations perform the vital role of capital inflow into their respective developed economies and as a result some of the developed countries have only see their roles in supporting the predatory enterprises culture of their multinationals abroad and not tarnishing their image which could disrupt the flow of capital into their respective developed economies. Thus, suggesting that developing countries are caught up in the web of internal exploitation in the hand of their own rulers who prefer the protection of their personal capitalistic interest over any public interest and external exploitation in the hands of multinational corporations and their respective home governments who prefer to continue to reproduce capitalistic relations at home and not in Nigeria. This is the dilemma of the developing countries in the so called global economic system, that has the tendencies to continue to undermine the economic growth and development of most developing countries, creating hunger and poverty and eventually responsible for the non-achievement of the so called United Nations Millennium goal of poverty eradication globally by 2015 and Nigerian vision 2020.

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