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WAS FINDING AND PRODUCING PETROLEUM OIL A CURSE OR A BLESSING IN NIGERIA?

BY

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AUGUST 2015

ABOUT THE EDITOR

Chief Richard Akinjide, CON, SAN, FCI Arb., U.K. FCE, Bachelor of Law University of London 1955 and Member of the **Bar** of **England** and **Wales Inner Temple February 1956**. He practises also at **The Gambian Bar**. He specialises in **Oil and Gas, Companies and Banking Matters, Mergers and Acquisitions, Shipping, International Commercial Arbitration and International Law**. He is a **Fellow of the Chartered Institute of Arbitrators, United Kingdom (UK**). He took **Silk** in **Nigeria as a Senior Advocate on January 12, 1978** and was **Called** to the **Nigerian Bar** in **March 1956**. **Member of Nigerian Federal Parliament 1959-1966,** Member of the **International Law Commission of the United Nations in Geneva from 1981 – 1986**, **Federal Minister of Education 1965-1966**. **Attorney-General and Minister of Justice of Nigeria 1979-1983**. He is the author of the **2nd Edition** of **"Africa and The Development of International Law"** published by **Martinus Nijhoff** at **The Hague, The Netherlands (1988)** and selling worldwide. **Pro-Chancellor and Chairman of Council of the University of Jos 1976-79**.

He is an **active** member of the **Association of International Petroleum Negotiators (AIPN)** in **TEXAS, United States of America (USA)**. Cases he handled are reported in various **Law Reports in Nigeria**, **England, The Gambia** and in **International Law Reports**. He was one of the **three Arbitrators** who made landmark **Awards** in Lagos, in a dispute involving the major **EXPORT TERMINAL ENGINEERING CONTRACT executed in BONNY, RIVERS STATE, NIGERIA**.

The **Awards Enforcement Proceedings in London** resulted in three major reported cases:

- **IPCO (Nigeria) Ltd v. NNPC (2005) 2 Lloyd's Law Report 328 (High Court)**
- **IPCO (Nigeria) Ltd v. NNPC (2009) 1 ALL ER (Comm.) 611 (High Court)**

- **IPCO (Nigeria) Ltd v. NNPC (2009) 1 ALL ER (Comm.) 657 (Court of Appeal)** where **new Principles of Law** in **Arbitral Award Enforcement** under the **NEW YORK Convention** were established by the **Court of Appeal, England**.

  Richard Akinjide was one of the Arbitrators.

He represented **Nigeria** as the **Co-Agent** and a **Counsel** in the case **Cameroon v Nigeria** at **The World Court, The Hague** for **about 8 (eight) years** involving **International Boundary Dispute** from **Lake Chad** to **The Atlantic Ocean**. He was a member, for **four (4) years,** of the team of **International Jurists** that drafted **The Law of The Sea-Convention** otherwise known as **"The Constitution of The Sea"** which is the **biggest Convention** ever sponsored by the **United Nations (UN)**. **Chief Richard Akinjide** signed that **Convention** and **The Final Act** on behalf of **Nigeria at Montego-Bay, Jamaica**. **Publications** of **AKINJIDE & CO** series which started with **"Advocacy, Ethics and The Bar"** have now reached **55 (fifty-five)** issues and circulates world-wide. **Chief Richard Akinjide** established trusts in the **Universities of Ibadan**, **Jos and Cambridge (England) and the Nigerian Law School for Annual Prizes** in **Law**. **Ten (10) members of his family read law** and his wife, **ABIMBOLA**, is a **member of the Inner Bar (SAN). Chief Richard Akinjide** was the **President** of the **Nigeria Bar Association (NBA) 1970-1973** and past **Chairman** of the **Nigerian Body of Benchers** and **a** past **Member of the Council of Legal Education. Was a Visiting Lecturer** for the **LL.M Programme** in the **Alternative Dispute Resolution, International Commercial Arbitration etc, University of Ibadan. Awarded Commander of the Order of the Niger (CON) in 2002. Distinguished Fellow of the Nigerian Law School**. Honoured as **Fellow** of the **Babcock University Circle of Eminence (FCE) in 2007**. Awarded **Doctor of Laws (D. Laws, Honourary)** in **December 2010 by Lead City University**. **He travelled extensively in all the continents of the world. He reads widely outside law**. He is a **collector** of **Works of Art in Nigeria**, **Europe** and **USA**. He visited **South Africa – Cape Town and**

Johannesburg in **February 2014** and delivered a **major lecture** at the **University of Cape Town** at the invitation of the **Vice-Chancellor**.

Hobbies:

Golf, Snooker, Gardening and Arts Appreciation.

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55. Was Finding And Producing Petroleum Oil A Curse Or A Blessing In Nigeria?

Along Ran road, in Bauchi metropolis is the tomb of Tafawa Balewa. This is the mausoleum where Sir Abubakar Tafawa Balewa, independent Nigeria's first Prime Minister rests in perfect peace. And it is now a museum.

In 2012, to celebrate the centenary anniversary of his birth, a permanent exhibition was opened there to illustrate the life and times of the eminent Nigerian. Among the various objects and memorabilia presented to the public is a small bottle filled with a dark liquid. **It contains the first sample of the crude oil that Shell-BP first produced in commercial quantity and exported in 1958.** Two years earlier after half a century of exploration, Shell D'Arcy had finally discovered oil in Nigeria at Oloibiri in what is now Bayelsa State.

Nigeria's first crude oil production and export was a tiny 5,100 barrels per day. It took the next seven years to progressively build the industry. In 1965, with the completion of the Bonny Island terminal on the Atlantic coast and the construction of pipelines to feed it, about 412,000 barrels per day were flowing. The Biafra war of 1967 to 1970 disrupted business and resulted in a sharp but temporary drop of production. In 1970 it was on the rise again. It had more than doubled to reach about 1.1 million barrels per day.

Matching growing production and export volumes, export values skyrocketed twenty-two fold from ₦23 million in 1961to ₦510 million in 1970. Nigeria then was not a member of the Organisation of the Petroleum Exporting Countries (OPEC). Therefore, federally collected oil revenues were far below export values. It is estimated that, in 1958, the Nigerian government earned ₦200,000 from crude oil. This had increased to ₦ 166 million in 1970.

Although in the 1960s agriculture still largely dominated the Nigerian economy, oil was progressively becoming an important source of government revenue. From nothing in 1960, ten years later it had grown to represent more than a quarter of federally collected revenues and well over half of total exports.

Then, in the first half of the 1970s, three major developments took place which, I believe, are at the origin of our present predicament.

The first one is what is commonly referred to as the Nigerian oil boom of the 1970s. Coinciding with a growing world appetite for oil, Nigeria's proven reserves of high quality sweet crude were constantly and massively re-evaluated upwards: less than a billion barrels in the first half of the 1960s, 4 in the second half, 16 in the first half of the 1970s. **This attracted massive foreign investments and fuelled the oil boom**.

The second development was Nigeria's adhesion to OPEC in 1971, eleven years after the Organization was founded. This resulted in a series of actions including the nationalization of the oil industry and the creation of NNPC, the Nigerian National Petroleum Corporation, to meet OPEC's requirement that member states acquire a 51 percent stake in the industry and become increasingly involved in it.

The third development and perhaps **the most important of the three** was the immense financial benefit, the huge windfall profit which accrued to Nigeria from events orchestrated far away from her shore, first by Muammar Gaddafi of Libya in 1969 then by Sheik Ahmed Zaki Yamani of Saudi Arabia in 1973. The latter, to punish western support for Israel, orchestrated massive oil supply shortage on the world oil market which was followed by panic stockpiling in consuming countries. This made the average OPEC price of crude oil pump **from US$1.27 in 1969 to US$12.4 in 1975**.

The conjunction of these three developments had three decisive economic consequences on our country. **First**, because of the oil boom, Nigeria's oil production had increased to 1.8 million barrels per day in 1975 from 1.1 in 1970. **Second**, because of both her new OPEC membership and OPEC's own brinkmanship, Nigeria's oil revenue had **multiplied by 25 percent in 5 years to reach ₦4.3 billion in 1975**. **Third, and because of all of the above, Nigeria's oil in 1975 represented close to 80 percent of government revenue, almost 93 percent of Nigeria's exports and had definitely ousted agriculture as the dominant sector of the national economy. Nigeria had become enslaved to petroleum**.

My analysis would not be complete if I do not mention **a fourth consequence**, this <u>is</u> one of a social nature: **the emergence of corruption as a major and permanent component of our society. The oil business is and has always been corrupt. It is believed to be the most corrupt industry in the world. Corruption is a contagious disease. Here is perhaps the source of the infection.**

In 1961, while an emerging production of crude oil had reached 17 million barrels for the year, Nigeria was exporting over half a million tons of shelled groundnuts, 170,000 tons of palm oil and 190,000 tons of cocoa beans. There was also a smaller export of cotton: about 49,000 tons. Nigeria was world number one exporter of

shelled groundnuts with over 40 percent of world export as well as world number one exporter of palm oil with almost 30 percent of world export. Nigeria was also the world's second exporter of coca beans with almost 20 percent of the world trade. In the 1961 Nigerian economy, agriculture was king. It accounted for 64 percent of Nigeria's overall domestic production when oil did not even contribute half a percentage point. Agriculture not only provided employment for all but was also responsible for practically all foreign exchange earnings. The ₦23 million worth of our 1961 oil export represented less than 7 percent of all exports valued at about ₦350 million, the vast majority of which on account of agriculture. This was also a blessed time when the Nigerian currency was stable and strong. It was therefore perfectly legitimate to expect Nigeria to embark on a long-term path of balanced growth and sustained development based on agriculture and her new emerging resource, oil.

But it was not to be so. Although agriculture is widely recognized as the 1960s' main contributor to Nigeria's economy, its performances in 1970 had already and significantly deteriorated. **The emergence of oil was not the only cause of the decline. Also, and perhaps mainly responsible was the sector's low productivity**. Exports of shelled groundnuts went down to below 300,000 tons, a 42 percent fall over 1961 and Nigeria was no longer a significant player in the palm oil trade. **Only cocoa exports had continued to grow**. But the increase over 1961 was marginal. As a result, agriculture was down to 41 percent of Nigeria's gross domestic product. It had regressed 23 percentage points over 1961 while oil had gained 6 points from almost nothing ten years earlier. **Oil now represented almost 60 percent of total exports, an eightfold increase over 1961. Already in 1970 the oil takeover was at play**.

To keep the agricultural sector competitive, investments, efforts and patience were required. They were required to increase yields and fertilizer usage, preferably organic fertilizer, to increase cultivated land and implement land reform, to improve seeds, to mechanize, to irrigate and, last but not least to develop markets. **But neither patience which is not a Nigerian virtue, nor any of the other requirements mentioned were needed to increase oil revenues**. They grew from their own momentum, from the combined effect of a fast growing world demand, the local work of the joint venture partners, and an international political situation exceptionally favourable to price hikes. **So did the resulting rent paid to the landlord**. So why bother? Resisting the attraction of immediate gratification was too difficult a task. **Rent is the income from Petroleum**.

Yet, although degraded, the situation of Nigeria's agriculture was still salvageable. Unfortunately, events in the second half of the 1970s made the progression of the oil takeover even more difficult to stop. **First**, the general optimism generated from the huge inflow of oil money pushed agriculture and its problems in the shadow. **Second**, a belief had emerged that **world oil demand was price insensitive**. The first oil price shock of 1973 had neither reduced demand nor resulted in any significant substitution away from oil. **Third**, as if to reinforce the delusion, a second oil price shock, triggered by the **Iranian revolution and the fall of the Shah**, occurred in 1979 at a time when, from an economic perspective, what the world energy market needed most was price restraints. The fear of a repeated oil shortage in consuming countries and a repeat of the excessive stockpiling of the early 1970s pushed OPEC crude oil price to US$40 in 1980. **That year, Nigeria produced over 2 million barrels per day which earned the federal government ₦12.4 billion, almost 3 times the 1975 cash intake**.

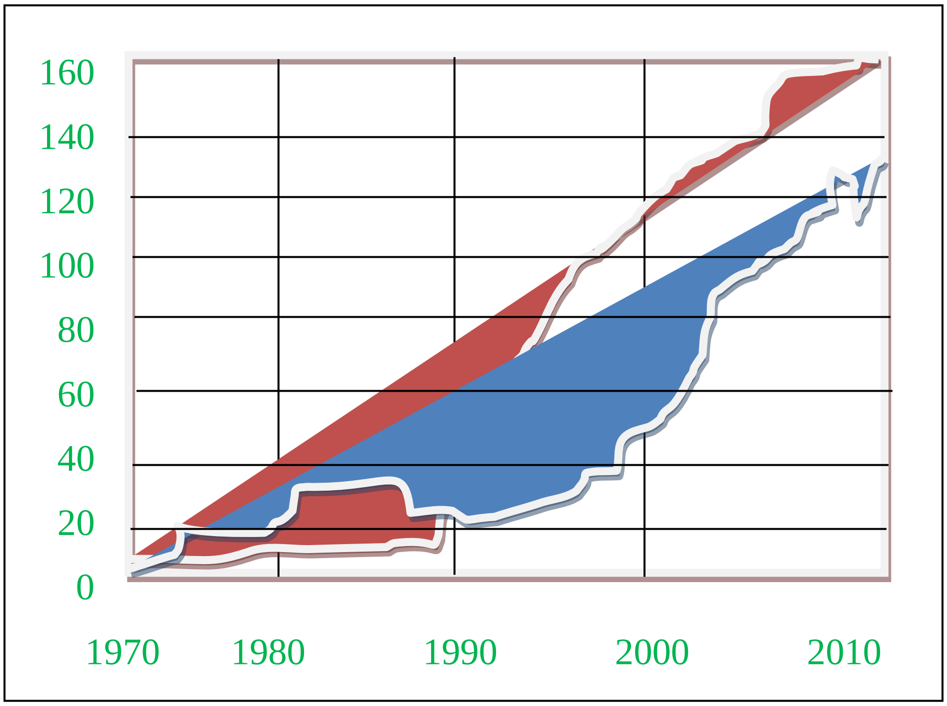

Figure 1: Evolution of the average OPEC oil price (US$ in blue)
And the naira exchange rate (₦/US$ in red) from 1970 to 2010

In 1980, oil was 96 percent of total exports, 81 percent of government revenue and close to 30 percent of gross domestic product. Neither shelled groundnuts nor palm oil nor cotton were any longer exported and cocoa seeds exports had fallen by over 30 percent. But then Nigeria had been flushed with dollars. The problem was not to earn money; it was how to spend it. The exchange rate had been remarkably stable over the 1970s when, on average, a naira could buy 1.15 dollar. The abundance of petrodollars had also created a substantial movement of labour away from farms to cities and government employment. We know, since Adam Smith that the only source of rising living standards is productivity. Many of these jobs did not

generate any productivity gain. They rather had a reverse effect especially in the public sector. The 1980 Nigerian economy was therefore an increasingly inefficient economy living on the dream of an endlessly growing oil rent and relying excessively on the spending of a government which was itself massively dependent on oil: a dangerous situation.

As gravity, the law of supply and demand sometimes had unpleasant consequences. For Nigeria, it made the euphoria to come brutally to an end. At last, world energy demand reacted to prices and fell. A large glut developed on the world oil market, oil prices fell and OPEC imposed production quotas. In 1985, the average OPEC oil price was below US$28 a barrel and Nigeria's production was down about 30 percent to 1.4 million barrels per day. But that was just a beginning. The fall in oil prices was to continue for the next 15 years with a short-lived respite on the Nigerian economy was heavy and immediate: incapacity of the government to meet its financial obligations, recession, austerity, debt rescheduling, devaluation and a sharp rise in unemployment. It was the time of the hot public debate about a possible IMF loan which never materialized. The World Bank took over with a loan of US$4 billion and the implementation of a severe structural adjustment program. One of the most disastrous legacies of this period is the endless inflationary spiral of our exchange rate, the naira cost of one American dollar.

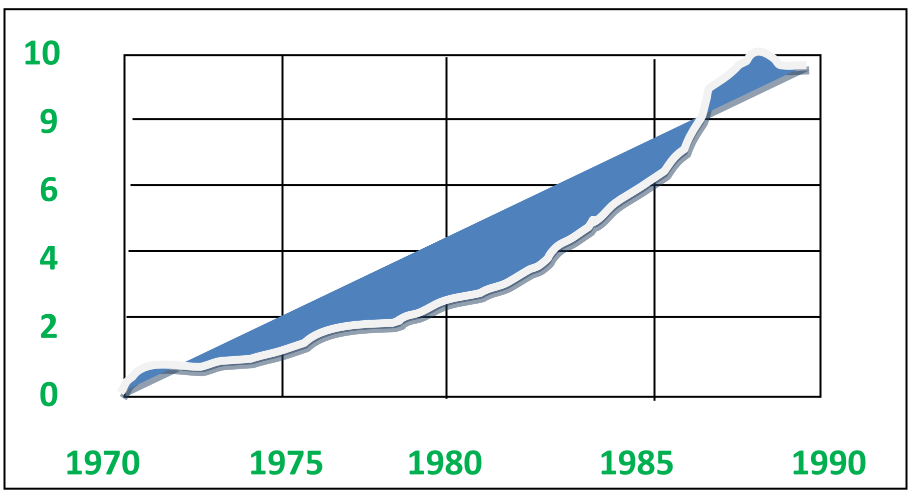

Figure 2: Evolution of the naira cost of one US$ from 1970 to 1990.

It would take the next 25 years for the price of oil in nominal value to return to its 1980 level. And for the next 25 years, the booms and slumps of Nigeria's economy would be dictated by the dull fluctuations of the international oil market.

The impact of this long-term contraction in oil prices was truly devastating for Nigeria. On average from 1980 to 2000 Nigeria's real annual economic growth was less than half a percent. But population grew at over two and a half percent per year. As a result, production per head fell on average by over two percent yearly.

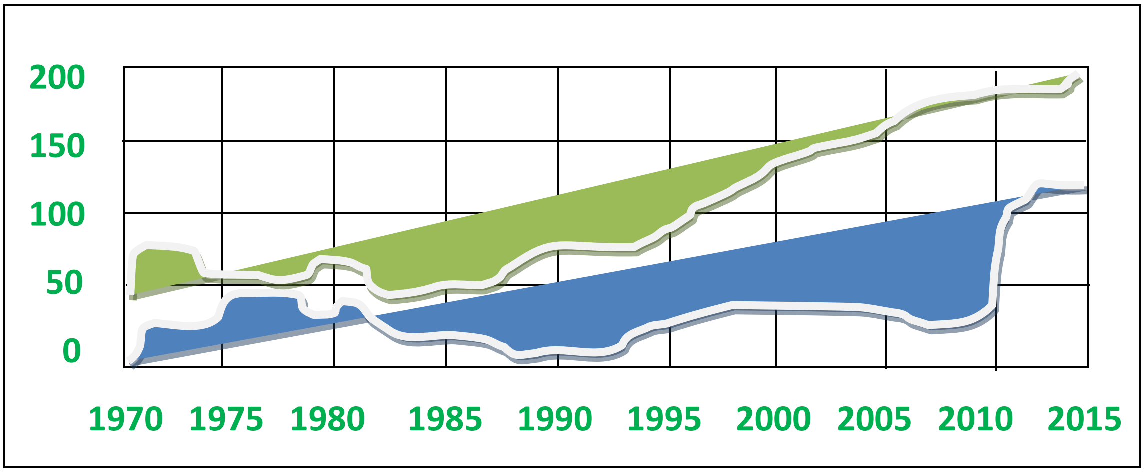

Figure 3: Evolution of the average OPEC oil price (US$ in blue) Nigeria's GDP (constant 2005 US$ in green) from 1970 to 2013.

Even if the period of oil price recovery from 2000 to 2005 is included, production per head still recedes: the average annual decline is two tenth of a percent. This is in sharp contrast with the period 1960 – 1980 when GDP grew close to 5 percent yearly and output per head about 2 percent.

Ten years of extravagant petrodollar windfalls had cost Nigeria twenty five years of economic stagnation, infrastructural decay, rising unemployment and proliferating corruption.

A time always comes when damages are assessed, actions taken and costs faced. In reaction to the catastrophic developments of the previous decade, the first ten years of the 21st century were a period of reforms, greater political and economic stability, substantial productivity increase and stronger growth. From 2000 to 2013, Nigeria's gross domestic product grew on average almost 8 percent yearly. This is by far the best economic performance of the past 50 years. But the situation is not as rosy as it looks. The high growth of the past 10 years or so has not been inclusive. It has only benefited a tiny fraction of society. Poverty has not receded.

Unemployment has continued to increase to reach worrying levels particularly for the youth. Wasteful government spending and corruption have prospered fueled by the rapid increase in oil prices after 2005. Efforts at diversification have been much too modest with persistently low investment rates. The Nigerian economy is still excessively dependent upon oil as the general economic impact of recent oil price cuts is demonstrating. The revival of Nigeria's agriculture, so much publicized after the observation that our food imports were growing in an unsustainable manner – the top four imports (wheat, rice, sugar and fish) consuming over a

trillion naira in foreign exchange – is just starting. With no concern for the negative impact that a weak naira is bound to have on the medium and long term development of a critically import-dependent economy, but in order to finance political battles and economic inefficiencies, the exchange rate has been allowed to deteriorate to such an extent that it costs now over ₦200 to acquire an American dollar. And, finally, there is Boko Haram and the major security threat it poses.

All these issues must be positively addressed if economic success is to be achieved. A successful long-term development in Nigeria is undoubtedly possible but it requires four great virtues; patience, discipline, persistence and excellent leadership.

Was finding and producing oil a curse or a blessing? This may not be the right question to ask. The right question to ask would rather be whether or not we are capable of facing our future and prepare that of our children and grand children with patience, discipline and persistence. Singapore is now as good as Europe.

In an episode of the Greek mythology which I studied for my Senior Cambridge, Odysseus, perhaps better known by his Latin name Ulysses, sailing back home after the Trojan War, skirted the land of the sirens. Comparable to what oil is for Nigeria, the sirens were beautiful but dangerous creatures of the female gender, half fish and half human, who lured passing sailors with their intoxicating songs so that their ship would wreck on the rocky coast of their island. In order not to be fatally attracted and to avoid catastrophe, Ulysses ordered his crew to tie him to his ship's mast and to plug his ears so that he could resist the sirens' irresistible appeal. He successfully escaped.

Our leaders present and future should be told this episode of the Greek mythology.

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