

Corporate Crimes and Small-Scale Business in Niger Delta: A Challenge to Nigeria Economy

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ABSTRACT

This paper reviewed corporate crimes in Niger Delta, Nigeria. The focus was on Non-farm Small and Medium Enterprises. "Structured Action Theory" was adopted as the theory behind the study while the exploratory approach was used for analysis to give insights on corporate organizations' unethical and illegal profiteering corporate activities of organizations. Position of government extant law on corporate crime was culled in sighting past judgment. Findings revealed that; the extant laws that are supposed to protect consumers in Nigeria are not implemented; issues concerning corporate crimes were not well enshrined in several aspects of criminal laws in Nigeria. This paper observed among others that there is no strong willpower by the government in subjecting corporate organizations to prosecution on the effect of their activities on the income of small and medium businesses operators in the Niger Delta. The paper finally suggested that States must create an environment that is conducive to pursuing corporate crimes cases and many others.

Keywords: *Corporate Crimes, Incomes, Small Scale Enterprises, Niger Delta.*

INTRODUCTION

Corporate crime is fast becoming a pandemic in Nigeria. Corporate crime must be understood according to its multidisciplinary nature. The docile attitude of the government to correct this anomaly has made it appear like a norm, frustrating consumers' complaints towards their request for organizations to change their modus operandi (Micheal, Danielle & Melisa, 2018). An organization is a corporate entity, created by law to pursue set goals sustainable based on profit as the underlying objective. Corporate crime is an ill treatment aimed at making profit for the organization by management or employees acting on behalf of their employer or corporations (Iyidiobi, 2015). Such crime is usually found within the context of

product, policies or services pricing. Corporate crime could be in the form of violence, economic corporate crime and others (Lederman, 2001).

Where products or services are overpaid by consumers or customers compared to services rendered. The deliverables of an organization need be seen as commensurate to the prices paid for them. Corporate crime could be associated to physical harm, economic crime, security market manipulation, trade secret stealing, investment trends, arbitrary charges, corporate bribery, corporate manslaughter, company Act offences, corporate liability or negligent to act prevention and others. In these types of corporate crimes, management or employees of the organization act in line with its policy as representative. It is also known as white-collar crime or organizational crimes. Economic lives of members of the public are being affected by the activities of corporate organizations in the cause of their profit-driven motives.

The aim is to make profits without recourse to consumers or customers complain to their unsatisfactory services or products. Be it a private or public corporation, monetary charges attached to services rendered are usually accessed in relation to quality, time or duration, value and satisfaction. The questions of whether the services rendered are quantifiable when prices are discussed do not preclude the fact that value and satisfaction are considered. Consumers have to be protected against the capitalist tendencies of organizations' pricing behaviours. Virtually all corporate crimes are driven by profit motives. It explains that over deterrence is usually the end product of corporate crimes (Micheal, Danielle & Melisa, (2018).

In Nigeria, specifically Niger Delta, customers have continued to cry for protections as an avenue to request for justice on arbitrary charges by corporate organizations such as Communication companies (MTN, Airtel, 9mobile, Globacom), DSTV, Electricity Companies, internet providers service (IPS) companies and commercial banks. Unarguably is the fact that neighborhoods and individuals struggle to buy transformers, connection wires, poles and pay electricity staff for installations. Soon this work is completed; all the property (accessories) automatically becomes the property of Electricity Company. Every invitation to effect repairs on either the transformers, high- or low-tension lines attracts dire financial consequences from the

customers. Meters are paid for by customers while outrageous monthly bills are issued on monthly basis. Attendant blackouts have become a daily occurrence. Not minding the few days and hours light is provided to customers, issuance of outrageous bills at the end of the month has remained unresolved. To worsen the matter is the estimated billing system, piling unresolved complains and ignorance of the fact that most times slow response to life threatening calls may lead to loss of lives and income to artisans. Customers have resolved to generating power through the use of noisy generators and expensive solar systems to operate their businesses while others who cannot afford solar system are living at the mercy of when light comes. Not much has been done in certain areas of corporate crime (Iyidiobi, 2015). Rather, studies have concentrated on white-collar corporate crimes, environmental corporate crimes and others (Micheal *et al*, 2018). Though detection of corporate crime is difficult to determine, no efforts have been made by the government to protect her citizens against obnoxious activities of corporate organization.

For instance, the entertainment industry specifically cable televisions such as CTL, DSTV and Gotv monthly postpaid methods have remain a case for concern. Though the pay-as-you-go billing has been suggested in the national assembly, it is disheartening to observe that entertainment companies like DSTV, CTL have blatantly refused to take into consideration issue of unused periods within the month arising from household travels and unavailability of power supply to watch paid packages. Despite these facts, monthly subscriptions are eroded immediately at the expiration of 30 days for renewal. It is not proper to buy yam and the seller detects to you on how it will be consumed.

Communication companies have been severally warned by the Nigeria Communications Commission (NCC) against poor services such as dropped calls, failed messages, diverted calls, non-connections and non-role over of monthly subscribed data bundles. Disheartening is the fact that unused data bundles at the end of the month is wiped off. The customer is either forced to use up all subscribed data or loose it to the company at the end of the month. Within the existing per minute billings are found losses to the customers when calls are abruptly dropped, horning

and cracked voices during discussions. Inability of network reconnections in the midst of dropped calls causes income loss to customers during business discussions.

Again, there have been instructions by CBN for banks to stop unclear and arbitrary charges. In furtherance, CBN issued a notice on 1st June, 2020 instructing banks to quickly refund wrong charges on customers' accounts. In compliance, Access Bank Plc. decided on 23rd June, 2020, to refund to customers, all wrong deduction made between 1st February and 30th April, 2020 (Guardian Newspaper 24th June, 2020). Undispensed POS transactions are with-held by banks without reversal. Accumulated applications for reversals are alarming as banks are using COVID-19 protocols as a strategy to denial customers' access into the banks to register their complaints.

Considering the nature of the Niger Delta environment, non-farm entrepreneurship economic activities are adjudged to be more vibrant as not much viable farming activities are expected on the land. In view of this, the catalogued activities raised the unresolved question of whether corporate crime has positively or adversely affected incomes of entrepreneurs such as Beauty Saloon operators, Welders, private office owners, Manufacturing industries, Ice block/ice cream producers, Bakers, Block industries, Cold room operators, barbecue/ roasted meat operators Computer centers, hoteliers/tourism and food vendors in Niger Delta. Since companies are constructs of the law hence can be held responsible for the crimes committed by it as an entity or its agents, the question raised is "how well have corporate organizations been made by law to subscribe to the consequences of their actions?" (Ekundayo, Okechinyere, Lalude, 2020). To take a stand on this assumption, it became pertinent to conduct a study on how corporate crimes have affected households' maintenance, Small and Medium Scale Enterprises incomes in Niger Delta.

There are diverse opinions on the definitions of corporate crime (Adibe, & Obiefuna (2015: Ijaiya 2015: Iyidiobi, 2015: Ukwueze, 2015). A definition of the concept revealed that corporate crimes has to do with subjecting a corporation to be responsible for acts committed in the cause of carrying out are activities for profit purposes that not much has been done in certain areas of corporate crime. Distance

between the perpetrator and the deprived is large. Categories of corporate crimes and government's inability to protect her citizens from such illegalities perpetrated by corporate organizations has been discussed by Sampson (2003).

The study was conducted between, 2020 October and February, 2021 in the Niger Delta Region, Nigeria. It consists of present day Bayelsa, Delta and Rivers State. In 2000, it was reported that about forty ethnic groups are found in Akwa Ibom, Cross River, Edo, Imo and Ondo States. There are three extractions within the Western region or Northern Niger Delta; Delta, Edo and Ondo States, comprised of Rivers State, Bayelsa. The East has Cross Rivers and Akwa Ibom. Niger Delta region has temperature range of about 23 – 30 °C with vegetation and saline water swamp, rain forest and mangrove. Within November – February are found wet seasons while dry season is experienced from October to March. The region hosts several oil and gas multinational companies. The seasons favour all round agriculture due to climatic and soil conditions of the area. Food crops such as cassava, yam, cocoa yam plantains and vegetables.

The purpose of the study is to review the challenges of corporate crimes on small and medium scale businesses in Niger Delta, Nigeria. Specific objectives are to:

- (a) Review the categories of affected small-scale enterprises in Niger Delta,
- (b) Review the nature and patterns of corporate crimes by corporate organizations in Niger Delta,
- (c) Review the position of the law on corporate crimes, and
- (d) State the findings of the study.

METHOD

This study adopts exploratory approach as it is designed to target the operators of small and medium enterprises using findings from past studies in similar topic. According to Lederman (2001), exploratory research methodology is either primary or secondary methods. It is intended to conduct a research in situations where there are no or few past studies to refer to or hind upon in predicting outcomes. The essence

is to focus on gaining insights and familiarities or undertaken when research problems are at a preliminary stage of investigations.

THEORETICAL FRAMEWORK

Several theories have been related to corporate crime such as; “subcultural theory, Anomie theory etc. however, this paper is predicated on “Structured Action Theory” propounded by Yi Ting (2015). The theory saw corporate crime as structured action sustainable by consistent indoctrination of younger staff to continue to operate by the organization’s set actions and policies. In this theory, the younger executives learn the masculinity concepts of executive from the older counterparts, which include personal principles sacrifice to meet corporate goals of accumulating profits through unethical and illegal means. This capitalist approach functions to the detriment of the customers whose meager incomes that come through entrepreneurial activities are eroded in the face of such sustained illegality.

i. Types of corporate crime

Corporate crimes differ according to their types and modes of perpetrations and exert enormous effect on the economic lives of the less privileged persons in the society and the economy at large. (Lederman, 2001) Two major categories of corporate crime are; crimes involving employees (conflict of interest, embezzlement, kickbacks, insider trading, arbitrary charges, corporate pollution forgery, bribery and account padding. Others involve the firm (dumping price fixing and bid rigging) and crimes against the society (ecological disaster, money laundering, job discrimination and unsafe products, false advertising) others are invasion of privacy and job safety violation.

Literature on corporate crime is scanty. Just few works have been done to explain the existence of corporate crimes. Friedrichs, (1996) explained that definitions of corporate crime showed that illegal and harmful offences are perpetrated by corporations and their staffs in order to promote their corporate interests. It is not undisputable, that the society can only curb corporate crime through the invocation of the criminal law. The application of the law on corporate organizations has been near

impossible due to the fact that corporate organizations have used free vouchers to dampen government response to the agitations for quality service delivery by corporate organizations and made possible prosecution of offenders far-fetched.

Quite reasonable is the view that as frictional entities, corporate organizations are as well, legal and economic realities because our lives depend on the activities, (services) they provide; electricity, communication etc. In the light of the above, there is no plausible reason why the criminal law/procedure should not be applied to check the possible and regular excesses of these very powerful entities especially when such excesses amount to crime. This is very important because the powers wielded by these corporations are very high.

Corporate crime could be associated to; physical harm, economic crime, security market manipulation, trade secret stealing, investment trends, arbitrary charges, corporate bribery, corporate manslaughter, company Act offences, corporate liability or negligent to act prevention etc. The aim is to make profits without recourse to consumers or customers complain to their unsatisfactory services or products.

Disturbing is the fact that presently, big corporations are using their huge resources to suppress possible legislation against their repressive and fraudulent services. The overriding issue is that corporations should be made to drop all obnoxious extortions including determination of the duration of purchases services which are arbitrarily programmed to terminate after thirty days. Such service consumption duration is supposed to be based on the pace of consumption (reduction based on consumption time). Being overlooked by the legislature who are supposed to pass bills controlling such service consumption determination, has ignored the position of the law on corporate crime against consumers of services/products provided by corporations.

Worst still is the Internet Providers Services (IPS). Hanging programs and images on screen make viewers lose interest in watching programmes being paid for. Most times the program will go off entirely. The periods lost are not replayed or watched again. Most vulnerable are the churches that use the internet connectivity for their crusades.

ii. Categories of affected small and medium enterprises in Niger Delta.

Niger Delta, being a region devastated by oil spills from the activities of oil exploration and exploitation activities of companies, Small-scale enterprises are the targeted victims of corporate crime as the environment has little or nothing to offer through agriculture. In the face of environmental degradation, small scale business becomes the only options to create jobs and be self-employed. Sympathy for this category of businesses stems from the fact that they are not financially stable to incur huge expenses on utility bills and maintenance, huge entertainment packages offered by DSTV, GOtv and telecommunication companies. In this category are found the following business not limited to; Ice block/ice cream producers, barbing and beauty salons, Bakeries, Block industries, Cold room operators, Computer centers, hoteliers/tourism and food vendors, barbing and hair dressing saloons, barbecue, laundries, carwash and others.

iii. Nature and Patterns of Corporate Crimes.

Corporate crime has come to saliently but negatively impact on economic lives of the people of Niger Delta. It has several patterns that are not limited to; Arbitrary charges by corporate organizations such as Communication companies (MTN, Airtel, 9mobile, Globacom), DSTV, Electricity Companies, internet providers service (IPS) companies and financial institutions. Unarguably is the fact that neighborhoods and individuals struggle to buy transformers, connect wires, poles and pay electricity staff for installations. Soon this job is completed; all the property (accessories) automatically becomes the property of Electricity Companies. Repairs of faulty transformers and electrical lines attract payments from consumers. Meters are paid for by customers while outrageous monthly bills are issued on monthly basis. Light or without light within the month is not accounted for. Bills must be served to helpless consumers. Consumers without meters are issued estimated bills. Complaints to repairs of faults are not responded to on time if at all they try to respond.

Other forms of corporate crime are perpetrated by the entertainment industry specifically the DSTV and Gotv monthly postpaid methods have remain a case for concern. Though the pay-as-you-go billing has been suggested in the national

assembly, it is disheartening to observe that the DSTV and Gotv monthly subscriptions have blatantly refused to take into consideration issue of unused periods within the month arising from household travels and unavailable power supply. Despite these facts, monthly subscriptions are eroded immediately at the expiration of 30 days for renewal.

To Communication companies' poor services are increasing on daily basis. Reports and warning for dropped calls, failed messages, non-role-over of data bundles (where the consumer is forced to use up all subscribed data or loose it to the company at the end of the month), declined calls, call diverts have been severally warned by the Nigeria Communications Commission (NCC). Mostly, cost of abruptly dropped calls, honing and cracked voices during discussions are charged. Per-second billing system is considered a silent fraud which is considered as service under delivery. Calls that end within seconds are charged as "a minute" call.

Banks have continued to arbitrary charge customers for undispensed cash through POS and ATMs without reversal. Efforts made by customers through applications are not responded to. Delay in attending to customers has caused many businessmen and women to loose huge sums of money as a result of unattended financial transactions. More disturbing is the slogan "acquisition of both company and liabilities" where a new tenant is forced to pay for electricity bills consumed by previous tenant or occupant even when the property is leased.

iv. Position of the Law on corporate crimes in Nigeria

In recent time, position of the law has changed as companies can be held liable for offences committed depending on the jurisdiction. The truth is that opposite is the case when it comes to Nigeria. The inability to hold corporations liable for crimes was advanced by many scholars to be largely due to the fact that corporations are not artificial person who could not be subjected to physical punishment (Iyidobi, 2015). In the eyes of the law, quite clearly, corporations stand out as identifiable body.

Unarguably, the society can only check fraudulent activities of companies through the application of criminal law. But it has been understood that subjecting companies to

the law in Nigeria is ineffective. The reason being that legislations on the fraudulent activities of companies are implemented hence cannot be applied by members of the society.

It has been pointed out that many top government functionaries are shareholders in telecommunication companies, entertainment companies and banks. The effect is the irresponsible attitudes displayed by the companies (Ijaiya, 2015). So long as corporate organization crimes are not found criminally culpable for their fraudulent activities, citizens are bound to remain under the shackles of corporate organizations.

According to Weissman and Newman (2007), though it is believe that corporations cannot be indicted, however, its members can be liable to offences committed based on two major reasons. The first reason is due to formalism legalized upon the fact that a corporation as a person-metaphor. It means that corporations are seen as “artificial persons”, judicial entities or legal constructs that are distinct in identity from the shareholders who created them, imposing the law on corporate organization. Therefore, prosecution of corporate organizations negates the legal anthropomorphism of the corporation as a legal entity.

To buttress this fact, Berkley (2000) in a case stated by a Station Magistrate in Jos in 1930 in relation to whether corporate criminal liability could be imposed by statute had this to say;

“It is obvious that it is the firm which is charged with having committed an offence against the Mining Law... At Common Law this is impossible. There must be some person who can be brought before the Court and if necessary placed in the dock. But in modern times there have been certain offences created which render corporate bodies liable (R v Anglo Nigerian Tin Mines Ltd (1930))”

Regrettably, outrageous electricity bills have continued without government intervention especially not being checked using appropriate legislation. This may be attributed to the free vouchers received by legislators and high level government officials. Every motion towards checking their excesses are usually dead on arrival.

This position finds credence in the 1999 Constitution of the Federal Republic of Nigeria which provides that;

“Subject to the provisions of this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined in a written Law, and the penalty therefore is prescribed in the written Law; and in this subsection, a written Law refers to an Act of the National Assembly or the Law of a State, or any subsidiary Legislation, or instrument under the provision of a law (Section 36(12) Constitution of Federal Republic of Nigeria, 1999 Cap C.23)”.

With all the extant laws and legislations, corporate crimes in Nigeria remain unabated. It is therefore safe to assert that implementation of corporate crimes laws in Nigeria are simply not functional.

i. Why corporate crimes remain unresolved in Nigeria

In the event of prosecution, corporate organizations sometimes sacrifice erring employee on the altar of corporate misconduct. The reason is that staffs in the cause of carrying out their responsibilities are either injured or killed. When this happens, that is when corporate organizations realize that they have their images to protect or would not want to incur litigation costs. Most of the government officials whose positions are adjudged to possess the Will power to speak out against corporate crimes are running on free vouchers from corporate organizations. They watch DSTV free; make free calls and others courtesy of the providers and communication companies.

Corruption is a cankerworm that is worse when it is not revealed. Because corrupt government officials use banks as conduit pipes to push out embezzled funds abroad, complains of the helpless individuals do not matter to them. Since they would not like to offend banks that serve as their accomplices, every huge fraud must have the connivance of banks.

The huge financial resources acquired by the corporate organizations are enormous and makes it difficult for private individuals to institute legal battle against them. That has created a big threat to the fight against corporate crimes in Nigeria.

The paper revealed that there are issues working against the fight for corporate crime in Nigeria. Meager income/profits of small-scale business operators are eroded due to fraudulent and unethical financial grafts from corporate organizations. These issues are not limited to the following;

- (a) High cost of petroleum (fuel and diesel has increased the running costs in tourism industry, viewing centres and saloons thereby reducing their profit margin.
- (b) There is increased legal battle between Power Holding Company and consumers as many could not pay the outrageous billings.
- (c) Most phone discussions now end on monologue as people are conscious of the cost of making calls. Such inconclusiveness calls are not favorable to business discussions.
- (d) It was discovered that the extant laws which are supposed to be used to protect consumers in Nigeria are not being implemented.
- (e) There is no reduction in peace and tranquility in homes as most children develop Attention Deficit Hyperactivity Disorder (ADHAD) since there may no entertainment to control the kids after long academic work at school. Most children television programs serve as Cognitive Behavioural Play Therapy (CBPT).
- (f) Issues concerning corporate crimes were not well enshrined in several aspects of criminal laws in Nigeria.
- (g) There is no strong will power by the government to subject corporate organizations to do the right thing in their quest to pursuing their profit-oriented goals in Nigeria.
- (h) The national assembly has been made a toothless bulldog in helping Nigerians out of these fraudulent activities of corporate organizations due free voucher syndrome. One can deduce that the economy is affected at large.

CONCLUSION AND RECOMMENDATIONS

From the findings, the paper concludes that the issue of corporate crime has been a long battle for the consumers of services provided by corporate organizations. The extant laws which should have brought relief to helpless consumers are not being utilized due to resource gaps. Governments at all levels have not shown the willingness to subject corporate organization to operate within the confines of the law. Based on these lapses, the following suggestions are made; government should put to an end free voucher given to top government mostly members of national assembly. This will give them the impetus to enact laws against corporate crimes and ensure that they are obeyed. Judiciary must frown at matters relating to corporate crimes when handling such cases. Where there are gaps in the existing legal frameworks, States must adopt or amend laws. States must also create an environment that is conducive to pursuing corporate crimes cases.

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