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## Removal of Petrol Subsidy: Legal Implications for the Nigerian Economy\*\*\*

**Abstract**

*Nigeria is the biggest producer of crude oil in African, however it is so sad that we still import about 70% of petrol and have faced the problem of removal of petrol subsidy over the years, with most of our domestic refineries down and existing ones barely functioning. This problems can be linked to corruption, bad leadership and mismanagement of funds in continuous existence over the years with several ineffective measures put in place to curb them. Reforms concerning the removal of fuel subsidy in Nigeria have never been welcomed with open arms because of the tremendous effect it leaves on the nation and most especially the people who make up the nation. Although there are speculations by the federal government that the removal of the petrol subsidy will do the nation better than harm saving the nation's economy to an extent, however past experiences and pre-measures intended by the government says otherwise. The removal of petrol subsidy and its legal implication on the Nigerian economy is a very crucial area for research. The aim of this research paper is to examine the proposed removal of petrol subsidy, its legal implication for the Nigerian economy and the effect of its removal.*

**1. Introduction**

Nigeria has been subsidising petrol for several years to ensure Nigerians buy petroleum products below the global price. And like every government intervention, petrol subsidy has its cost and benefits. The principle behind petrol subsidies is to minimize the impact of 'rising world oil prices' on Nigerians. Therefore, buying petrol products at a high price is the main problem and petrol subsidy is used to solve it. That is why fuel pump prices have remained unchanged despite the rise in world oil prices by about 50% in the last few months .However, lately the Nigerian government have been seriously agitating for a change and removal of this petrol subsidy, and are taking measures to ensure it becomes a law soon, stating that it is advantageous and would benefit all Nigerians and the economy. On the other hand its disadvantages are way more and outweigh its advantages in the long run and the government is silent on its long term aftermath leaving Nigerians to wonder if this is another political trick to pave way for the upcoming elections in 2023.

**2. Removal of Petrol Subsidy in Nigeria**

Nigeria is Africa's leading petroleum producer with about 1.36 million bpd crude oil production, with Libya as the next petroleum producers of crude oil of about 1.17 million bpd<sup>1</sup> but still needs to import Premium Motor Spirit(PMS) as majority of its crude oil is been exported to be refined into PMS. This is as a result of heavy corruption and many years of neglect towards local refinery factories. As a leading consequence, Nigeria imports about 70% of the petrol used, with the price of petrol ranging about a half of a Nigerian citizen's daily budget of about \$2, and the Federal Government made a wonderful decision to introduce fuel subsidy<sup>2</sup>.

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<sup>1</sup> Top 10 :Africa's leading oil producers in 2021' last modified June 16, 2021, <https://energycapitalpower.com/top-10-africas-leading-oil-producers-in-2021/>

<sup>2</sup> Evelyn Bankole, 'What is fuel subsidy history in Nigeria' last modified January 9, 2018, <https://www.legit.ng/1144554-what-is-fuel-subsidy-history-nigeria.html>

## **OKONGWU & IMOISI: Removal of Petrol Subsidy: Legal Implications for the Nigerian Economy**

Subsidies exist because the government of a country fixes the price of petroleum or gasoline for its citizens below the international price and uses government resources to pay for the difference to minimize the impact of rising global oil prices on its citizens. They were introduced in Nigeria in the 1970s as a response to the oil price shock in 1973. The subsidies provided by the government are deeply appreciated by Nigerians as one of a few positive things they could receive from the state.<sup>3</sup> The economy of Nigeria has always been highly dependent on crude oil. Moreover, the absence of constant and stable electricity supply makes private households and small enterprises depend on generators, which consumes so much petrol. The fuel subsidy policy in Nigeria was introduced as a means to stabilize the price of fuel until the local industries pass the rehabilitation process. They were meant to last for six months only but have lasted for over twenty-four years. The country's domestic refineries have failed to function due to neglect and abandonment by the government, and its license for rehabilitation given to a range of companies proved futile, we keep on buying imported refined products and paying subsidies of about \$8 billion per year and more<sup>4</sup>. There have been agitations for the removal of fuel subsidy in Nigeria numerous attempts at this reform by the government which have not been successful due to strong popular opposition to reform by the masses, such reforms have been met with mass resistance and protests.

The first petrol subsidy removal was in 1986, with Ibrahim Babangida as President, when he announced a partial removal of oil subsidies, which saw petrol price rise from 20 kobo to 39 kobo per liter<sup>5</sup>. This followed his implementation of the Structural Adjustment Program as set out by the International Monetary Fund<sup>6</sup>. There was a huge uproar against the decision, which reached a crescendo when workers, students and civil society groups embarked on massive demonstrations across the country. Massive and sustained protests against Babangida's economic policies played a big role in his hurried exit from power, the administrations that followed left subsidies in place. In 2012 the subsidies were removed by the Good luck Jonathan who was then President of Nigeria, the price of petrol became twice as high. One liter of petrol cost about \$1, which was a half of a common Nigerian citizen's daily worth<sup>7</sup>. People who were forced to use petrol generators due to the absence of stable electricity were in a rage, there were mass protests against the corruption, inhuman treatment of the population of Nigeria by the government, and so on. The protests in the form of civil resistance, civil disobedience, and strikes lasted for a week and it was stopped, the decision was made to reduce the petrol prices by 30% was also introduced. In 2016, the subsidies were canceled once again with the global drop in oil and petrol prices, the government claiming that it was no longer possible to sustain the process, keeping in mind the heavy corruption in the subsidy payment.

Furthermore, speculations have been made by the Federal Government over the years (2018, 2021, and 2022 presently) on the issue, and it has not been welcomed by Nigerians. Presently, the Federal Government has great intentions to remove petrol subsidy and replace it with a monthly 5000naira transport grant to poor Nigerians a decision they intend to pass into law this year. **Minister of Finance, Budget and national Planning, Zainab Ahmed**, in' Premium

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<sup>3</sup> Neil McCulloch, Tom Moerenhout & Joonseok Yang, '2020 Fuel Subsidy Reform and the Social Contract in Nigeria: a Micro-economic Analysis' 3( 2020): <https://www.ictd.ac/publication/fuel-subsidy-social-contract-microeconomic-analysis-nigeria-rib/>

<sup>4</sup> Evelyn Bankole.' What is fuel subsidy history in Nigeria' modified January 9, 2018 available at < <https://www.legit.ng/1144554-what-is-fuel-subsidy-history-nigeria.html>

<sup>5</sup> 'Fuel subsidies in Nigeria: they're bad for the economy, but the lifeblood of politicians' November 4, 2021, <https://theconversation.com/fuel-subsidies-in-nigeria-theyre-bad-for-the-economy-but-the-lifeblood-of-politicians-170966>.

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

Times' has said that ...” we are working with our partners on measures to cushion potential negative impact of the removal of the subsidies on the most vulnerable at the bottom 40% of the population”<sup>8</sup>. Stating that the trillions of naira spent on petroleum product subsidy yearly would be used to fund critical projects, a position backed by International Monetary Fund (IMF)<sup>9</sup>. Another reason is that the distribution of resources to the state government will improve greatly however does this few advantages outweigh the legal implications of fuel subsidy removal on the Nigerian economy?

### 3. Current State of Nigerian Economy

With the advent of the COVID-19 pandemic in 2020, Nigeria fell into the worst economic recession ever witnessed and despite the bold measures taken by the Nigerian government; its long term growth prospects have been greatly affected. The current state of the Nigerian economy can be analyzed overall as bad, this is because; Firstly Nigeria currently suffers insufficient supply of foreign exchange related to predictability and credibility of exchange rate management, resulting in naira losing its face value to dollar. As at January 13<sup>th</sup> 2022, exchange rate dollar to naira was 1\$ -414.10 Nigerian naira<sup>10</sup> with high prospects of further rise. Secondly, the unsustainable subsidy on Premium Motor Spirit (PMS) the most recent problem Nigeria is facing now, burdensome trade restrictions, and the sizeable fiscal deficit financing by the Central Bank of Nigeria (CBN) are undermining the business environment, compounding underlying constraints on domestic revenue mobilization, foreign investment, human capital development, the delivery of public services and debts incurred by the Nigerian government from foreign countries. It was also stated that there are mounting fiscal pressures due to lower-than-expected revenues in 2021 and the rising cost of the Premium Motor Spirit (PMS) subsidy thereby making it difficult for the government not to be able to fully benefit from the oil boom because oil production has fallen below Nigeria's estimated capacity and the OPEC+ quota due in part to rising insecurity and the higher cost of the PMS subsidy.

### 4. Legal Implications for the Economy

The legal implication of the removal of fuel subsidy by the government for the Nigeria economy is many and its negative side outweighs the positive side. The Nigerian government has given its reasons for its removal of fuel subsidy to; Enable the country save money and borrow less to use such resources to fund other critical projects which they claim will benefit the nation. It was also stated that 5000 naira will be given to poor Nigerians monthly to subsidize the suffering they would go through throughout the period of the subsidy. Which is also the equivalent to how much they paid annually for subsidy for Nigerians, other have argued that this is merely a political move, as fuel subsidy will only benefit the rich. However when the government eventually removes petrol subsidy, what will be the legal implications of this action?

#### a Economic Recession

One the legal implications of the removal of petrol subsidy for the Nigerian economy will be that the country will go into another recession, there will be a significant decline in economic activities spread across the Nigerian economy, affecting real GDP, real income, employment, industrial production, whole sale and retail sales. Economic recession stagnates wage growth and the proportion of people on low pay as well increasing unemployment and underemployment rate. The rise in increase of goods and services will be exorbitant resulting in inflation, excess supply over

<sup>8</sup> Ayodeji Adegboyega, 'Nigeria to remove fuel subsidy; pay transport grant to 'poor citizens', 'Premium Time's, November 23, 2021, <https://www.premiumtimesng.com/news/headlines/496983-nigeria-to-remove-fuel-subsidy-pay-transport-grant-to-poor-citizens.html>.

<sup>9</sup> *ibid.*

<sup>10</sup> Exchange rate dollar to naira last modified January 13, 2022, [https://www.google.com/search?q=exchange+rate+dollar+to+naira&rlz=1C1CHBD\\_enNG914NG914&oq=&aqs=chrome.0.69i59i45018.732222029j0j15&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=exchange+rate+dollar+to+naira&rlz=1C1CHBD_enNG914NG914&oq=&aqs=chrome.0.69i59i45018.732222029j0j15&sourceid=chrome&ie=UTF-8).

demand, excess demand over supply, crime rate will increase and the 5000naira promised by the Nigerian government to the poor will have little or no effect on its citizen's welfare. Industrial production will decline as a result of accumulation of energy bills and little or no profits. Cost of living will increase. Removal of subsidies will escalate transportation costs, prices of food items and other essential commodities, thereby triggering inflation and deepening poverty, children's right to quality education and inclusive health care are deprived. Economic recession is said to be one of the leading causes of poverty in developing countries.

#### **b Issue of Bending the Fiscal Responsibility Act 2007 (Fra)**

The Fiscal Responsibility Act 2007(FRA) is a crucial piece of legislation aimed at blocking wastages, checking corruption, and ensuring accountability in the management of public finance. Unfortunately, this law has become increasingly ineffectual, another legal implication of the removal of petrol subsidy on the Nigerian economy is that Fiscal Responsibility Act will continue to be bent to the will of the few at the top who will benefit greatly from the tremendous move by the government acting contrary to **section 16** of the 1999 constitution of Nigeria(as amended),the key objective of the law is to enshrine greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters<sup>11</sup> which provides for the FRA 2007.The implementation of the FRA has revealed some inherent loopholes, weaknesses and defects which have detracted from its noble objectives. Some of these are lack of clear offences and stipulated sanctions regime to identify and deter fiscal delinquency<sup>12</sup>. Currently, there is a growing misplacement of fiscal priorities as resources have been increasingly frittered away or cornered for personal pursuits. The imperatives of well-functioning fiscal responsibility law and due process are still missing; there is large scale fiscal irresponsibility within the system today. Furthermore, audit reports annually detail how poor oversight deprives the Nigerian government and people of huge revenues. The Auditor-General of the Federation, Adolphus Aghughu said recently that the MDAs failed to account for N4.97 trillion in 2019<sup>13</sup>. And according to the House of Representatives Committee on Public Accounts, the level of impunity is such that about 65 public agencies had never been audited since they were established<sup>14</sup>. The amendment bill promises to remedy many of these defects.

#### **c. Corruption**

Massive corruption in the petroleum sector is responsible for colossal subsidy payments. It is possible to address the corruption but to leave the petrol subsidy itself in place. Without the corruption, the subsidy would be a good policy. Lack of accountability on the allocation of public expenditure, management of revenue collection and debt control, as well as transparency in fiscal matters. Contrary to the popular belief of petrol subsidy removal for the benefit of all Nigerians, it is the rich not the poor who disproportionately benefit from Nigeria's petrol subsidy. With the government subsidizing the market to keep domestic fuel prices artificially low, it is those who consume the most that have a greater benefit from the subsidy. Nigeria's poor rely primarily on public transportation as such their per capita fuel consumption is significantly less than the country's rich, who generally use private vehicles<sup>15</sup> sponsored by the government. Neighboring countries also benefit significantly from Nigeria's fuel subsidy through smuggling<sup>16</sup> also. There is a history of governments reneging on earlier promises regarding compensation for subsidy cutbacks, which has led to a trust deficit. Citizens are not convinced that resources will be better allocated in their interests.

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<sup>11</sup> The Constitution of the Federal Republic of Nigeria, 1999 CFRN Section 16.

<sup>12</sup> 'Strengthening fiscal responsibility', *This day*, September 14, 2021, <https://www.thisdaylive.com/index.php/2021/09/14/strengthening-fiscal-responsibility/>

<sup>13</sup> *ibid.*

<sup>14</sup> *ibid.*

<sup>15</sup> Femi Adekoya 'Economic Necessity, Dilemma of Fuel Subsidy Removal', *The Guardian*, April 22, 2020.

<sup>16</sup> *ibid.*

#### **d Inflation**

Nigeria's present state as a net importer of petroleum products is anomalous. With increases in refining capacity, Nigeria could for a time meet its domestic petrol demand with domestic resources, obtained at the cost of production. Greater discipline is required, therefore, and not the removal or redesign of subsidies. Another legal implication for the Nigerian economy is inflation. There will be inflation of food, good and services, crime rate and insecurity will increase drastically disrupting farming activities and transportation. The World Bank also stated that the removal of petrol subsidy in January 2022 could cause the headline inflation rate to rise by an additional 2.0–2.5 percentage points<sup>17</sup>.

#### **5. Conclusion**

The issue of petrol subsidy removal has been a reoccurring sensation over the years, however tangible measures have not been taken to put such tremendous change in place, the people who will suffer the recession coming with this change are the masses and average Nigerians who struggle daily to provide for their families. Diverting funds to building and renovating refineries while postponing the subsidy is a better approach. Although it has been argued that this move will not yield any return immediately, the nation should focus on the future. The building of new refineries will bring hope to Nigerians, especially when the nation's money is been used for something that can be physically seen. This move will also provide room for mass employment in Nigeria alleviating poverty and curbing crimes caused by unemployment as many "lazy Nigerian youths" will be lifted from the streets.

As long as the problem of corruption and mismanagement still stands, no form of borrowing, subsidy removal or placement will function efficiently for the good of "all" Nigerians. If the government wishes to continue to pursue subsidy reforms, it will need to show compassionate and courageous leadership that is transparent and people-focused. This is due to the fact that the reform of petrol subsidies often involves significant increases in petrol prices that could hurt consumers, including households and businesses. Because of these negative impacts, such reforms are often accompanied by measures to cushion the shock of the price increase. Furthermore, and motivating sustaining the trust of the people is critical for gaining necessary support from stakeholders that might otherwise doubt government claims and resist the increase in fuel prices. A prudent, humble and accountable disposition is required to succeed in managing the transition to a market-determined pricing regime.

#### **6. Recommendations**

Petroleum subsidy removal should be postponed and domestic refineries renovated, new refineries be built well equipped and functioning.

Nigeria should divert its focus on agriculture during this period, the federal government should focus more on how it can increase its agricultural export of cash crops and livestock.

Tourism is another very lucrative venture that the Nigerian government can invest in for higher returns.

The Federal Government should establish an independent body or strengthen existing bodies (FRA 2007) who will look into the affairs of the country's mismanagement of funds and lack of accountability.

Government should make promises they can keep and keep the promises they make to Nigerians.

<sup>17</sup>Tochuwu Okafor, 'Subsidy Removal Could Increase Nigeria's Inflation 2.5% \_\_ World Bank', *Business Day*, December 3, 2021, <https://businessday.ng/news/article/subsidy-removal-could-increase-nigerias-inflation-2-5-world-bank/>