LEGAL IMPLICATIONS OF THE REMOVAL OF OIL SUBSIDY ON ENERGY SECURITY IN NIGERIA

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ABSTRACT

Oil is the heart of the Nigerian economy, not just because it constitutes over 70% of Nigeria's exports in the foreign market but also because it is the major supplier of the energy which Nigerians use daily to power their industries, transportation system, healthcare facilities, offices and home appliances. Because of how crucial oil is to survival of people and businesses in Nigeria, the Nigerian government had subsidised the prices of oil products for her citizens just to make them available and affordable. Recently, however, the government of President Bola Ahmed Tinubu decided against continuing with the provision of oil subsidy, a decision which has generated so much controversy and debate among Nigerians. Using the doctrinal research methodology, this work examined the legal implications of the removal of oil Subsidy with specific focus on how it affected energy security in Nigeria. The research looked at the history of oil subsidy in Nigeria, its removal from time to time by some governments in Nigeria and the ripple effects such removal has had on energy security in Nigeria. It was found, among other things that the removal of oil subsidy has various legal implications on energy security in Nigeria including on the availability, accessibility and affordability of energy resources to the general population. For one, prices skyrocket in a manner that the population suffers significantly. From this conclusion, it was recommended that for Nigeria to deal with the implications of oil subsidy removal, proper arrangements must be put in place to cushion those implications.

1.0. Introduction

Subsidy is defined as any measure that keeps prices of a good or product below market level for consumers or producers[1] or as a money paid by a government or an organization to reduce the cost of service or that of producing goods so that their prices can be kept low.[2] It exists when the government of a country fixes the price of a particular commodity below the international price and uses government resources to pay for the difference to minimize the impact of economic hardship.[3] It could come in form of economic interventions to make essential but high-priced products or services accessible and affordable for its citizens or take various other forms like grants, tax reduction or exemption, price control, etc. by government.[4]

Like many other governments elsewhere in the world, the Nigerian government, at point in history or another, has had cause to subsidize one products or another for its citizens. One of such products which, for several years, benefited from the subsidy policy of government in Nigeria is oil.[5] This the government did for some years by paying part of the pump or official market price of oil or fuel for the citizens.

This intervention became necessary, not because Nigeria does not have sufficient quantity of oil to meet the energy needs of her citizens but because, due to years of mismanagement and corrupt leadership, Nigerians have had to pay through their noses for a product that their country is not just the leading producer in Africa but among the top ten producers in the whole world.

Notwithstanding Nigeria's status as the largest producer of oil in Africa and

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[1] Maria Chinecherem Uzonwanne and Regina Uju Ezenekwe and Paul Chinenye Iregbenu, 'Fuel Subsidy Removal and The Nigerian Economy' [2015] 5(4) *Australian Journal of Business and Management Research: New South Wales Research Centre Australia* 15.

[2] AS Hornby, *Oxford Advanced Learners Dictionary* (6th edn, Oxford University Press 2001)

[3] Chi Johnny Okongwu and Simon Ejokema Imoisi, 'Removal of Petrol Subsidy: Legal Implications for the Nigerian Economy' [2022] 13 (2) *NAUJILJ* 135.

[4] E Alozie, 'The Lies About Deregulation', *Nigerian Newswatch* 3 (October 26, 2009) 15.

[5] Other products or services which have benefited from a subsidy policy of government in Nigeria include electricity, exchange rate and agricultural inputs. According to the Nigerian Economic Summit Group, 'Nigeria has implemented agricultural subsidies through the Growth Enhancement Support Scheme (GESS), a programme developed to boost agricultural production by providing agricultural inputs subsidies to small-scale farmers. The Global Trade Alert also stated sometime in July 2021 that the Nigerian government disbursed the sum of ₦12.3 billion in subsidies to the agriculture sector.' See Nigerian Economic Summit Group, 'Understanding What Subsidy Programmes Entail' (Jun 5, 2023) available at <https://nesgroup.org/blog/Understanding-What-Subsidy-Programmes-Entail> accessed 23 May 2025.

notwithstanding that the country produces over 1.5 million barrels of oil per day[6], Nigerians still struggle to access or afford oil products in their country. It's now over six decades since Nigeria started producing and exporting oil yet successive governments in Nigeria have not been to use the oil wealth to significantly reduce poverty, provide basic social and economic services to her citizens.[7]

The problem majorly stems from the fact that Nigeria has been a victim of poor and corrupt leadership which have continued to undermine her nature-given wealth. As a direct consequence of visionless leadership and mismanagement of resources, Nigeria has not been able to operate and maintain functional refineries to refine the abundant oil deposits found within her territory. The performance of few refineries established by the Nigerian National Petroleum Corporation (NNPC) have been abysmal.[8] The implication is that the country imports more than 90% of petroleum products it consumes, usually at costs, which naturally reflect international crude oil prices.[9] This is clearly a dysfunctional state of affairs for a state which is one of the top ten oil producers in the world.[10]

Buying refined oil from other countries at the international market prices and with a weak currency meant that Nigerians would be subjected to the harsh reality of struggling to afford the prices of oil for their consumption. This, coupled with the ever-ailing state of the country's economy, necessitated the introduction of oil subsidy by government as an economic relief to cushion the effect of the bad economic economy on her citizens. But like every intervention policy of government, the provision or non-provision of oil policy has been a subject of intense debate in Nigeria. One of the questions that usually feature in such debates is the effect of the provision or the removal of oil subsidy on energy security in Nigeria.[11] In

[6] Okechukwu Nnodim, 'FG eyes 2.5 million barrels daily oil production', Punch (3rd March, 2024), available at <https://punchng.com/fg-eyes-2-5-million-barrels-daily-oil-production/> accessed 23 May 2025.
[7] Victoria U Obasi and others, 'The Political Economy of Fuel Subsidy Removal in Nigeria' [2017] 10 (1) *African Journal of Politics and Administrative Studies* 51.
[8] National Economic Intelligence Committee Report 1998.
[9] Obasi and others (n 7) 51.
[10] Ibid
[11] Energy security is a condition which a nation and all, or most, of its citizens, and business have access to sufficient energy resource at reasonable prices for the foresee future free from serious risk of major disruption of services. see Barry Barton and others, 'Introductions', in B Barton and others (eds), *Energy Security: Managing Risk in A Dynamic Legal and Regulatory Environment,* (Oxford University Press 2005); see also DM Orazulike, 'Energy security in Nigeria: Challenges and prospects' [2012] 2(4) *International Journal of Energy Economics and Policy* 228 where Orazulike defined energy security as a situation where a country and its citizens have long-term access to energy resources at reasonable prices with minimal risk.

this discourse, we shall examine how oil subsidy affects energy security in Nigeria, the legal implication of the removal of oil subsidy and make recommendations on the way forward.

2.0.Definition of Terms

Before delving into the discourse proper, it is imperative to briefly define some of the key or recurring words in this essay. Under this section, we shall look at the meaning of terms like oil subsidy, energy security, availability, affordability, accessibility and sustainability.

2.1. Oil Subsidy

Oil subsidy is defined as any measure that keeps prices of oil products below market level for consumers.[12] It exists when the government of a country fixes the prices of oil products below the international price and uses government resources to pay for the difference to minimize the impact of economic hardship.[13]

2.2.Energy Security

Orazulike defines energy security as a situation where a country and its citizens have long-term access to energy resources at reasonable prices with minimal risk.[14] It could also mean the continuous availability of energy in varied forms in sufficient quantities and at reasonable prices.[15]

2.3.Availability

The Webster Dictionary defines availability as the quality of being available.[16] The same Dictionary says something is 'available' when it is present and ready for immediate use.[17]

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[12] Uzonwanne and Ezenekwe and Iregbenu (n 1).
[13] Okongwu and Imoisi (n 3).
[14] Orazulike (n 11).
[15] United Nations Development Programme (UNDP) 1999 <https://hdr.undp.org/system/files/documents/hdr1999ennostats.pdf> accessed 23 May 2025. See also See also J Ikeme, 'Assessing the Future of Nigeria's Economy: Ignored Threats from the Global Climate Change Debacle' (2008) *African Economic Analysis:De Montfort University.*
[16] 'Availability', Webster Dictionary, available at <https://www.merriam-webster.com/dictionary/available> accessed 23 May 2025.
[17] Ibid.

2.4.Affordability

This is the state of being cheap enough for people to be able buy.[18] Something is affordable when it has a cost that is not too high.[19]

2.5.Accessibility

Accessibility is the fact of being able to be reached or obtained easily. [20] In other words, the quality of being available enough that people can reach or obtain.

2.6.Sustainability

Something is sustainable if it is can be maintained or continued at the same level for a reasonable period of time. [21]

3.0.Brief History of Oil Subsidy in Nigeria

As in many other resource-rich countries, the Nigeria government introduced a fuel subsidy regime as part of strategies for cushioning the macroeconomic impacts of oil price shocks on the economy.[22] Oil subsidy was first introduced in Nigeria in the 1970s as a response to the oil price shock in 1973 and was initially meant to last for just 6 months.[23] The oil price shock which hit the world sometime in the 1973 came as direct consequence of the embargo placed on the sale of oil to the US and her allies by Arab members of the Organization of Petroleum Exporting Countries (OPEC).[24]

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[18] 'Affordability', Cambridge Dictionary, available at <https://dictionary.cambridge.org/dictionary/english/affordability> accessed 23 May 2025.

[19] 'Availability', Webster Dictionary, available at <https://www.merriam-webster.com/dictionary/available> accessed 23 May 2025.

[20] 'Accessibility', Cambridge Dictionary, available at <https://dictionary.cambridge.org/dictionary/english/affordability> accessed 23 May 2025.

[21] 'Sustainability', Cambridge Dictionary, available at <https://dictionary.cambridge.org/dictionary/english/affordability> accessed 23 May 2025.

[22] Babatunde S Omotosho, 'Oil Price Shocks, Fuel Subsidies and Macroeconomic (In)stability in Nigeria' [2019] 10 (2) *CBN Journal of Applied Statistics.*

[23] Okongwu and Imoisi (n 3)

[24] 'Oil Embargo, 1973-1974', *The Office of the Historian,* available at < https://history.state.gov/milestones/1969-1976/oil-embargo > accessed 4 June 2025. During the 1973 Arab-Israeli War, Arab members of the Organization of Petroleum Exporting Countries (OPEC) imposed an embargo against the United States in retaliation for the U.S. decision to re-supply the Israeli military and to gain leverage in the post-war peace negotiations. Arab OPEC members also extended the embargo to other countries that supported Israel including the Netherlands, Portugal, and South Africa. The embargo both banned petroleum exports to the targeted nations and introduced cuts in oil production. Several years of negotiations between oil-

As a result of the ban, the prices of oil products skyrocketed in the international oil market due to the non-supply of oil to the affected countries. The volatility of oil prices was what prompted the Nigerian government to introduce oil subsidy. The idea was for Nigerians to be able to access and afford oil products at lower rates than the prices they were sold internationally. Though, the original plan was to sustain Nigerians through the period of oil price shock by stabilizing the price of oil for a few months, as time passed and our local refineries failed to function as expected due to neglect and abandonment by the government, the policy had to be extended and sustained for years by successive governments in Nigeria.[25] The oil subsidy policy became institutionalised in Nigeria in the year 1977, following the promulgation of the Price Control Act which made it illegal for some products (including petrol) to be sold above the regulated price.[26] This law was introduced by the General Olusegun Obasanjo regime in order to cushion the effects of the global "Great Inflation" era of the 1970s, caused by a world-wide increase in energy prices. [27]

Sustaining the oil subsidy policy, however, has not been easy on the part of government. The cost of subsidising petroleum products has been a major drain on government finances, leading to significant fiscal deficits and a strain on the country's budget.[28] As a result of this, some presidents or governments in Nigeria have agitated or attempted to remove oil subsidy in Nigeria.

The first government to remove oil subsidy in was the government of Ibrahim Babangida which in the year 1986 announced a partial removal of oil subsidies in a bid to implement the Structural Adjustment Program. [29] The decision to remove the subsidy by the government of Ibrahim Babangida was met with still opposition from Nigerians - many workers, students and civil society groups – who took to the streets to protest against the decision and register their displeasure with having to buy fuel at less subsidized rate (from the subsidized rate of 20 kobo to 39).[30] This followed his implementation of the Structural

producing nations and oil companies had already destabilized a decades-old pricing system, which exacerbated the embargo's effects.

[25] Okongwu and Imoisi (n 3).

[26] Andrew Wells Robertson, 'Fuel subsidies in Nigeria: they're bad for the economy, but the lifeblood of politicians', The Conversation (November 4, 2021)

[27] Ibid

[28] Garba Adamu Gwangwangwan, 'History of fuel subsidy removal in Nigeria' Blueprint (14th June, 2014), available at <https://blueprint.ng/history-of-fuel-subsidy-removal-in-nigeria/ > accessed 4 June 2025.

[29] Okongwu and Imoisi (n 3).

[30] Ibid.

Adjustment Program as set out by the International Monetary Fund.[31] 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.[32]

The second government to remove oil subsidy in Nigeria was the government of Goodluck Ebele Jonathan. This was in the year 2012 when former President Goodluck Jonathan withdrew fuel subsidy amidst all the protests against its removal by Nigerians. Following days of heated protest across the country against the withdrawal of oil subsidy, President Goodluck Jonathan yielded to returning part of the subsidy by subsidizing the price of oil by 30%.

Goodluck Jonathan's successor in office, the President Muhammadu Buhari, also attempted to completely remove oil subsidy in Nigeria. In May 2016, Buhari announced the complete withdrawal of oil subsidy which caused significant increase in fuel prices, and which sparked off nationwide protests. [33] Like his predecessor in office, President Buhari was forced to reverse the decision and to reinstate oil subsidy.

The latest episode of this back-and-forth policy of government on the provision or non-provision of oil subsidy played is orchestrated by President Bola Ahmed Tinubu who during his inaugural speech as the President of Nigeria on the 29th day of May 2023 declared that 'fuel subsidy is gone', a pronouncement which sent shivers down the spine of his fellow countrymen and led to unprecedented hike in the prices of oil in the country. Since making that pronouncement, the prices of commodities in Nigeria have skyrocketed and this has made life much unbearable for the populace.

4.0.Arguments for and against the Removal of Oil Subsidy

As earlier stated in this essay, there has been a heated debate on the whether the removal of oil subsidy is the best way to go to salvage the Nigerian economy. We shall hereunder examine these arguments for and against the removal of fuel subsidy in Nigeria.

On the one side, the protagonists of oil subsidy removal argue that the decision to remove oil subsidy is a step in the right direction and in the interest of Nigerians as, according

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[31] Robertson (n 26).
[32] Okongwu and Imoisi (n 3).
[33] Gwangwangwan (n 28).

to them, oil subsidy drains Nigeria's treasury.[34] It is reported that Nigeria spent about 10 trillion Naira between 2006 and 2018 on petroleum subsidies and about 3 trillion Naira between 2019 and 2020.[35] Furthermore, it has also been argued that removing oil subsidy will help eliminate incentives for corruption and excess profiteering by an unpatriotic cartel in the petroleum sub sector who unduly benefit from the subsidies by inflating figures for oil imports, and over-invoicing the government for the cost of imports, manipulating oil prices through artificial supply restriction, etc.[36] This, they argue, will promote more efficient use of resources and encourage private sector investment in the oil sector.[37] They conclude by stating that removing oil subsidy is necessary to address corruption and inefficiency and to save public finances from being drained and that this will allow the government to redirect the funds saved towards critical infrastructure development, education, healthcare, and other social programmes.[38]

On the other side, opponents of subsidy removal, raise concerns about the potential negative impact on the population, particularly the poor and vulnerable segments of society. They argue that removing subsidies would lead to a significant increase in the prices of petroleum products, which would have a cascading effect on the cost of transportation, food, and other essential goods and services. This, in turn, could exacerbate poverty and inequality in the country.[39] This group also contend that removing oil subsidy won't solve the problem of corruption in the sector as the monies saved from such removal of subsidy could still be siphoned by government officials.[40]

5.0. Legal Implication of the Removal Oil Subsidy

One of the legal implications of the removal of oil subsidy is that it is a clear deviation from provisions of section 16(1) and (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which defines the economic objective of the government of Nigeria by mandating the government to ensure that the material resources of the nation is harnessed and distributed in such a manner as to serve the common good of all. Regardless of the reasons put

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[34] Obasi and others (n 7) 51.
[35] Robertson (n 26)
[36] These cartels allegedly determine the volume of importation and the proportion that should be released to the market by allowing a few products holders to supply the market, while others hoard. See Obasi and others (n 7); Robertson (n 26).
[37] Gwangwangwan (n 28).
[38] Ibid.
[39] Ibid.
[40] Gabriel O Oduyemi and others, 'Assessment of the Impact of Petroleum Subsidy Removal on Welfare In Nigeria' [2021] 1(1) *BELLS University of Technology Journal of Management Sciences* 181.

forward for its removal, oil subsidy remains the only direct way majority of Nigerians benefit from common wealth of their country. Though, President Tinubu promised to redistribute the funds saved from the removal of the subsidy to poor people in the country and to put part of it into building infrastructures, experience has shown that such promises hardly get implemented by government in Nigeria. For example, the Subsidy Reinvestment and Empowerment Programme (Sure-P) which was which was introduced by former President Goodluck Jonathan to purportedly redistribute or reinvest the monies saved from the removal of oil subsidy was found to be marred with fraudulent activities and lootings by government officials who embezzled much of the funds meant for creation of jobs, youth empowerment and other people-oriented programmes.[41]

Another legal issue which arises from the removal of oil subsidy is the difficult in knowing the parameters to be used by government or the Price Control Board in fixing oil in compliance with the Price Control Act.[42] Before the removal of oil subsidy, it was easier for government to arrive at a fixed oil price by subsiding a particular percentage from the international price and stating the remainder as the fixed price.[43] Now with the removal of oil subsidy, it appears that Nigerians have been left at the mercy of oil dealers and importers. Irked by this, a Human Rights lawyer, Femi Falana, approached a Federal High Court sitting in Lagos to seek a declaration of court to the effect that the failure or refusal of the federal government to fix the prices of petroleum products and other essential commodities offends the provision of Section 4 of the Price Control Act.[44] After hearing his application, Justice Ambose Lewis-Allagoa of the Federal High Court (Lagos) sometimes in February this year ordered the federal government of Nigeria to fix the prices of some basic goods, including petroleum products.[45]

Also surfacing as legal consequence of the removal of oil subsidy is the possibility of the Fiscal Responsibility Act 2007 being bent to the will of the few at the top who will benefit by having custody of the funds that would accrue as a result of the non-provision of oil

[41] The Independent Corrupt Practices and other Related Offences Commission (ICPC) indicted many directors and senior officials of the Sure-P programme for corruption. See Ayodele Oluwagbemi, 'N3bn fraud: ICPC Freezes SURE-P Directors' Accounts, Seizes Vehicles', Punch (17th March 2016) available at <https://punchng.com/n3bn-fraud-icpc-freezes-sure-p-directors-accounts-seizes-vehicles/> accessed 16 June 2025.
[42] Cap P28, LFN 2004.
[43] Okongwu and Imoisi (n 3).
[44] Unreported suit no FHC/L/CS/869/2023.
[45] 'Court orders Nigerian Government to Fix Prices of Petrol, Other Items' *Premium Times* (7th February, 2024) <https://www.premiumtimesng.com/news/headlines/666379-court-orders-nigerian-govt-to-fix-prices-of-petrol-other-items.html?tztc=1 > accessed 16 June 2025.

subsidy.[46] Though aimed at blocking wastages, checking corruption, and ensuring accountability in the management of public finance, the removal of oil subsidy will give room for corrupt government officials to exploit the loopholes which are inherent in the Fiscal Responsibility Act 2007 (e.g. lack of clear offences and sanctions) to loot whatever would be recovered from the removal of the oil subsidy. [47]

Other legal cum economic implications of the removal of oil subsidy is inflation in prices of oil products which will inevitably escalate the prices of other commodities and services in Nigeria, thereby making commodities like energy supply inaccessible and unaffordable for Nigerians. According to the World Bank, the removal of petrol subsidy could cause the headline inflation rate to rise by an additional 2.0–2.5 percentage points.[48]

6.0.The Effect on Oil Subsidy Removal on Energy Security

Energy supply or security plays a crucial role in any economy. Without it, no economy can survive as production cannot be done without an efficient energy supply. In the Nigerian context, oil products are needed for daily transportation of people and commodities, to power our plants for our industries, to supply electricity to our homes, offices, health care facilities, etc. under this section, we shall look at how the removal oil subsidy affects the availability, accessibility, affordability and sustainability of energy security in Nigeria.

As earlier stated in this discourse, oil or petroleum is major contributor of the energy utilized in Nigeria. Consequently, any policy which affects the availability or the affordability of oil products in Nigeria inevitably takes a major hit on the country's energy security. As soon as President Tinubu announced the fuel subsidy removal in May 2023, many filling stations closed their outlets to hoard available supply of oil in anticipation of hike in prices of oil. Just as feared, the country was hit by serious oil scarcity with the few operating fuel stations witnessing long queues of Nigerians jostling to buy fuel and other oil products at the prices almost triple the amount they used to buy. According to Adewale, prices of oil increased by

[46] Okongwu and Imoisi (n 3).
[47] Okongwu and Imoisi (n 3).
[48] 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/ > accessed 16 June 2025.

more than 300% as a result of the removal of oil subsidy.[49]

Consequently, the availability, accessibility, affordability and sustainability of energy supply in Nigeria took a major hit as a result of the removal of the oil subsidy by the federal government of Nigeria. The harsh effect of the removal of oil subsidy went beyond just affecting energy supply in Nigeria. It threw the country into a chaotic economic state as prices of commodities skyrocketed overnight. Since the removal of oil subsidy, Nigerians and business organizations in Nigeria have struggled to grapple with the harsh reality of not being able to access or afford oil products for their energy needs.

7.0.Way Forward on Oil Subsidy and Energy Security in Nigeria

While the debate on the removal or otherwise of oil subsidy rages on, we need to pause and ask ourselves why despite being the largest producer of oil in Africa, Nigeria has not been able to supply oil to its citizens at affordable rates with or without the need for any subsidy.

The above question directly leads us to our first suggestion which is the urgent need for Nigerian to revive and improve her existing oil refineries and to establish more refineries with larger oil production rate per day, so that the abundant oil resources available in the country can be refined within the country and distributed at affordable rates without any headache of providing oil subsidy. To achieve this, one of the options to explore is the possibility of a public-private partnership between the federal government and private investors like Dangote Industries Limited for an effective oil refining systems in the country.

Pending establishment and operation of effective refineries, oil subsidy should be reinstated with better arrangement on how to undo corruption in the scheme. The issue of corruption, if not properly dealt with, will continue to frustrate every efforts toward economic prosperity, with or without the provision of oil subsidy. As earlier stated in this work, the removal of oil subsidy has not proven to be an effective solution to the issue of corruption in the petroleum industry.

Furthermore, government needs to be more accountable to the masses with regards to oil revenues and management of same. A sincere compliance of The Federal Government of

[49] Michael Adewale, 'The Effect of the Removal of Oil Subsidy on the Economy of Logistic Companies in Nigeria', available at < https://distinctcushy.com/blog/effects-of-fuel-subsidy-removal-on-economy-logistics-company-in-nigeria/> accessed 16 June 2025.

Nigeria and its agencies with the World Bank, IMF and Extractive Industry Transparency Initiatives (EITI) urging governments in oil-rich countries to disclose all their transactions with foreign extractive firms (Multinational oil companies) and those foreign extractive firms and also publish whatever they pay to the host governments will ensure prudency, transparency, accountability and serve as a catalyst for growth and development if fully institutionalised into the oil and gas sector. [50]

8.0.Conclusion

From the foregoing discourse, it is clear that Nigeria cannot guarantee her energy security for as long as oil products are not available, accessible and affordable to citizens. The removal of oil subsidy without adequate arrangement will always be chaotic to the Nigerian economy. Until Nigeria establishes functional refineries to stabilize the prices of oil products in Nigeria, government should continue to provide subsidies to cushion the harsh effects of the dwindling economy.

[50] Maren I Borok, and Agontu J Agandu and Mangai M Morgan, 'Energy Security in Nigeria: Challenges and Way Forward' (2013) 2 *International Journal of Engineering Science Invention* 2319.