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OIL EXPLORATION AND EXPLOITATION: THE PRINCIPLE OF DERIVATION IN OIL PRODUCING AREAS OF NIGERIA

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ABSTRACT

There has been continued concern about spasmodic protest in the Niger Delta and possible ways of solving problems confronting oil producing communities. This paper first examines the Niger Delta problems and then the role of government in solving these problems. The study reveals that although there has been an impressive growth in total federally collected revenue under which crude petroleum from the Niger Delta accounts for over 90 per cent of total exports and foreign exchange, this growth in revenue generation has not been reflected in the increased share of resources to oil producing states and local governments to compensate for the negative environmental externalities of oil production. In other words, very little transformational effects generated by oil wealth occur in oil producing communities. Within this background, the paper suggests, among other things, that more weight should be given to the principle of derivation, and that part of the 13 per cent derivation fund be allocated to local governments in addition to monitoring the use of derivation funds to guard against all forms of financial indiscipline that erodes whatever benefit should accrue to oil producing communities.

Keywords; Oil production areas, exploration, exploitation, derivation and communities

INTRODUCTION

Nigeria operates a federal form of multilevel government made up of the federal, state and local governments whereby intergovernmental transfers from higher to lower level of government form an important part of fiscal arrangement aimed at promoting economic growth and development. The federal constitution assigns specific functions to each tier of government and equally makes provisions for revenue for the performance of these responsibilities. The primary objective of these provisions was to ensure that no tier of government is starved of funds for the development of the areas of their operation. However, Aigbokhan (1999) found evidence of mismatch in spending and taxing responsibilities, with states and local governments being starved of funds while the federal government's share of federally collected revenue, for example in 1996 stood at 62.5 per cent in addition to the 23.2 per cent in special accounts also controlled by the Federal government (Ekwere, 1999). The principle of derivation dominated the various factors used to allocate revenue before the predominance of oil resources in federally collected revenue in the 1970s. This principle was designed to ensure that regional governments align their expenditures with their revenue and as such ensuring fiscal discipline in financial management of governments. The derivation principle was emphasized when cocoa, palm oil, groundnuts, hides and skin were the major earners of foreign exchange in Nigeria. With the expansion of oil revenue and the dominance of oil revenue in federally collected revenue, less emphasis was given to the development of agriculture and as a consequence, agricultural production and exports started to decline. Derivation principle was equally deemphasized and instead, population, need, equality of states, etc were emphasized in the allocation of revenue among state. The implication was that huge oil revenue originating from oil producing areas (Niger Delta) by which derivation principle should have been used to allocate revenue to this region, were shared among other states of the federation. Nevertheless, the use of derivation principle in revenue allocation has been strongly defended by Mbanefoh and Egwaikhide (1998). The existing criteria for revenue allocation has killed the much needed incentive to work since what states and local governments can get depends upon need and population and not productivity. Lower levels of government view as unconditional grants revenue allocated to them from the Federation Account. Such revenue tends to foster financial indiscipline and this leads them to reduce their effort to increase their internally generated revenue since revenue will always come from the common pool sustained by oil revenue. This paper attempts to highlight the Niger Delta problems and the need for fiscal restructuring in favour of oil producing areas given continued spasmodic protests by Niger Delta youths who are demanding a fair share of resources from their area. Basically, the main thrust of this paper is to examine the causes of underdevelopment of oil producing areas where billions of naira of oil revenue are generated

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annually and to suggest measures aimed at mitigating these problems. The paper is divided into four sections as follows: next to this introduction, section two deals with the Niger Delta problems. Section three examines the role of government in developing the Niger Delta while section four summarizes and concludes the study. The Niger Delta is a tract of land covering about 70,000 square kilometers and inhabited by about 500 densely populated rural communities (Chinwendu, 1998). The area is characterized by rivers and creeks, swamps and marshes seasonally flooded by tidal waters in the riverine parts of the region. It is inhabited by minority ethnic groups constituting Rivers, Cross River, Akwa Ibom, Bayelsa and Edo States. Flooding and erosion has over the years reduced the amount of land available to communities situated along the levees of the drainage arteries of the Niger Delta. The occupations of the people are limited to fishing, small scale farming, low-wage business enterprises and petty trading. Communication and transportation activities are restricted by difficulties created by terrain. Infrastructural development in the region therefore lags behind that of the larger society and poverty is common place. Besides, oil exploration and exploitation constitute major threats to the environment in the oil producing areas. Numerous pipelines, flow stations, storage tanks and loading jetties all provide a constant threat of oil spillage and pollution such as the collapse at Shell-operated Forcados terminal in 1979 which spilled an estimated 560,000 barrels into the surrounding land and the Atlantic Ocean; the Funiwa-V Blowout of January 1980 which spilled about 200,000 barrels of crude oil into the Atlantic and destroyed about 840 acres of Niger Delta mangrove; the 40,000 barrels of crude oil-spillage caused by the rupture of a 24-inch crude oil pipeline linking Idoho offshore platform with the mobile operated Qua Iboe Terminal in January 1998 polluting the coastline from Eket to Lagos and Ghanaian shores over 960 kilometers away (Eromosele 1998 in Okoh, 1999); and the Jesse fire incidence in which over 1,500 lives were lost and several hectares of farmland destroyed by fire. The problem is compounded by the fact that although Niger Delta states constitute only 15.6 per cent off Nigeria's population, the region has very high rate of both urban and rural unemployment in the country. A study conducted by Okoh and Egbon (1999) showed Rivers State recording the highest urban unemployment rate of 15.2 per cent in March 1994 and besides Kaduna, Rivers State also recorded in highest rural unemployment rate of 10.5 per cent in September 1993 followed by Delta and "Edo State (10.7 per cent) in June 1999. It follows that the development of the Niger Delta has to be comprehensive as against a piecemeal affair or "a project of selective isolation of communities"

As shown in Table 1, crude oil from the Niger Delta continues to constitute a greater percentage of federal revenue accounting for 70 per cent of total federal collected revenue and reaching an all-time high of 86.2 per cent in 1992. It also accounts for well-over 90 percent of Nigeria's export and foreign exchange earnings (Table 1). Irrespective of the fact that oil resources from the Niger Delta has, over the past 40 years sustained Nigeria's federalism, the region continues to remain under developed, poor and neglected (Odinori, 1999).

The Role of Government in the Development of the Niger Delta

The primary objective of the federal government in association with the profit maximizing desires of oil companies has centered on how to expand oil production and earn more foreign exchange. Government has also established institutions including Oil Mineral Producing Areas Development Commission (OMPADEC) as a means of solving the problems of the Niger Delta. The following discussion shows the extent to which these institutions have failed to ameliorate the plight of the inhabitants of the area. The Niger Delta Basin Development Authority (NDBDA) and The Niger Delta Development Board (NDDDB) In historical perspective the NDBDA and NDDDB were set up to cater for the development needs of the Niger Delta and the NDDDB was later assigned the responsibility of disbursing the 1.5% derivation allocation for the so called development of the oil mineral producing areas between 1982 and 1988. Apart from the establishment of these two bodies, there were no other institutions earlier designed to address the Niger Delta problems. According to Agiobenebo (1999), the focus of the NDBDA established in 1976, was not really the Niger Delta problem, "though it is tangential to it" and as such its functions should have benefited the Niger Delta people if they had been effectively and efficiently carried out. At the same time, derivation principle which was fixed at 100% in 1953, was reduced to 50% in 1960, to 45% in 1970, to 20% in 1975 and then to 2% and 1.5% in 1982 and 1984 respectively. The derivation principle was however increased to 3% in 1992 and finally to 13% by section 162 sub-sections (2) of the 1999 constitution. Oil producing communities still consider this to be grossly inadequate relative to the gravity of the underdevelopment of the area caused by decades of ethnic minority neglect and negative environmental externality caused by oil exploration and exploitation.

Table 1: Share of Oil in Total Federally Collected Revenue and Total Export (N billion)

Year	Total Federally Collected Revenue	Oil Revenue Actual	Share of Oil in Total Revenue (%)	Value of total Exports	Value of oil Exports	Share of Oil in total Exports (%)
1980	15.2	12.4	81.1	14.1	13.5	96.1
1981	13.3	8.6	64.4	11.0	10.7	96.9
1982	11.4	7.8	68.3	8.2	8.0	97.5
1983	10.5	7.3	69.0	7.5	7.2	96.0
1984	11.3	8.3	73.5	9.1	8.8	97.3
1985	15.1	10.9	72.5	11.7	11.2	95.8
1986	12.0	8.1	64.4	8.9	8.4	93.0
1987	25.4	19.0	75.0	30.4	28.2	92.9
1988	27.6	20.9	75.9	31.2	28.4	91.2
1989	53.9	41.3	76.7	58.0	56.0	94.9
1990	98.1	71.9	73.3	100.9	106.6	97.0
1991	101.0	82.7	81.9	121.5	116.9	96.2
1992	190.5	164.1	86.2	206.6	201.4	97.9
1993	192.8	162.1	84.1	218.8	213.8	97.7
1994	201.9	100.2	79.3	206.3	200.9	97.4
1995	400.0	279.9	60.9	825.7	800.6	97.6
1996	520.2			1,125.7	1,105.6	98.2
1997	582.8			1,091.1	1,065.5	97.7

Sources: CBN Statistical Bulletin, vol. 7, No.2, 1996; CBN Annual Report and Statement of Account, 1997.

Oil Mineral Producing Areas Development Commission (OMPADEC)/ Derivation

In the past, derivation revenue was under the control of regional governments who could freely spend such revenues on projects and programmes that would satisfy the aspirations of their communities. Before the present administration, revenue from derivation was under the control of the military regime through the establishment of OMPADEC which actually metamorphosed from the Niger Delta Development Board, the Presidential Committee for the disbursement of 1.5 per cent derivation allocation for the development of the oil mineral producing areas. The objective was to address the negative environmental externalities of oil production (Agiobenebo, 1999) OMPADEC is now posed to metamorphose into the Niger Delta Development Commission. The decree establishes OMPADEC vested too much power on its chairman who could only be supervised or controlled by the President. OMPADEC failed to function efficiently as expenditure could not be control as financial accountability was grossly lacking. It was therefore not surprising that severe criticisms came from both outside and within the oil producing states leading to organized violence by the Movement for the Survival of Ogoni People and Ijaw Youths characterized by blockade and disruption of oil production activities, holding oil workers hostage and demanding adequate reparation for the destruction of environment and loss of their livelihood. By and large, the establishment of OMPADEC and use of derivation as strategies for redressing the environmental pollution and ecological degradation of oil producing areas have generally failed to solve these problems.

The Petroleum Trust Fund

The establishment of the Petroleum Trust Fund (PTF) by the Federal Military Government of Nigeria by Decree No. 25 of 1994 was an offspring of a new pricing of petroleum products in October 1994. The policy objective was that the gains accrued from this pricing policy would be placed in a special account for investment in social infrastructural projects for the benefit of Nigerians. Specifically, PTF projects were to be executed in areas of the economy in their greatest deplorable states including roads, education, health and water ways among others. Records indicate that the PTF has contributed significantly to the socio-economic life of Nigerians in the areas of infrastructural development and the provision of essential drugs to hospitals across the country (New swatch Magazine, March 30, 1998; The week magazine, April 27, 1998). However, these projects were not targeted to oil producing areas as of priority and as such could not solve the problems of development and poverty in these areas. Table 2: Statutory Revenue Allocation to Oil' and Selected Non-Oil Producing States of Nigeria (Nmillion)

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States	1993%	1994%	1995%	1996%	1997%	1998%
Abia	777.6(2.8)	793.8(2.7)	1,106.1(2.9)	998.7(2.4)	1,031.5(2.0)	1,334.5(2.0)
Akwa Ibom*	958.6(3.5)	902.2(3.1)	1,510.9(3.9)	1,421.7(3.4)	1,684.2(3.3)	1,7291.1(2.7)
Beyelsa*						
Benue	1,150.8(4.2)	857.8(3.0)	1,022.8(2.6)	1,2451(3.0)	1,263.9(2.5)	2,532.(3.9)
Borno	861.1(3.1)	857.1(3.0)	1,322.3(3.4)	1,396.7(3.4)	1,566.5(3.1)	2,028.8(3.1)
Cross River*	751.7(2.7)	794.9(2.7)	1,248.9(3.2)	1,100.1(2.6)	1,305.6(2.6)	1,636.2(2.5)
Delta*	966.9(3.5)9	73.8(3.4)	1,347.0(3.5)	1,378.6(3.3)	1,604.3(3.1)	2,175.7(3.3)
Rivers*	1,399.3(5.1)	1,011.2(3.5)	1,511.8(3.9)	1,566.9(3.8)	1,408.6(2.8)	2,046.0(3.1)
Imo	980.0(3.5)	931.3(3.2)	1,201.1(3.1)	1,201.1(3.1)	1,190.2(2.9)	1,652.4(2.5)
Kaduna	1,060.3(3.8)	1,154.7(3.9)	937.4(2.4)	1,645.2(4.0)	1,718.1(3.4)	2,204.3(3.4)
Kano	1,543.6(5.6)	1,006.2(5.5)	1,587.1(4.1)	1,686.7(4.0)	1,987.8(3.9)	2,365.4(3.6)
Katsina	1,251.4(4.5)	1,251.4(4.3)	1,545.4(4.0)	1,391.3(3.3)	1,489.8(2.9)	2,0489(3.1)
Lagos	980.9(3.5)	931.9(3.2)	1,286.3(3.3)	1,704.8(4.1)	2,000.0(3.9)	2,297.5(3.5)
Oyo	904.2(3.3)	860.1(3.0)	1,290.1(3.3)	1,421.3(3.4)	1,557.3(3.1)	2,033.9(3.1)
Edo*	788.9(2.9)	730.2(2.5)	1,300.0(3.5)	1,174.0(2.8)	1,459.4(2.9)	1,701.3(2.6)
Sokoto	1,404.6(5.1)	1,045.0(3.6)	1,503.1(3.9)	1,379.1(3.3)	1,306.2(2.6)	1,697.7(2.6)
Niger	778.1(2.8)	826.2(2.8)	1,141.7(3.0)	1,381.6(3.3)	1,538.8(3.0)	1,980.5(3.0)
Ondo	654.1(2.4)	1,030.0(3.6)	1,304.6(3.4)	1,201.1(2.9)	1,557.3(3.1)	1,267.9(1.9)
Plateau	1,078.1(3.9)	1,083.3(3.7)	1,344.6(3.5)	1,324.8(3.2)	1,888.3(2.0)	1,759.9(2.7)
Total*	27,600.6	29,006.8	38,677.4	41,626.4	50,962.7	65,542.0

*Niger Delta States

**For all states and FCT

Source: Central Bank of Nigeria, Annual Report and Statement of Account, Various Issues.

Creation of States and Local Governments

New states and local governments have been created in Nigeria as a means of solving the ethnic minority and development problems of Nigeria's federalism, but this has so far fallen short of solving these problems because according to Roberts (1998), it was never intended to address such problems and any favourable impact appears to be latent and coincidental. The trend in the allocation of revenue from the Federal Account to Niger Delta States has not reflected the priority that should be given to oil producing areas as of right given the negative environmental externalities of oil exploration and exploitation. Table 2 shows the allocation of revenue in the Federal Account to oil producing states vis-à-vis other states in recent years. The pattern of revenue allocation to oil and non-oil states between 1993 and 1998 continues to be a reflection of the following five principles with different weights: equality of states (40%), population (30%), and social development factor (10%); internal revenue effort (10%) and land mass (10%). Starting from 1993, Rivers State received the highest allocation among oil producing states followed by Akwa Ibom State while allocation to other oil producing states fluctuated from year to year. For the non-oil producing states, Kano state receive the highest revenue allocation in the country closely followed by Lagos, Katsina and Sokoto States. The relatively high revenue allocation to these states can be explained by the 30% weight attached to population in the sharing formula that favoured States with high population as against oil producing states. It is questionable why oil producing states should not receive a fair share of their resources. The use of population principle has not only attracted several criticisms, it has also constituted an important factor in the increased demand for the use of derivation principle by oil producing states and local governments. Furthermore, the same factors used in allocating revenue to states also apply to local governments. It follows that highly populated states attract relatively high share of revenue from the Federation Account. For example, Kano State which is highly populated received the highest share in 1995 and 1998 respectively as shown in Table 3. This was followed by Sokoto and Katsina States. Other northern states including Kaduna, Bauchi and Borno also received relatively high share of the revenue. For oil producing state, outside Rivers and Akwa Ibom States, local governments in each of the remaining oil producing states generally received relatively lower revenue when compared to non-oil producing local governments.

Table 3: Statutory Revenue Allocation to Local Governments on States Basis (N Million)

States	1993	1994	1995	1996	1997	1998
Abia	562.6(3.1)	541.5(3.1)	486.4 (2.7)	333.5(2.0)	389.8(1.9)	556.0(1.8)
Akwa Ibom*	873.1(4.8)	779.2(4.5)	806.2(4.5)	625.5(3.8)	685.1(3.4)	995.0(3.2)
Anambra	523.9(2.9)	472.1(2.7)	273.7(1.5)	271.7(1.6)	404.7(2.0)	715.0(2.3)
Bayelsa	-	-	-	254.3(1.5)	302.7(1.5)	416.8(1.4)
Borno	702.0(3.8)	664.4(3.8)	831.3(4.9)	704.1(4.2)	1,041.1(5.2)	1,109.8(3.6)
Cross River	434.1(2.4)	421.1(2.4)	534.7(3.0)	531.3(3.2)	638.7(3.2)	853.1(2.8)
Delta	631.3(3.4)	549.0(3.2)	532.3(3.0)	451.5(2.7)	006.3(3.0)	030.7(2.1)
Edo	747.6(2.6)	330.8(1.9)	611.7(3.4)	342.7(2.1)	480.5(2.4)	799.4(2.6)
Imo	692.2(3.8)	640.7(3.7)	478.2(2.7)	350.9(2.1)	407.3(2.0)	682.2(2.2)
Kaduna	657.9(3.6)	609.8(3.5)	599.6(3.4)	548.7(3.3)	722.5(3.9)	1,051.2(3.4)
Kano	905.5(4.9)	1,112.5(6.4)	1,323.1(7.4)	1,215.3(7.3)	1,250.0(6.2)	2,031.2(6.0)
Katsina	583.3(3.2)	348.0(2.0)	899.5(5.0)	892.7(5.4)	1,181.8(5.9)	1,564.7(5.1)
Lagos	682.4(3.7)	497.1(2.9)	789.8(4.4)	537.8(3.2)	524.9(2.6)	893.3(2.9)
Ondo	749.0(4.1)	701.2(4.4)	610.1(3.4)	246.1(1.5)	409.5(2.0)	300.3(1.0)
Oyo	939.5(5.1)	792.4(4.6)	551.4(3.1)	505.5(3.1)	704.3(3.5)	829.0(2.7)
Plateau	639.7(3.5)	656.9(3.8)	775.6(4.3)	475.2(2.9)	482.9(2.4)	988.5(3.2)
Rivers	767.5(4.2)	745.7(4.3)	637.4(3.6)	475.2(2.9)	482.9(2.4)	988.5(3.2)
Sokoto	811.3(4.4)	752.3(4.3)	1,405.2(7.9)	766.5(4.6)	810.4(4.0)	1,077.0(3.5)
Total*	18,316.4	17,321.3	17,875.5	16,569.7	20,066.3	30,620.9

Source: CBN Annual Report and Statement of Account, various issues

Summary and Recommendations

The study examined the problems facing oil producing areas (Niger Delta) and the role of government in the economic development of the Niger Delta within national development framework. In particular, sources of federally collected revenue have been considered and the contribution of the Niger Delta highlighted. Statutory revenue allocation to oil producing states and local governments vis-à-vis that of non-oil producing states have received special attention. The study reveals first, that total federally collected revenue has been increasing while oil revenue have fluctuated upwards in recent years. Second, although there has been an impressive growth in total federally collected revenue under which crude petroleum export accounts for over 90 per cent of total exports and foreign exchange, this growth in revenue generation has not been reflected in an increased share of resources to oil producing states and local governments particularly to compensate for the negative environmental externalities of oil production. The paper observes that very little transformational effects generated by oil wealth occur in the oil producing communities. Similarly, the 13 per cent derivation to state government is currently a subject of dispute as local governments in oil producing communities demand a fair share of the fund. Above, all, the study reveals that the underlying cause of spasmodic protest by Niger Delta youths is poverty.

In view of the above findings, the following recommendations seem appropriate:

- 1) The federal government should, as a matter of priority assign the proposed Niger Delta Development Commission the responsibility of carrying out study to assess the actual value of ecological damage, environmental degradation and all forms of pollution arising from oil and gas exploitation in all states and local governments in the Nigeria Delta. This should be followed by the imposition of a tax on oil companies' equivalent to the cost of negative environmental externalities generated by each company. The revenue realized should be used to compensate the victims of the externalities. The rationale for this strategy is to force oil companies to be alert to their social responsibilities and to install safety and control devices in their areas of operation.
- 2) The National Assembly in collaboration with the executive arm of government should determine the percentage share of the 13 per cent derivation fund that must be paid directly to local governments in the Niger Delta in order to curb further protests from local governments in oil producing communities.
- 3) More weight should be given to the principle of derivation as the 13 per cent derivation is grossly inadequate. A 50 per cent derivation provided by the 1960 constitution is hereby recommended to compensate for the years of neglect and as a positive move to develop the region and put an end to violent protests by youths.

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- 4) The use of derivation fund to states should be closely monitored by the federal government to check all forms of financial indiscipline and to ensure that oil producing communities benefits from it.
- 5) Efforts should be made to strengthen the much needed political will and commitment for a lasting solution to the Niger Delta problems.

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