The Niger Delta and Fiscal Federalism in Nigeria

By

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Abstract

Nigeria's chequered history has led to the cropping up of many contentious issues such as the Niger Delta, crisis and the issue of Fiscal Federalism. These two contentious and contending issues have continuously remained at the heart of discussions on the Nigerian project. This paper examines the Niger Delta crisis and its connectivity to fiscal federalism in Nigeria. Using content analysis, the paper analyzed several issues including the Niger Delta crisis. Fiscal Federalism and allocation of Federal revenue, post amnesty and federal government's response to the issues of Niger Delta crisis and fiscal federalism in Nigeria. The paper discovered that, Fiscal Federalism is at the centre of the Niger Delta Crisis. On this note the paper has advocated for an increase in the derivative principle from the current 13 percent to 50 percent and that the 50 percent revenue should be properly monitored to avoid corruption.

It is on record that the twin concepts of Niger Delta and fiscal federalism are the most urgent political challenges that have visibly confronted the government of Nigeria.

The Niger Delta is rich in mineral-petroleum and gas. Aware of this richness, the Nigerian government has formulated fiscal policies and laws such as the Petroleum Act, which gives the federal government the exclusive ownership of land of oil resources in Nigeria; Land Use Act, which rests the ownership of land on state government; the Exclusive Economic Zone Act by which the federal government has exclusive right over all resources within 200 nautical miles from the coast to the sea, thus the dichotomy between on–shore and off-shore oil, etc.

These laws and their operations are perceived by the ethnic group owners of their territories to be oppressive, deprivational and alienating. These views and experiences form the basis of agitations for demand for resource ownership and control by the peoples of the Niger Delta. With millions of barrels of oil harvested per day, and over 90% income to Nigeria, the Niger Delta provides economic strength to sustain the country. On this note, Niger Deltans feel infuriated when their environment remains underdeveloped, with few or no infrastructure in health, schools, transportation, industries, etc. They genuinely feel angry, realizing that the resources from their own territory are being used to develop the federal capital territory and other places outside their territory and to finance bureaucracies.

Apparently realizing the strength of this argument, the federal government set up the Oil Minerals Production and Development commission (OMPADEC), the Niger Delta Development Commission (NDDC) and recently, the Ministry of Niger Delta Affairs. All these measures are described by scholars and analysts as mere palliatives put in place by the federal government to assuage the aggrieved people of the Niger Delta. This, the federal government has done without taken a critical look at the issue of fiscal federalism.

Conceptual Clarification

Every academic work requires conceptual clarification. To this end, the concepts of Niger Delta and fiscal federalism will be clarified. This clarification will open the intellectual geography for a proper analysis of issues involved in the subject matter.

Niger Delta

Nigeria’s Niger Delta is organized politico-administratively into nine of the currently thirty six states of the federation. These states are Abia, Akwa-Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo and Rivers. The Niger Delta is reputed to be the third largest wetland in the world, which sustains a complex biodiversity, otherwise attractive to tourists, explorers, adventures, traders, business men and women, academics and a variety of researchers. According to Otite (2009), the area called the Niger Delta is characterized by ethnic pluralism as inhabited by Andoni, Bekwara, Bini, Efik, Egbema, Eko, Ibibió, Igbo, Ijaw, Isoko, Itsekiri, Ogoni, Urhobo and several others.

The current conflict in the Niger Delta is more complex, a crisis involving local patriots and freedom fighters. It involves mainly the Ijaw of Delta, Bayelsa and Rivers states, and could ordinarily be analysed from their perspective of criminalization of resistance of internal colonialism. The area is rich in mineral –petroleum and gas.

Fiscal Federalism

According to Samuelson, government plays a central role in correcting various forms of market failure, ensuring equitable distribution of income and macro-economic stability. Arrow and Musgrave, in their separate studies noted that government is the custodian of public interest that seeks to maximize social welfare. The role of the state in maximizing social welfare, therefore, lays the foundation of fiscal federalism.

Meanwhile decentralization theorem is regarded as the basis of first generation theory of fiscal decentralization. The logic is that different levels of government provide different level of public good within their specific geographical scope, (Oates 2004). This is because one level of government cannot be efficient in providing public good in a large scope.

However, different levels of government need fund to provide the public good. Access to this revenue stands at the centre of fiscal federalism, today. Fiscal federalism is a political and economic matter capable of crippling both the state and economy if it is mismanaged, guaranteeing economic growth and political stability if properly managed. It involves continuous struggle between national and subnational governments to distribute resources and power, among and between different levels of government.

The success of federalism in USA, Western Europe and China in achieving economic growth and development has confirmed federalism as an ideal form of government worthy of emulation. In Nigeria, the challenges posed by federalism discourage many efforts to favour the operation of federalism in Nigeria (Ezeibe 2009).

**Historical Background of the Niger Delta Crisis**

Ogoni land is a 404-square –mile (1,050km²) region in the Southeast of the Niger Delta basin. Economically viable petroleum was discovered in Ogoni land in 1957, just one year after the discovery of Nigeria’s first commercial petroleum deposit, with Royal Dutch Shell and Chevron Corporation setting up shops throughout Ogoni land.

In 1966, Isaac Jasper Boro, a scion of the Nigerian Army who hails from the oil producing Niger Delta, declared the area the “Niger Delta people’s Republic” in a revolt meant to end the situation in which petroleum was ruthlessly expropriated from the area with little concern for local welfare. The revolt was quashed with federal might within twelve days. Thereafter, agitations for a better share of national resources from the federation account for the Niger Delta in particular and states in general became muted under the military regimes.

The agitation for resource control became very prominent in the last two decades. Its contemporary origin is associated with the agitation of the Ogoni, a minority ethnic group in Rivers State, which articulated it demands in a Bill of Rights, (Gboyega, 2002). The Ogoni struggle for social justice adopted sundry approaches, including advocacy, protest marches, civil disobedience, sabotage, and blockade of oil installations. The campaign later assumed a violent turn when the Ogoni nine including Ken – Saro Wiwa were hanged in 1995 for killing some chiefs.

Today, the Ijaw who are fighting for the emancipation of the Niger Delta are organized in several groups which include Ijaw Peoples Assembly (IPA), the Niger
Delta People Volunteer Force (NDPVF) Movement for the Survival of the Ogoni People (MOSOP), People Solution Force (PSF), Federated Niger Delta Ijaw Communities (FNDIC), Movement for the Emancipation of Niger Delta (MEND) and many others.

**Historical Background of Fiscal Federalism in Nigeria**

Between 1948 and today, nine commissions, six military decrees, one Act of the legislature and two supreme court judgments have been resorted to in defining and modifying fiscal interrelationships among the component parts of the federation. The inconclusive discussion of the issue at the 2005 political reform conference is the latest attempts at engaging this issue. These attempts sought to define or redefine or interpret the framework for revenue sharing both between the regions and the centre (vertical sharing) and among the regions themselves (horizontal sharing).

The first phase of development occurred during the (1948 – 1952) period. This phase was marked by a centralized financial arrangement in which the excess in the budget of the central government was allocated to regional government, on the principle of derivation (Eson 2005). In the second phase (1952 – 54) autonomous revenue and tax jurisdiction for the regional governments was introduced in addition to the operation of the principle of derivation for the sharing of federally collected revenue.

The basic elements of the second phase were carried over to the third phase (1954 – 59). A major distinguishing factor of this phase was the emphasis on the derivation principle in the sharing of federally collected revenue. In general, this was the period of state centered fiscal federalism. It has remained the reference point by present day proponents of either higher emphasis on derivation or resource control, especially minorities of the oil-producing areas of the Niger Delta.

The fourth phase (1960 – 66) sought to reduce the earlier emphasis on regional financial independence based on the principle of derivation. Following this, the 1960/63 constitutions provided for 50 percent derivation in respect of revenues from all minerals.

Today fiscal centralization has been too attractive for democratically elected governments at the centre to resist. Calls by lower tiers of government for a more decentralized fiscal arrangement have continued to fall on deaf ears, just as the 13 percent derivative principle has continued to create unrest in the Niger Delta.

**The Niger Delta Crisis**

The various Nigerian governments largely ignored the Niger Delta, partly because its geography made it relatively inaccessible. The long period of military rule in Nigeria contributed to bad governance and corruption; and burden for the provision of government services fell to oil and gas companies which were ill-equipped to supply water and electricity and also to maintain road networks.

The scale of this neglect has been an important factor behind the violence in the Niger Delta which is carried out by social groups or street gangs referred to as ‘cults’ or ‘militants’. These groups made up of youths from the Niger Delta originated with the
intention of offering physical protection and providing its members with an opportunity to meet people with similar ethics or social identities. Overtime, these groups acquired arms and also began to compete with each other over oil bunkering and general instability in the region compound energy problems abroad, reducing supply and driving up the cost of oil in global market. All these and more arose as a result of neglect and frustration.

No doubt, the conflict in the Niger Delta has its roots in increasing protests of the region’s communities against their political, economic and environmental disenfranchisement, (Ginikanwa 2008). The Movement for the Survival of the Ogoni People (MOSOP) was the first group to gain international attention for their grievances against the Nigerian government and regional oil companies. MOSOP’s goals included increased local control over resources and more equitable development. MOSOP also sought the resolution of finishing and farming issues that arose from the environmental effects of oil extraction such as oil spills acid rain and soil degradation.

No wonder, the Niger Delta neglect was the major issue in the South-South legislative retreat on constitutional review in 2008, (Eke 2009). As part of the political solution to the crisis in the Niger Delta, Professor Itse Sagay said that;

1. The people of the region must have a say about how the oil blocs behind their farms are allocated;
2. Oil companies should give a certain percentage of the resources derived from such ventures to their host communities.
3. Nigeria should restore and allocate the 50 percent to the federal government and 30 percent would be put in a revolving fund for all the federating states.
4. Federal government should apply part of the oil money channeled into federal reserve to the development of the Niger Delta region;
5. There must be a comprehensive programme for environmental care and on introduction of an alternative resource to oil because as a finite product, oil could dry up and cause Nigeria’s financial strangulation; and
6. There should be concerted effort by governments to restrain the Niger Delta youths through introduction and promotion of skills acquisition programmes that would enable them secure employment in the oil and gas sector.

As a reaction to Sagay’s political solution to the issue of the Niger Delta crisis, President Umaru Yar’Adua in August 2009, announced the commencement of amnesty programme saying that the time is ripe for those who have carried arms to drop them and embrace peace. He also emphasized that the government would be sincere with the general pardon being floated. The general amnesty extended to all militants in the Niger Delta has thus far led to the laying down of arms and a tentative return to peace has ensued as more than 8,000 militants have disarmed and taken the amnesty offer, notwithstanding the refusal of MEND to accept the amnesty.

It is on record that, the Niger Delta crisis has attracted global concern. It is on this premise that the British Deputy High Commissioner to Nigeria, James Tansley, said that British government had no sinister motive in the Niger Delta, except that the Niger Delta crisis poses security threat that has affected the global oil prices and
indeed, the global economy. Accordingly, Tansley reasoned that the economic problem which the Niger Delta crisis poses, demands collective solution such as the Gulf of Guinea Energy Security Forum with International partners.

Post Amnesty

The major challenge of the Niger Delta crisis is the issue of post amnesty. As we know, the issue of amnesty came because the Nigerian government wanted a peaceful resolution to the Niger Delta crisis. To this end Ekaete (2010) avers that “There are actually four key levels to the amnesty. The first one is the disarmament, which has been done very successfully, the second step is demobilization; the camps have been virtually demobilized. The area we are now in is the area of rehabilitation and orientation for the militants and of course infrastructural development.”

Today, almost all the post amnesty programmes are monitored and evaluated by indigenous (NIGER DELTA) consultant/experts and some notable agitators with successful history of working with high risk groups and policy makers. These people are aware that one of the major drivers of the Niger Delta crisis is in the discrepancy in oil and gas industry especially in employment, scholarship, inequality and quality of living conditions of host communities, and knowing that any programme without their consideration will lead to a collapse of the programme, have involved the people in the aforementioned areas in the post amnesty programme.

Again, oil and gas programmes have been factored in the post amnesty programme and beneficiaries have been sent to recognized colleges, skills centers and universities at home and abroad, with recognized accreditation and certification. Furthermore, training modules are cross cutting and adequate to enable participants operate successful and sustain their businesses. All training centers have at least, national accreditation that gives it authority to award recognized certificates acceptable at all relevant levels for employment.

In addition to all these post amnesty programmes, billions have been earmarked for accommodation used to set up tents and more business incubation centres across the Niger Delta States. More money has also been allocated to the beneficiaries of the programme after successful training.

Above all, the ministry of Niger Delta Affairs has been created to tackle the infrastructural needs of the Niger Delta.

Fiscal Federalism and Allocation of Federal Revenue

The allocation of federal revenue has remained a problematic aspect of fiscal federalism in Nigeria because the states are unequally endowed and are virtually dependent on allocations from the federal government’s oil revenue. It is on this problematic premise that the people of Niger Delta have relentlessly wage a deadly campaign against the Nigerian government to compel the government old ways of sharing revenue in Nigeria.

The point of emphasis is that the implementation of the 13% derivation clauses has not satisfactorily settled the problematic premise. The agitation for increased
derivation has not abated and it is one of the ideological justifications for the insurgency in the creeks of the Niger Delta. Table one below explains it all.

**Table 1: Application of Derivative Principles in Nigeria 1960 – Date.**

<table>
<thead>
<tr>
<th>Year</th>
<th>Derivative %</th>
<th>Regimes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>50</td>
<td>Tafawa Belewa</td>
</tr>
<tr>
<td>1970</td>
<td>45</td>
<td>Yakubu Gowon</td>
</tr>
<tr>
<td>1977</td>
<td>25</td>
<td>Olusegun Obasanjo</td>
</tr>
<tr>
<td>1981</td>
<td>5.0</td>
<td>Shehu Shagari</td>
</tr>
<tr>
<td>1984</td>
<td>1.5</td>
<td>Muhammed Buhari</td>
</tr>
<tr>
<td>1992</td>
<td>1.0</td>
<td>Ibrahim Babangida</td>
</tr>
<tr>
<td>1999</td>
<td>13</td>
<td>1999 Constitution (Abubarkar)</td>
</tr>
</tbody>
</table>

*Source: Vanguard, September 6, 2004, p.32.*

**1999 Constitution and Fiscal Federalism in Nigeria**

The survival of the Nigerian State has been pegged on disciplined fiscal federalism by both observers and scholars alike, yet Nigerian leadership have not been committed to ensuring this since independence. With the opportunity afforded by the recent public hearing convoked by the National Assembly towards reviewing the 1999 constitution, the states have agitated for a review of, among others, provision under sections, 44(2) and 162-168 of the constitution of the Federal Republic of Nigeria.

Interestingly, Rivers, Akwa-Ibom, Cross River and Bayelsa have added their voices to the collective protest and demanded a constitutional review that allows them control of their natural resources and the abolition of the current revenue allocation formula, enhanced by the vexatious provisions (Amechi, 2010). For instance, section 44(3) of constitution (1999) states, notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the exclusive economic zone of Nigeria shall be managed in such manner as may be prescribed by the National Assembly. By this singular provision, the oil producing states argue that, they have been denied the inalienable right to manage their own economic resources, which based on their persistent protests, negate the essence and spirit of a federal system of government.

**Federal Government Response to Niger Delta Crisis and the Issue of Fiscal Federalism**

The federal Government of Nigeria has used both the state instrument of coercion or violence and peaceful negotiations so as to put to rest these twin cankerworms that have more than ever before threatened the very existence of the Nigerian State. Better still, one would say that the Nigerian government has used both
the “stick (force) and carrot (peace)” approaches in handling these two land mine issues.

Using the “stick” approach, the Nigerian Mobile Police Force (MOPOL) brutally quelled a peaceful youth protest against Shell at Umuechem in Rivers State, and the community was virtually destroyed on 31st October 1990. Eighty people were killed and about 500 houses were destroyed, thus triggering an unprecedented number of internally displaced people in the history of that community (International Crisis Group 2006).

Again, in 2003, an army of occupation known as the Joint Task Force (JTF) code – named Operation Restore Hope was formed for the consistent, persistent and aggressive suppression of oil-related protests in the Niger Delta.

Note however that the government has also used the “carrot” approach too. In the area of fiscal allocation, apart from the huge sums of amount allocated from the federation account to oil producing states, there is the constitutional 13 percent derivative principle set aside for the Niger Delta region. The federal government has also responded to the issue of the Niger Delta by establishing the following;

2. The Oil and Mineral Producing Area Development Commission (OMPADC) created by Decree 23 of 1995.
6. The Unconditional Amnesty to the Militants 2009 – 2010 with post amnesty conditionalities given due attention.

Conclusion

For the Nigerian Federation to remain viable there must be a careful blend of the needs of national development with equity and social justice. The people must feel that they are equal partners in a process of culturally friendly, equitable and sustainable development. This calls for improvements in the mechanism for natural resource governance.

At the moment, the struggle for resource control in the country has raised many pertinent challenges. First is the challenge of management of pluralism and diversity and the viability of federalism as a mechanism of accommodation. Second is the challenge of maintaining a peaceful environment that will assure the unimpeded realization of value from the oil and gas industry for the benefit of the nation; and, while doing that, thirdly, to cope with the associated challenge of environmental justice. Fourthly, is the efficacy of dialogue or the bargaining option as a tool in natural resources governance in the Federation.

No doubt, the twin concepts of Fiscal Federalism and Niger Delta crisis are the most urgent political and economic challenges that confront the government of Nigeria.
The Niger Delta and Fiscal Federalism in Nigeria

These twin issues are severe that an urgent simultaneous remedy is inevitable for the stability and development of Nigeria.

Recommendations

1. It is no longer news that the issue of Fiscal Federalism and the Niger Delta crisis are inextricably linked together. Solving the issue of fiscal federalism tantamount solving the crisis in the Niger Delta. Though several spirited efforts have been made in order that both the issue of the Niger Delta and Fiscal Federalism would be permanently put to rest, a workable solution is yet to be found.

2. It is on the strength of the above that Ayobolu (2011) posits that, “for how long will this parasitism continue? When would we have a political leadership courageous enough to ensure that the Niger Delta keeps the bulk of its oil revenues so that the rest of us (States) will cast off the garment of laziness, put on our thinking caps and truly earn our living by maximally utilizing the abundant human, mineral and natural resources that every part of this country is blessed with? Without decisively breaking this unrealistic minimum consensus on oil dependency, Nigeria will be doomed to perpetual economic stagnation.”

3. It is our submission that, a return to true Fiscal Federalism as was the case in the 1950s and 1960s would not be practicable for now. What we advocate is an increase in the derivation principle from 13% to 50%. When this happens, the Economic and Financial Crimes Commission EFCC and other financial crimes related outfits should be made to keep an eye on how the 50 percent derivative revenues are spent by the respective state governments that fall within the Niger Delta region. The moment corruption is nipped in the bud and the derivative revenues are channeled appropriately to the development of the area, the issues of the Niger Delta Crisis and the cry for resources control would die a natural death, and Nigeria would continue to exist as one and indivisible entity.

References


1999 Constitution of the Federal Republic of Nigeria (as Amended)