

POLITICAL ECONOMY OF OIL IN NIGERIA: RESOURCE CURSE AND THE CLAMOUR FOR OWNERSHIP BY THE NIGER DELTA*

Abstract

This paper considers the problem of resource curse and the incessant clamour for resource ownership and control by indigenes of the Niger Delta, against the backdrop of the continued socio-economic deprivation and marginalisation of the indigenes of the region by the Nigeria State. It is an irony that a region richly endowed with vast oil and gas resources - from which the majority of the Nation's revenue is derived - still languishes in mass poverty, under development and environmental degradation. This is what political analysts and sociologists alike refer to as the resource curse. The Nigerian State operates a command and control legal and regulatory system, allocating to itself exclusive ownership rights over the country's petroleum resources. These ownership rights are then allocated to prospective investors without correspondingly providing for the interest of the Niger Delta people. This paper argues that the non-consideration of the interest of the Niger Delta people in the allocation of these rights forms the crux of the agitation and crisis in that region. The paper further explains the international concept of the right to self-determination vis-à-vis the challenges posed by the federal structure of the country and the centralized system of ownership and control of petroleum resources in Nigeria. The paper proposes that specific accommodation of the interest of the Niger Delta people in the allocation of petroleum ownership rights by the Nigerian State through relevant legislations such as the Petroleum Industry Bill is fundamental to resolving the Niger Delta crisis.

Keywords: Oil in Nigeria, Political Economy, Resource Curse, Ownership, Niger Delta, Nigeria

1. Introduction

The challenges of resource curse and the continuous agitation for resource ownership and control by the people of the Niger Delta since the discovery of oil in the Niger Delta region of Nigeria is fundamentally rooted in Nigeria's exclusive ownership and control of the country's petroleum resources. The country's failure to allocate some level of ownership rights over these resources to the Niger Delta people is considered by this people as depriving them of fair participation in the utilisation of their resource. Although the country has adopted various measures towards addressing the plight of the people, none has been adequately effective towards addressing the yearnings of the people. In some more developed economies, the legal regime regulating oil and gas ownership is such that the local communities have some form of share in the ownership and control of the resources and the incidental rights to receive the proceeds therefrom. The reverse however is the case in Nigeria. This paper thus examines the issues of resource curse and the consequent unending agitations for resource ownership by the Niger Delta people with the view to proffering workable means of resolving them.

2. Oil Discovery in the Niger Delta and the Advent of Problems of Resource Curse

Oil was first discovered in commercial quantities in Nigeria in 1956 at Oloibiri, present day Bayelsa State by Shell BP.¹ From the outset, Nigeria appropriated the ownership rights to itself,² thus began the unsavoury case of resource curse and the resultant oil ownership crisis in the Niger Delta.³ It needs to be emphasised that national resource ownership does not, in itself, presuppose a tragedy. In fact, centralised ownership holds immense advantages for the State. The tragedy tends to lie in how the resource is managed and the State's response to the concerns of resource-endowed minorities. As

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¹ Aniefiok E Ite and others, 'Petroleum Exploration and Production: Past and Present Environmental Issues in the Nigeria's Niger Delta' (2013) 1 AJEP (4) 80.

² s.44(3) Constitution of the Federal Republic of Nigeria (CFRN) Cap C23, Laws of the Federation of Nigeria (LFN), 2004 and s.1(1) Petroleum Act, 1969 Cap P10 LFN, 2004.

³ Resource curse is the 'curse that natural resource brings', Annegret Mahler, 'Nigeria: A Prime Example of the Resource Curse? Revisiting the Oil-Violence Link in the Niger Delta' GIGA Working Papers accessed 21 June 2017, 20.

Anozie argued, if the national resource is well managed, the tragedy of the commons will be avoided.⁴ National resource ownership helps the nation facilitate technology transfer and enhances local content which are veritable platforms for sustainable resource exploration. It also provides a consciousness of shared ownership occasioning collective protection of the resources.⁵

However, the situation becomes complicated where the resources are concentrated in a particular region (even a small region at that) and the government is perceived by the resourced-endowed region as utilizing the resource to their detriment. Add this to poor service delivery and marginalization of the resourced region regarding, say, allocation of ownership rights, then a fertile ground for discontent and demands for redistribution is brewed – evident in Nigeria and the Niger Delta.⁶ As Watts argued, horizontal disparities in wealth and services amongst constituent units of a federation are a virile recipe for instability.⁷ Conversely, where resource deposits are nationally spread and exploited, the crisis would tend to be minimal as every part of the country would be taken as contributing to the national treasury and not merely living off others. The Nigerian tragedy is that every state is richly endowed with natural resources – be it oil and gas or solid minerals.⁸ Unfortunately, only the Niger Delta resources are being exploited to sustain this vast country. As Kolawole remarked about the Niger Delta's precarious situation, '... [t]he indisputable fact is that we are all parasites on [Niger Delta] oil.'⁹ This overreliance has caused severe socio-economic and environmental damage to the Niger Delta.¹⁰

The Niger Delta, a region rich in vegetation and water resources, primarily depend on farming and fishing for their livelihood which has been grossly impacted by oil exploitation. The effects of oil spillage there are well-documented. Oil spill destroys farmland, contaminates water resources and spreads toxic waste. Between 1976 and 2006, over 3 million barrels of oil is estimated to have been spilled into the Niger Delta environment and the greater percentage of it left without recovery.¹¹ These environmental damages accompany the whole complex, multi-faceted exploration process.¹² Nigeria records one of the highest rates of gas flaring in the world, and the Niger Delta bears the full harmful effects of the attendant acid rain, air pollution, rising temperature – which impacts both human and wildlife.¹³ These harmful environmental trends continue to escalate and so has been the rising agitation of the Niger Delta for restorative measures.¹⁴ Nigeria is a peculiar country rooted in culture and ethnocentrism.¹⁵ It is a country with a high degree of cultural cleavages and conflictivities.¹⁶ It comprises an amalgam of diverse and distinct cultures and ethnic groups – those sharing proximity and similarities tending to identify with each other.¹⁷ This trend filters into government activities where

⁴ Chinonso Tansi Anozie 'Ownership of Natural Resources beneath the Surface: An Appraisal of The American and Nigerian System' accessed 21 June 2017. 13.

⁵ *ibid.*

⁶ Ehtisham Ahmad and Raju Singh, 'Political Economy of Oil-Revenue Sharing in a Developing Country - Illustration from Nigeria' <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=879091> accessed 2 March 2021, 3.

⁷ Ronald L Watts, 'Equalization in Commonwealth Federations' (2003) 13 RFS 111.

⁸ Madu Onuorah, 'NNPC Discovers Oil in Lake Chad Basin' (The Guardian, 8 September 2012); Nigeria's Ministry of Solid Mineral posits that there are 34 mineral resources in the country spread across the 36 states and the FCT Nigeria Natural Resource <<http://www.nigeria.gov.ng/index.php/2016-04-06-08-38-30/nigeria-natural-resources>> accessed 7 November 2020.

⁹ Simon Kolawole, 'Restructuring Nigeria without Tears' Thisday (Lagos, 25 June 2017).

¹⁰ Mahler (n3) 16.

¹¹ United Nations Development Programme (UNDP) (2006): Niger Delta Human Development Report. Abuja: UNDP, 76.

¹² United Nations Environmental Programme, 'Environmental Assessment of Ogoniland' (UNEP 2011) 25; 24.

¹³ Paul Lubeck and others, 'Convergent interests: U.S. Energy Security and the 'Securing' of Nigerian Democracy' (2007) WDCCIP 9.

¹⁴ Mahler (n3) 16.

¹⁵ The Ogoni Bill of Rights amplified the general impression that Nigeria is an ethnic-based country: 'ethnicity is a fact of Nigerian life. Nigeria is a federation of ethnic groups,' MOSOP, 'Ogoni Bill of Rights' (Saros Publishers 1992) 22; Nigeria comprises of 374 ethnic groups, see O Otite, Ethnic Pluralism and Ethnicity in Nigeria (Shaneson 1990) 14.

¹⁶ Mahler (n5) 5, 10.

¹⁷ This ingrained ethno-cultural diversity is what distinguishes Nigeria from other established federations, say, America and Australia – homogenous entities prior to federating. See Zacchaeus Adangor, 'Federalism in Nigeria and the Struggle for Resource Control in the Niger Delta Region: An Agenda for Constitutional Reform' (PhD Thesis, University Of Aberdeen, 2013) 12, 69; Jay stated concerning America, 'The thirteen former colonies comprised one united people — a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of

officials tend to owe allegiance more to their ethnic nationalities than to the national cause. Naturally, the minorities consider themselves undermined by these clannish leanings given that the major ethnic groups have always controlled power, riding on the country's skewed federal structure. This explains the level and dimension of the grievance of the Niger Delta who continue to hold the belief that these major groups are 'stealing' their oil. The challenges that this throw up cannot be discounted neither is it an easy knot to untie.

As a major step toward resolving the crisis, the Nigerian State could enact provisions in relevant legislations such as the Petroleum Industry Bill that will affirmatively accommodate the interest of the Niger Delta in the allocation of petroleum ownership rights. This will afford them some level of participation in the utilisation of these resources, and enhancing the resolution of the crisis.

3. The Politico-economic Utilisation of Petroleum Resources in Nigeria

It is imperative to contextualise the political economy of Nigeria's petroleum resources which refers to the interplay between politics and economics in the management, use and appropriation of ownership rights over the country's petroleum resources. The mutual impact and influence of political and economic factors on the distribution and allocation of petroleum ownership rights cannot be overemphasised, more so, in an oil-dependent State like Nigeria.¹⁸ These dominant factors influence and shape the country's existent petroleum ownership legal regime. It, in turn, bears both direct and consequential effect on the beneficial interests of the Niger Delta. This is examined presently. Oil is the engine of Nigeria's economy – petroleum export revenue accounts for over 90 per cent of its total exports revenue.¹⁹ Nigeria is the eighth largest OPEC oil producer and the eleventh largest in the world.²⁰ The country's absolute reliance on oil (gotten entirely from the Niger Delta), when compared to even a petro-state like Venezuela, 'measured by oil exports as a percentage of total national exports or by oil rents as a percentage of overall government revenue' is excessive.²¹ This absolute oil-dependence explains the volatility of oil politics in the country. Align this with Nigeria's deep ethnic and cultural cleavages, discussed earlier; the tempo of mutual mistrust amongst the regional interests rises even high, especially, concerning government policies.²² These ethnic leanings greatly account for the Niger Delta's suspicion that if the other regions were the oil producers, they would have exerted their dominant political and economic power to formulate more favourable revenue sharing principle for their regions. This suspicion appears justifiable when viewed against the backdrop that oil receipts to the Niger Delta states progressively decreased as oil revenue became the mainstay of the Nigerian economy in comparison to the national revenue sharing formula before that time. For instance, from 50 per cent in 1970, the revenue sharing formula went down to as low as 20 per cent by 1975, and drastically to 3 per cent by 1992.²³ It was only after the volatile Niger Delta agitation of the 1990s that it was increased to 13 per cent in 1999. Kirk-Greene also highlighted this problem of political domination in Nigeria by opining that:

Fear has been constant in every tension and confrontation in political Nigeria ... the psychological fear of discrimination, of domination. It is the fear of not getting one's fair share, one's deserts. At the political level, this can be described as constitutional

government, very similar in their manners and customs. . . ' John Jay, 'The Federalist No.2' in Benjamin Fletcher Wright (ed), *The Federalist* (HUP 1966) 93.

¹⁸ Tunde Agbola and Moruf Alabi 'Political Economy of Petroleum Resources Development, Environmental Injustice and Selective Victimisation: A Case Study of the Niger Delta Region of Nigeria' in Robert D Bullard and others (eds), *Just Sustainability Development in an Unequal World* (Taylor and Francis 2002) 274, 275; See also John Entelis, 'Sonatrach: The Political Economy of an Algerian State Institution in David G Victor and others (eds), *Oil and Governance: State-owned Enterprises and the World Energy Supply* (Cambridge 2012) 557, 568, 589.

¹⁹ Organization of the Petroleum Exporting Countries, accessed 29 June 2017; it is also estimated that oil provides 95 per cent of generated revenue, see Embassy of Federal Republic of Nigeria, Washington DC http://www.opec.org/opec_web/en/about_us/167.htm Accessed 3 February, 2021.

²⁰ OPEC Monthly Oil Market Report, June 2017 http://www.opec.org/opec_web/en/publications/338.htm accessed 8 April 2021, 59 and 60.

²¹ Mahler (n3) 16.

²² *ibid* 5, 10.

²³ United Nations Development Programme (UNDP) (2006): 'Niger Delta Human Development Report' Abuja: UNDP, 76.

imbalance. At the economic level, as uneven distribution ... And at the level of political leadership, as discrimination and penal measures to coerce and convert.²⁴

This statement mirrors, particularly, Nigeria's political and economic interplay in the petroleum sector and its systemic subjugation of the interest of the Niger Delta by the dominant ethnic groups, riding on a centralized ownership system they control. The issue of resource nationalism, of course, is not peculiar to Nigeria; it is a global phenomenon rooted in the wider petroleum industry with connection to international politics. However, when the interests of resourced-endowed minorities are suppressed, it raises serious questions about the viability of such a system.

4. The Rights of the Niger Delta People to Self-Determination and Resource Ownership

Oil discovery and the manner of its exploitation in the Niger Delta flagrantly violates the rights of the indigenous Niger Delta people to self-determination as provided under international laws to which Nigeria subscribes, one of which is the African Charter on Human and Peoples' Right (The African Charter).²⁵ These infractions were vehemently raised by the Ogonis, one of the forerunners of the Niger Delta agitation, in the Ogoni Bill of Rights and it continuous to form the fulcrum of the Niger Delta agitation.²⁶ Self-determination entails the right of a people to freely choose their own political destiny and likewise pursue their socio-economic interest.²⁷ It covers the right to protection of their environmental, land and natural resources. These are the rights denied as Nigerian law empowers the State to acquire any land where minerals are found in commercial quantities.²⁸ Although a federal legislation, it particularly targets the Niger Delta since they alone produce oil in the country. In *SERAC v Nigeria*, two NGOs, on behalf of the Ogoni people and the entire Niger Delta, dragged Nigeria before the African Commission on issues of human rights abuses and environmental degradation of the Niger Delta environment in contravention of the African Charter.²⁹ Nigeria rightly admitted to these abuses. Consequently, the Commission found Nigeria to be in violation of this people's right to clean and safe environment under articles 16 and 24 of the Charter. As the people's awareness of Nigeria's continuous infractions grow so would the Niger Delta crisis likely to escalate.

5. The Challenges of Nigeria's Federal Structure and Centralised Ownership of Petroleum Resource

According to Nwabueze, federalism is an arrangement whereby powers within a multinational country are shared between a federal government and component units such that each unit, the central authority inclusive, exists as a government separately and independently from others, 'operating directly on persons and properties with its territorial area and with a will of its own as apparatus for the conduct of affairs and with an authority in some matters exclusive of others'.³⁰ In this wise, each component unit is autonomous, separate and independent from the federal government.³¹ Federalism usually involves a minimum of two levels of government – the central (federal) government and sub-national governments (states, regions, republics, etc.).³² Enebuozor views it as a 'system based on democratic rules and institutions'.³³ Federalism is considered as a 'compromise between extreme concentration of power and loose confederation of independent states for governing a variety of people'.³⁴ By emphasising

²⁴ AHM Kirk-Greene, 'The Genesis of the Nigerian Civil War and the Theory of Fear' (1975) 27 (SIAS) 19-20.

²⁵ OAU Doc. CAB/LEG/67/3/Rev. 5 (1981) Article 20, reprinted in 21 ILM 59 (1982); The ACHPR was domesticated in Nigeria as the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, cap A9, LFN. 2004. See also Kaniye SA Ebeku 'The Right to a Satisfactory Environment and the African Commission (2203) AHRLJ 149, 161.

²⁶ See MOSOP (n15).

²⁷ John P Humphrey, 'Political and Related Rights' in Theodor Meron (ed), *Human Rights in International Law: Legal and Policy Issues* Volume 1 (Clarendon Press 1984) 193.

²⁸ s.1 (2) Minerals and Mining Act 2007, Cap 20 LFN 2004.

²⁹ Communication 155/96, Fifteenth Annual Activity Report African Commission.

³⁰ Benjamin Obi Nwabueze, *Federalism in Nigeria under the Presidential Constitution* (Sweet and Maxwell 1983) 1.

³¹ *AG Abia State and Ors v AG of Federation and Ors* (the 'Resource Control' case) (2005) 12 NWLR (Pt.940) 452.

³² Nkechi Anyadike, 'New Revenue Sharing Formula Clamour by the Nigerian State Governors: Propelling Factors and Matters Arising' (2013) 3 PPAR (2) 27.

³³ Sunday Enebuozor, *The Practice of Nigerian Federalism* (Xlibris 2012) 6.

³⁴ *ibid.*

democratic rule as the sole bases of federalism, Enebumozor's thesis fails to highlight that federalism can also be established by force, although democracy is indispensable to it.³⁵

In fact, Nigeria is fingered as a federation established by force and this remains its fundamental fault line. It is a widely held view that Nigeria arose out of the forced amalgamation of Northern and Southern protectorates in 1914.³⁶ Actually, there was no Nigeria in the beginning. What existed were separate and independent nation states –Ogonis, Ijaws, Igbos, Urhobos, Itsekiris, Yorubas, Hausas, Fulanis, Nupes, Gwaris, Katafs, Edos, Efiks, Tivs, Biroms, and many more – under different kingdoms, empires and chiefdoms.³⁷ But that was in the beginning. Presently, the Nigerian Constitution establishes a federal structure, consisting of 36 states with powers shared between the federal government and the states.³⁸ This constitutional power sharing is typical of a federation.³⁹ Federalism seeks to link diverse and distinct national communities together with the aim of providing a platform for the fairest actualization of their expectations.⁴⁰ However, Nigeria is seen as a poor representation of this altruistic aims evident in its well-documented subjugation of the expectations of its ethnic minorities such as the Niger Delta. The centralization of petroleum ownership rights remains the chief grouse of this people. These inequities are manifest in the seizure of their lands and the resources underneath, including the continuous alteration of the revenue sharing formula against them. In 1970, the sharing formula was 50 percent, it went down to 20% in 1975, it went further to 3 percent by 1992 and was modified to 13 percent in 1999.⁴¹ This has raised call for the restructuring of the Nigerian federation to attend to these inequities.

6. The Rising Call for Restructuring of the Nigerian Federation: Situating the Demands of the Niger Delta People

Over the years, there has been a rising clamour across Nigeria for the restructuring of the federation, expressed in different shades and hue – devolution of powers, fiscal federalism, review of the revenue sharing formula, resource control, secession, etc.⁴² The binding thread of the divergent interests is the general agreement that the present federal structure is not working. The clamour has again highlighted some significant existential questions: Is the unity of the Nigerian state non-negotiable? What does restructuring mean to the various agitating groups? Are these clamours in tandem with the Niger Delta agitation? Some section of Nigeria believes that the unity of the country is non-negotiable. Any clamour for the reassessment of the current structure is seen as attempts at balkanising the country. At the forefront of this ideology, at any relevant time, are mostly government functionaries who tend not see any wrong with the existing system from which they are benefitting. Some years ago, then acting President of Nigeria, Professor Osinbajo been re-echoed this sentiment in an attempt to douse the rising tension emanating from the clamours at the time.⁴³ The utility value of this line of thought, nonetheless, is undeniable. Conversely, some others believe that the unity of Nigeria is negotiable. Accordingly, what is non-negotiable is the right of the people to self-determination, the right to freely decide their interest and future in the Nigerian federation.⁴⁴ A key proponent of this school of thought is Professor Wole Soyinka, the renowned Nobel laureate, who declared that:

³⁵ Itsay E Sagay, 'Nigeria: The Unfinished Federal Project' The 2008 Idigbe Lecture delivered at the University of Benin on 30 April 2008, 4, 22.

³⁶ *ibid* 9; See also Southern Nigeria Protectorate Order in Council 1899; Frederick D. Lugard, Report on the Amalgamation of Northern and Southern Nigeria, and Administration 1912-1919 (Cmd. 468 London, 1920) para. 7; Frederick D Lugard. Lugard Papers on Soldiering (SAI Rhodes House Library, Oxford, 1898).

³⁷ Sagay (n34) 14; See also Obafemi Awolowo, The People's Republic (OUP 1968) 239; Tekena N Tamuno, The Evolution of the Nigerian State –The Southern Phase, 1898-1914 (Longman 1978) 7; K Onwuka Dike, Trade and Politics in the Niger Delta 1830-1885: An Introduction to the Economic and Political History of Nigeria (OUP 1956) 30-1; Biodun Adediran, 'The origins of Nigerian Peoples' in Richard Olaniyan (ed), Nigerian History and Culture (Longman 1985) 10.

³⁸ Chapter 1, and Second Schedule Part 1 and 2 CFRN (n2).

³⁹ Obafemi Awolowo, Thoughts on the Nigerian Constitution (Oxford 1966) 23.

⁴⁰ Thomas Fleiner, 'Recent Developments of Swiss Federalism' (2002) 32 PJJF 97, 98; See also Alfred Stepan 'Federalism and Democracy: Beyond the U. S. Model' (1999) 10 JD (19) 20, 21.

⁴¹ Ahmad and Raju Singh (n6) 9, 13.

⁴² Omololu Ogunmade, 'Restructuring: Govs Constitute Panel on State Police, Others' Thisday (Lagos, 21 July 2017).

⁴³ Paul Obi. 'You are Appointment Seekers, Osinbajo Tells Protesters of Marginalisation' Thisday (Lagos, 3 August 2017).

⁴⁴ Emmanuel Addeh and others, 'Soyinka: Nigeria's Unity Negotiable' Thisday (Lagos, 5 July 2017).

We are mixing up the argument. When people say, especially former leaders and those who bear enormous responsibility for the question of breaking up or not breaking up ... it always sounds hypocritical, dogmatic and dictatorial and that statement is that the unity of Nigeria is non-negotiable. Now, that for me is a falsity. Anything is negotiable. The right of people to determine their future is what is non-negotiable. Most nations came to be through negotiations.⁴⁵

He further argued that negotiation should dwell on resource control and devolution of powers from an over-bloated centre. This line of thought is gaining currency across Nigeria, albeit with diverse bents.⁴⁶ The Niger Delta's concern is whether these wider clamours for restructuring are in tandem with their position. It is important to dissect this seeming alignment of interest because regions (the North for instance) that have traditionally opposed the Niger Delta's call for resource control are now supposedly fronting restructuring agitation.⁴⁷ As Northern Governors and Emirs alluded some years ago while setting up a committee on restructuring of the country, 'restructuring has assumed different meanings to different people.'⁴⁸ Therefore, it is vital to understand the points of departure of the various groups and properly situate the Niger Delta agitation therein. Concerning restructuring, the contentious issues revolve around devolution of powers, fiscal federalism – resource sharing formula and allocation of government spending – resource control and secession.⁴⁹ The South-West of the country have been predisposed to a weak centre (devolution of powers) but tend not to be keen on absolute resource control. Northern Nigeria has tended to favour the status quo (a strong centre), and aggressively opposed to resource control.⁵⁰ The South-East over time has tilted toward secession from Nigeria.⁵¹ Of course, the South-South (primarily Niger Delta) has persistently clamoured for resource control and ownership within the Nigerian State and has not tended to support secession.⁵² To them, merely reviewing the revenue sharing formula in favour of states without absolute resource control will only amount to removing the larger chunk of revenue presently accruable to the federal government and redistributing same to states that contribute very little to the national treasury. The Niger Delta will still bear the burden of the non-oil-bearing states. Here lies their point of departure. It needs be reemphasised that the unity of a country is negotiable. History abounds with cases of failed federations across time - post communist Eastern Europe's multinational federations (Soviet Union, Yugoslavia, Czechoslovakia), Pakistan and Bangladesh, the disintegration of the Malaya union following Singapore's secession, federation of West Indies collapse etc.⁵³

Notably, the collapse of federations is mostly traceable to their failure to address minority interest.⁵⁴ These lessons of time are illustrative enough for Nigeria not to downplay its challenges nor take its successes for granted, having already survived a civil war. Considering that the economic fortunes of Nigeria are built on Niger Delta resources makes their case for accommodation in the utilization of their vast oil wealth far more imperative. Indeed, no federation is perfect. However, it is not extraordinary to expect it to innovate cardinal measures of responding to minority yearnings. As Justice Frankfurter of the U.S. Supreme Court indicated, 'the American federation itself has its fractures. It is not 'a mechanical structure. It is an interplay of living forces of government to meet the evolving needs of a

⁴⁵ *ibid.*

⁴⁶ Simon Kolawole, 'Restructuring Nigeria is Non-negotiable' *Thisday* (Lagos, 6 July 2017).

⁴⁷ Abdulfafar Alabelewe, 'Northern Governors, Emirs Set up Committee on Restructuring' *The Nation* (Kaduna, 28 July 2017).

⁴⁸ *ibid.*

⁴⁹ Anyadike (n31) 28. The author also stated that Nigeria's fiscal federalism primarily evolved from its socioeconomic and cultural tensions, which influences the nature and character of intergovernmental relations.

⁵⁰ Oghenevwe Ohwovoriole 'Northern Leaders Kick Against Restructuring' *Thisday* (Lagos, 13 April 2017).

⁵¹ Brad Simpson, 'The Biafran Secession and the Limits of Self-determination' (2014) 16 *JGR* 2-3, 338, 339. Here, Simpson also reiterated the high degree of cultural and ethnic loyalties within the Nigerian State as opposed to strong national identity, including political domination of the minorities by the ethnic majorities. See also Nixon, who strongly asserted the same views, Charles R Nixon, 'Self-Determination: The Nigeria/Biafra Case' (1972) 24 *WP* 473, 479

⁵² Damilola Oyedele, 'Trouble Looms in N'Delta as PANDEF Gives Ultimatum on 16-Point Agenda' *Thisday* (Lagos, 1 August 2017); see also MOSOP (n15).

⁵³ Adangor (n17) 2

⁵⁴ Emilian Kavalski and Magdalena Zolkos, 'Approaching the Phenomenon of Federal Failure' in Emilian Kavalski and Magdalena Zolkos (eds), *Defunct Federalisms: Critical Perspectives on Federal Failure* (Ashgate 2008) 1, 4.

complex society.⁵⁵ This is the least expected of any federation, including America – a national federation;⁵⁶ and even more so Nigeria, a diverse and purely ethnic-based federation.

7. Resolving the Niger Delta Challenges

The Petroleum Industry Bill is a key mechanism through which the Niger Delta challenges can be significantly resolved. The PIB a legislative measure conceived to ‘provide for the governance and institutional framework for the petroleum industry.’⁵⁷ The Bill primarily aims to provide a streamlined oil industry legal framework that will recalibrate the status quo for optimum revenue returns to the Nigerian State. The bill can even be taken as counterproductive to the Niger Delta agitation since its higher aim is to orchestrate the most effective means of milking the Niger Delta’s vast oil resources to generate juicier oil revenue to the federation account. Any seeming benefit accruable to the Niger Delta therefrom could be reasonably taken as incidental to the bill’s overall objectives. It should be pointed out that the primacy of attending to the Niger Delta yearnings have gone way beyond their issues being placed as an incidental item on Nigeria’s national agenda. Their interest should be prioritised considering that their resources form the mainstay of the Nigerian economy. There are two possible means by which the interest of the Niger Delta could be integrated through the PIB. First, a specified percentage of oil blocks within a state could be reserved and allocated to competent indigenous oil companies of that oil-producing state. Secondly, oil producing states or communities could be granted the statutory backing to negotiate specified interests directly with oil companies investing in their domains. As regards the first proposition, the Bill could provide that, say, 30 percentage of oil blocks within a state should be reserved and allocated to competent indigenous oil companies of that oil-producing state. Such company, however, must meet established competitive oil block allocation bidding processes. These reserved blocks should only be allocated to nonindigenous companies where the host state is unable to provide competent indigenous companies as stipulated. This measure will enable the Niger Delta participate in the utilization of these resources which is one of the key points of the 12 point-agenda presented by PANDEF to the Nigerian government.⁵⁸ As discussed in chapter one, America law even upholds private resource-ownership.⁵⁹ This shows that a State that is genuinely seeking to attend to the interest of its people will create workable means of doing so. Concerning the second proposition, the PIB should be formulated to grant oil producing states or communities the statutory backing to negotiate specified interests directly with oil companies investing in their domains. This will enable them integrate their interest in the development of petroleum resources within their state. This is akin to what is obtainable in Canada and Australia where they have taken forward strides, directly accommodating the interest of indigenous resource owners by making Impact Benefit Agreements (IBA) statutory requirements to extracting mineral resources.⁶⁰ IBAs are ‘privately negotiated, legally enforceable agreements that establish formal relationships between Aboriginal communities and industry proponents.’⁶¹ This arrangement enables resource-endowed communities to negotiate their interest directly with extractive companies coming into their domains; this also enable them play greater role in impact monitoring.⁶² According to Kielland, IBA addresses adverse effects of resource development activities in Aboriginal communities while also ensuring they receive benefits from these activities.⁶³ As Onele opines, the world has moved on from mere reliance on the goodwill of the State and oil companies, without more, in attending to the interest of resource-endowed

⁵⁵ *New York v O’Neill*, 359 U.S. 1, 11 (1959).

⁵⁶ John Pinder, ‘Multinational Federations: Introduction’ in Michael Burgess and John Pinder (eds), *Multinational Federations* (Routledge 2007) 1, 6.

⁵⁷ Draft Petroleum Industry Bill, 2012 <<http://www.nassnig.org/document/bills>> accessed 3 April 2021.

⁵⁸ Olalekan Adetayo ‘Niger Delta Leaders Demand Oil Blocks, Pipeline Contracts from Buhari’ *Punch* (Lagos, 2 November 2016).

⁵⁹ Atkins K, ‘Upstream Agreements in Africa’ in Marc Hammerson and John C LaMaster (eds), *Oil and Gas in Africa* (GBP 2015) 13.

⁶⁰ Joseph Onele, ‘Impact and Benefit Agreements and the Protection of Indigenous Peoples’ Rights: Any New Lessons from Canada?’ (2017) OCEL 1.

⁶¹ *ibid* 3

⁶² PY Lee Meur and others, ‘Horizontal and Vertical Diffusion: The Cumulative Influence of IBA on Mining Policy-Production in New Caledonia (2013) 38 Resources Policy 648.

⁶³ Norah Kielland, ‘Supporting Aboriginal Participation in Resource Development: The Role of Impact Benefit Agreements (2015) 29-E Library of Parliament Canada, 1.

indigenous groups. The direction is the emplacement of innovative solid legal frameworks that accommodate their interest as well as protect their rights.⁶⁴ Other jurisdictions are innovating peculiar avenues to accommodate the interest of their resource-endowed people and it is imperative that Nigeria follows, albeit in the manner that suits its peculiar circumstances.

8. Conclusion

The paper examined the contentious issue of oil discovery in Nigeria, the attendant challenges of resource curse and the Nigerian State's exclusive control and ownership of the country's oil predominantly situated in the Niger Delta area. This exclusive ownership right underpinned by a skewed federal structure is identified as a key source of the Niger Delta crisis vis-à-vis unending clamour for resource ownership by the Niger Delta people. This paper proposed that the specific accommodation of the interest of the Niger Delta people in the allocation of petroleum ownership rights by the Nigerian State through relevant legislations such as the Petroleum Industry Bill is fundamental to resolving the Niger Delta crisis. The research favoured this piecemeal approach to gradually integrate the interest of the Niger Delta into the petroleum industry over a cumbersome, politically-vested constitutional reform process that has continued to prove abortive. It recommended that a specified percentage of oil blocks accruing from a host state could be reserved for competent indigenous oil companies from that state. This will enhance the participation of the Niger Delta in the development of petroleum resources within their domain which has been one of their chief demands

⁶⁴ Onele (n 59) 1, 2.