

THE CONTEST FOR OIL/RESOURCES IN A FEDERAL SYSTEM: THE ONSHORE- OFFSHORE DICHOTOMY CASE BETWEEN THE FEDERATION OF NIGERIA VERSUS ABIA AND THE LITTORAL STATES

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Abstract: *Sub-national regional revolts and agitations over resource sharing have characterized the federation of Nigeria since its formation (1963). The representatives of the Niger Delta people demand to control resources (especially petroleum and natural gas found in their region) because of dissatisfaction with Nigeria's federal government exploitation policy in the region. This article examines Nigeria's Supreme (Apex) court ruling that all resources (including petroleum, natural gas, among other minerals on land) be owned by the federal government thereby entitling littoral states to compensation – an administrative amelioration distinct from resource ownership. Being contentious, the court ruling evokes further debate. Aspects of the issue are discussed.*

Key words: *Nigeria, resource control, onshore-offshore, dichotomy, federation.*

1. Introduction

Irrespective of the location of precious resources - e.g. petroleum and natural gas, among others- whether onshore (either called *Terra Firma*, solid ground or land) or offshore (i.e. in the Oceans including their darkest depths or in the shallower parts) competition for them remains fierce.

This is a passionately discussed matter and raises issues of permanent significance to sovereign states and organizations at (sub)regional and global scales. This statement is true of all spaces (be they land and Oceanic area or mass water body over

which numerous socio-economic activities including passage, transportation e.g. shipping and trial wars, among others, could be undertaken).

It is on the basis of the foregoing premises that we examine the theme of this article: the onshore-offshore dichotomy or contest, represent matters of whereabouts (i.e. location) as well as ordinary and legal (statutory laws) perceptions of knowledge regarding ownership of spaces and its contents (especially resources).

Previously, inadequate technical, technological skills, knowledge and experience, prevented people, nation-

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states, and entities from taking the Oceans as seriously as they presently do in the context of increasing spectacular advances in technology.

This is only correct prior to the era of Mercantilism when ocean-based commercial and militaristic voyages aimed at discovering and capturing new territories had been undertaken. Such sea-based adventures altered the ownership of landscape of the oceans almost forever thereby enthroning concepts such as international waters to be managed by individual sovereign states.

To avoid or curb incessant competition, conflicts, wars, litigations, among other issues, legal parameters such as a myriad of laws of seas, oceans as well as their sections of convergence with the land were created for present and future uses.

Thus, competition (of the fiercest kind) are usually entered into by separate countries or sovereign states and are frequently undertaken by entities involved in federations as was the case with the federation of Nigeria.

This becomes inevitable when the essential ingredients of fiscal regimes underlying governance of environmental resources (or inadequacies of governance) become contentious or matters capable of promoting disagreement, discord instead of mutual benefit for the parties involved thereby engendering socio-political order and harmonious co-existence.

1.1. Resource wars, oil and geo-politics

It is worth noting that persons who wish to treat matters bordering on environmental resource governance generally, be they described as onshore-offshore dichotomy and/or resource control (referring to Nigeria's various issues concerning who controls fossil fuels - petroleum and associated natural gas, among others - how to control or share

them) ought to reflect on the historical characteristics of the geo-politics of oil especially the many wars that have been fought and are presently waged around the world because of the quest for control of oil, itself an energy instrument of war as well as determinant of the ongoing civilization and industrial advancement without which little has been achieved.

That the same fight for petroleum caused the First World War and Second World War in the Twentieth Century was documented and recently acknowledged [1].

Regarding this matter, most people have frequently believe that the United States of America's "everywhere" and "every time" [6] meant that many wars that it fought are not without gain especially in the form of petroleum and natural gas that the USA abundantly needs.

1.2. Objectives

Here, we aim at contributing towards deepening the understanding of the onshore-offshore dichotomy and of the inter-related "resource control" matter which constitute or rather remain highly sensitive issues after some major rulings of Nigeria's Supreme Court on the case involving Attorneys-General of the governments of Nigeria Vs Abia State (the latter being one of Nigeria's 36 states that was involved into the matter by a few "others") [2].

1.3. Organization

In the rest of this article, we organize/present our analyses of issues involved in this study in the sections that follow.

Using prevalent complementary doctrines of neo-liberalism and neo-liberalisation as clusters of ideas elucidating the politico-economic-cultural phenomena in pre-colonial and post-colonial Nigeria, we focus on two themes: clarifying the state of

affairs in Nigeria's environmental governance as it affects the Niger Delta thus manifesting and culminating in the onshore-offshore dichotomy and the resource control agitation and its management (or handling by operators or dominant forces controlling the state, and its apparatuses).

The latter implies (actually speaks our minds in environmental governance) that the Nigerian Court and its rulings ought to be analyzed beyond the "wisdom of justices" viewed in Marxist and revolutionary theoretical parlances, representations of capitalist accumulation therefore almost always biasing rulings in favor of the elite.

We argue that, as we know, sensitivity of aggrieved persons and parties excluded from environmental governance "tables of decision-making" usually and frequently resort to measures that have been described as "gun solutions" due to their militarized characteristics as manifested in the 2009 President Yar' Adua/Jonathan amnesty, still ongoing.

Two of the following questions could be raised without being fully answered immediately. First, how long shall the Amnesty last, remain in effect?

Second, to what extent do court rulings address fundamental questions/problems created by indigenous colonialists leading to discriminatory land/resource ownership expressed in deprivation, affluence and significant political-economic differentiation of citizens [18].

We argue that the latter question/issue accounted for President Obasanjo's resort to political resolution instead of the court ruling that favoured the federal government.

Then, we conclude the paper by summarizing key points and recommend how environmental governance ought to function as a means of achieving enduring peace and harmony for a better and prosperous federation.

2. Theoretically framing discourse of Niger Delta's exploitation on neo-liberalism and neo-liberalization

To refer to clusters of ideas/knowledge capable of elucidating the underlying politico-economic-cultural phenomena in pre-colonial and post-colonial Nigeria, we point towards the complementary doctrines of neo-liberalism and neo-liberalisation as the most prevalent.

Owing to constraint (space, time), we refer to profuse applications of these doctrines in order to explain socio-economic-cultural-political issues in Nigeria and developing countries [9].

Most related to this study is the recent use of the terms neo-liberalisation and neo-liberalism, which as phenomenal processes and theoretical perspectives complement each other as they have been applied for explaining the socio-economic struggle of Nigeria's federal government towards the neglect and marginalization of one of nine Niger Delta states: the Cross River State [12], [13].

3. Methods/data

Description is applied as a suitable method promising to draw attention to the use of the law in managing relationships between the federal government and the littoral states in the oil-producing Niger Delta [17].

4. Why aggrieved (sub-)national governments resort to the courts

4.1. Resource control and the Development of the Niger Delta

The history and origin of resource control agitation including youth restlessness arose from the historical successive government negligence of the Niger Delta's development.

Although the elite dominating the Nigerian state switched from the existing three/four-regional sub-national focus on endogenous development management whereby each region engaged in internal revenue generation, retained 50% and shared the remainder with the federation in the 1950s.

Nigeria's elite, especially fundamentalists implementing doctrines of neo-liberalism complemented by their neo-liberalisation, switched from this responsible fiscal regime as soon as commercially viable oil deposits were discovered in the Niger Delta in 1956, towards exploitative federalism, especially its aberrant fiscal version.

The latter involves relying on oil and natural gas export, since the late 1960s and late 1990s, respectively, for generating disproportionately large (over 90%) to total federal revenues.

With this has been associated a culture of indolence whereby all governments (a total of 812 comprising the federal one, 36 states, a Federal Capital Territory, FCT, and 774 LGAs) over-rely on earnings from export of crude oil without even refining part of it for local consumption until the recent resuscitation of refineries.

Such impunity and numerous manners of them sabotaging Nigeria's future. Nigeria's federalism resembles the version implemented in the USA in terms of exploitation of other federal entities [7].

However, the US' version entails greater justice considering that its oil bearing/producing areas/states (Texas, Alaska, etc.) independently and autonomously control oil land, determine oil production, earn royalties unlike in Nigeria where through decrees fabricated by dictators (turned into Acts during transient elective democracies) (e.g. 1969 Petroleum Act, 1978 Land Use decree) both land and resources on land are monopolistically owned by the federal government [14].

4.2. Concentrating on the development of (sub)national centre's earnings from export of oil extracted from the Delta

Disproportionately large shares of funds derived from exporting oil (approximately US\$100 million/day) over 50 years have been held by the federal government whose controllers spend them on personal development (individuals and groups) and of its enclaves located outside the Delta. Other tiers of the federation (36 states, 774 councils) have been muscled out of the financial scheme despite the documentation of their enormous development responsibilities.

Through the instrumentation of the 1968/9 Petroleum Act, individuals were turned into owners of oil wells/fields (especially persons from cultural groups that historically dominated Nigeria's politics and economy, Hausa-Fulani, Yoruba, Ibo, have gained enormous wealth).

Most academic explanations and commentaries on the exploitation of the Delta asserted that "*where there is no justice, there can never be peace*"[16]. In highlighting "the root causes of peacelessness" in the region, scholars point towards abject poverty of the local population, lack of amenities (electricity, water/sanitation, etc.), escalation of violent agitation for resource control starting with the 1966 Declaration of the Niger Delta Republic by Isaac Boro and colleagues.

4.3. Self-determination strides and achievements of the Delta cultural nationalities

The Ogoni, led by Ken Saro-Wiwa, who adopted Mahatma Ghandi's type of non-violent resistance have, throughout the 1980s-1990s, successfully responded to exploitation by the structurally unsound

power framework contrived by British colonialists based on the domination of ethnic/cultural groups (northern Hausa-Fulani, south-western Yoruba, south-eastern Ibo) by articulating Declarations of “self-determination” in the South-South (groups and civil societies of smaller cultures interspersed in the south-east and the south-west).

Major declarations include: on 23 February 1966 of the Niger Delta Republic involving a 12-day battle with federal forces [4]; the 1990 Ogoni Bill of Rights, Izon (Ijaw) Kaiama, Egi’s Akakalaka, the Oron Bill of Rights, the Warri Accord, the Urhobo First Economic Summit Resolution, among others, to the militancy of the late 1990s-2010s, an NGO called Community Defence Law Foundation, CDLF, and so forth.

Other factors fuelling the fire of crises are deprivation and exploitation of the Delta people; degradation of the region’s ecology (aggravating social damages - gas flaring, oil spills, poor management of the oil pipeline leading to their failure and explosion) socio-economic and political distortions, human rights violations; bad governance/corruption; manipulation of natives/local population by a conniving federal/state government-IOCs’ representatives [19].

4.4. Indifference to the recommendations of commissions and committees

One dimension of negligence is the factor of the establishment of commissions and committees that all recommended measures and strategies for addressing the development challenges of the Delta but were all ignored until the modest establishment of the Niger Delta Development Commission and previously, the dubious OMPADEC by dictator IB Babangida.

4.5. Demographic dynamics and regional agitation

The Niger Delta’s total population of over 31.2 million represented 22% of Nigeria’s total population (140,003,542) in 2006. The fact that 51.6% of Nigeria’s population was under 25 years of age, excluding other youth of up to 40 years old, indicates the Delta’s “youth bulge” challenge.

Combined with historical poverty and unemployment, the despondency and social disorder that culminated in youth restiveness was not unexpected.

The Delta’s youthful population (under age 25 constituted about 16.1 million - i.e. over half of the total population in 2006). With Nigeria’s population growth rate of 3.2%/year [15], a high to stable demographic rhythm exists. Thus, the Delta’s population projection as having risen to about 34.4 million in 2010 was understandable.

4.6. Why do the Delta youth engage in insurgency?

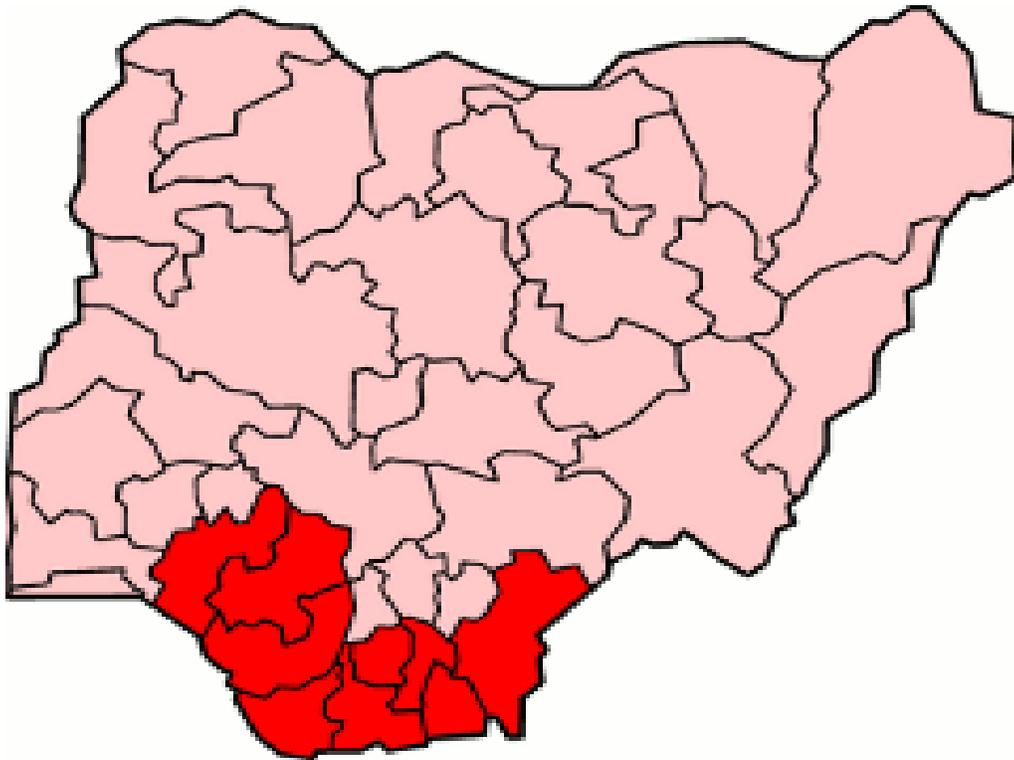
The literature –including statistics showing the level of development of the Niger Delta including indicators such as poverty, unemployment [10], inadequacy of amenities e.g. electricity, safe water, sanitation, among others - shows that all states forming the region have been marginalized i.e. have not gained as much financial investments from the Federal Government of Nigeria as it happened to a few other regions that have been preferred and favoured.

Some scholars have shown that this is the reason why the (Delta) region features low proportions of urbanization of each of its constituent states compared to its counterparts located elsewhere.

Details of the variation of urban and rural populations of the states constituting the Niger Delta (compared to other parts of Nigeria) have been documented and need not be detailed here [11].

This marginalization of the region (i.e. its people) could be cited for explaining the serious youth restiveness (insurgency) that occurred in the Delta region as compared to other parts of Nigeria from the early post-independence era up to the declaration of the Presidential Amnesty by the Yar'Adua-Jonathan

administration in 2009. However, the lopsided and polarized sharing of political power and the other economic/financial and social opportunities arising thereby have never favoured the Delta, or its other deprived cultural groups described as minorities in Nigeria [15]. This policy has been viewed as systematic marginalization of the Delta, like other minorities in the country. It is aggravated by the youth bulge in the region (Figures 1).



Sources : Wallingford, UK, 1999, p. 1-30.

Fig.1. *Nigeria and the Niger Delta region (as shaded portions),*

Selected geographic and socio-economic features of the Niger Delta Table 1

State	Population	Area (km ²)	Rural residence (%)	Urban residence (%)
Abia	2833999	4900	94.26	5.74
Akwa Ibom	3920208	6900	87.89	12.11
Bayelsa	1703358	9059	See Rivers below	See Rivers below
Cross River	2888966	21787	74.92	25.08
Delta	4098391	17108	66.85	33.15
Edo	3218332	19187	54.56	45.44
Imo	3934899	5288	67.33	32.67
Ondo	3441024	15,820	59.62	40.38
Rivers	5185400	10,575	68.65	31.35
Total: Niger Delta	31224577	110,624		
Nigeria			63.72	36.28

The paradoxical serious poverty scenario amid natural resource abundance presented above and the prolonged history of the agitation for resource control by the Niger Delta peoples/representatives and vanguard, beckons for new approaches and analytical approaches for resolving the legal issues associated with other socio-economic problems.

Some failed attempts of the neo-liberal capitalist system to resolve persisting poverty in Africa as compared to Latin America, which has been acknowledged as having achieved greater successes through socialist policies, have been documented [13], [8].

Some scholars have faulted the national

economic policies that are based on neoliberalism [8].

The latter would, of course, include the challenges posed by the neoliberal capitalist system's legal frameworks for the attainment of regional equality.

The exploitative nature of the federal system, especially the US federal and capitalist system, has been documented [7].

Other scholars have also pointed out the failures in the national development planning strategies applied by neoliberals [3].

It must be noted that revolutionary Marxism has never been seriously applied towards analyzing the dynamics of conflicting parties (Nigeria's federal government versus Niger Delta region) over the resource control issues.

Table 2

Selected indicators of poverty resulting from marginalization of the Niger Delta region

State	Households people accessing water	Households using untreated water from rivers, streams, dams, surfaces, etc (%)	Households cooking with solid fuels (%)	Total Child Labour (%)	Girls getting married underage (before 18 th birthday (%)
Akwa Ibom	11.1	46.0	88.5	49.8	23.1
Bayelsa	3.0	57.0	53.6	32.3	45.0
Cross River	25.5	59.6	74.9	47.3	27.8
Delta	3.1	15.9	53.6	27.7	25.1
Edo	2.4	28.0	79.6	36.6	25.3
Rivers	6.2	10.2	56.2	28.1	21.9
Abia	NA	26.8	77.1	27.2	10.3
Imo	NA	33.3	85.5	35.5	11.2
Ondo	NA	38.2	73.5	22.5	14.2

5. Methods and data

The method of etiology was used in this study because of the way issues involved proved to be suitable for the method. Etiology involves creating the nature of the logical and empirical principles and laws that govern outcomes of phenomena.

In this study, the exploitation of the natural resources of the Niger Delta region for the development of Nigeria's elitist cities while ignoring the socio-economic and political needs of the former within the context of Nigeria's pseudo-federal government system, constitute issues that deserve an analysis.

Etiology was preferred because it has earlier proven reliable through the facilitation of systematic and scientific studies undertaken by this author.

It involves the description of the objects of study; relating the study objects to other pertinent issues; to study and explain causation of outcomes of these various phenomenon; and related issues.

We followed the usual procedure of etiology by providing a foundation for subsequent analyses of the issues at the onset.

This includes undertaking a preliminary description of the study object; determining the fundamental constituents of the phenomena of interest in this study as well as the nature and principles governing inter-relationships among aspects of the key issues (legal suit determination/ruling of Nigeria's courts in the context/history of exploitation of the Delta's natural resources for financing infrastructural development in Nigeria's elitist cities while ignoring the needs of the former under the context of Nigeria's pseudo-federal government system).

We demonstrated interconnections among the origin, history and evolution of resource exploitation, agitation for resource control/governance and court ruling on the matter based on the consideration that the consequences of the

foregoing interconnection are not discrete but developmental; not final but dialectical.

The dialectical characteristics of most issues refer to the way two aspects of a single situation end up affecting each other thereby facilitating aetiological analyses [8].

6. The resource control case involving the attorneys-general of the federation (Nigeria) versus Attorneys-General of the Abia state and of other littoral states: An analysis

We consider it useful to show how my analysis herein ought to be read and understood by elaborating on how we organized or customized our explanations and analysis of the aforementioned case.

We shall briefly restate what motivated or determined the AGs of the littoral states (Abia and others) and the AG of the Federation (or rather of the federal government) to contest the matter in court.

Then, we shall comment, also briefly, on the court ruling before undertaking further analyses of the case and matters arising from the ruling.

Concerning the latter, the abandonment of the court ruling and the resort to a "political resolution" of the matter points towards the deficit in over-relying on the law or legal solutions rather than on adopting mutually beneficial justice mechanisms capable of promoting social order, peace, harmony as foundations for socio-economic development.

6.1. Differential development financing burdens on sub-national and national governments

As earlier stated, although Nigeria's 36 states and 774 councils bear enormous responsibility for providing improved life

quality to the large populations they govern, their financial strengths for delivering upon their responsibilities are weak.

Moreover, unlike other federal systems (Switzerland, Germany, among others) that work non-exploitatively but in mutually beneficial and cooperative ways with other tiers (provinces / states and councils) involved in the federation, Nigeria's fiscal federalism has been notoriously exploitative.

Even, the US federal system that is also exploitative does allow states to participate autonomously by owning land and oil resources thereby gaining from oil production operations within their jurisdictions.

Additionally, the littoral states were driven (motivated) by knowledge of numerous factors/scenarios (trans-national fiscal federal regimes that are mutually beneficial to federating units i.e. mostly different from the "aberrant federalism that has been operated in Nigeria as well as Nigeria's federal government's wealth in the post-sub-national regional and post-oil fiscal regime) into demanding higher shares of the benefits from offshore resources for themselves.

6.2. Nigeria's Supreme Court's ruling

The Supreme Court's ruling was that ownership of all land (and resources including oil/natural gas on land) pertained to Nigeria's federal government. By so ruling, the court relied on existing laws namely: the Petroleum Act 196/89 [14], and Land Use, 1978, both created by dictatorships [2]]. Credence to the court's decision might include geographical and oceanographic features' definitions developed over the decades by international lawyers of the seas that were mostly beneficial to Nigeria's interests.

The latter included seaward boundaries of littoral states useful for computing the size of oil-generated revenue that the states could derive from the federation account, Nigeria's territorial waters, exclusive economic zones, continental shelves, low water mark, the rather involved concept of archipelago islands of the Cross River State, and related issues.

6.3. Federal government's resort to "political resolution" of the matter instead of implementing the court ruling

We believe that the federal governments' systematic build up of political (and by extension economic) powers in post-oil Nigeria have been associated with the exhibition of impunity. However, it recognizes the potential of incessant declarations of "self-determination (secession)" enumerated earlier by most of the constituent ethnic nationalities of the littoral states involved in the foregoing case.

Moreover, the federal government also realizes its unjustifiable wealth contrasted to the dire financial circumstances of other federating units and especially the grief expressed and felt by the latter. Most pragmatically, the awareness-raising, enormous passion and grief associated with the agitation for "resource control" have constituted threats to the statehood of Nigeria, as was then constituted and as it is at present.

Considering all the foregoing, the federal government under the Obasanjo administration was compelled (i.e. not due to benevolence) to adopt the "political resolution" of the matter thereby disregarding the court ruling that was in its favour.

This point ought to be a lesson for the neo-liberalisation champions and people playing domineering roles in

the Nigerian state and foisting violence on the state as was designed by British colonialists.

There is no alternative to justice in the quest for a peaceful state aspiring to attain nationhood.

The onshore-offshore dichotomy has returned to Nigeria's ongoing National Dialogue which underlines its sensitivity and promise of resurgence except for the radical shifts in decision of the minority dominating the state.

This assertion is easily indicated by the language of the popular literature, by the profusion of militant words describing it as: threatening Nigeria's survival, injustice, and so on (e.g. [19] [5]).

7. Conclusion

This paper analysed the dispute between the Attorney General of the Federation and Attorneys-General of Abia and other littoral states.

We conclude that while the latter expected justice concerning the demands for financing development programmes, differentials in earnings of the federal government that exceeds theirs by far, the law prevailed in favor of the Federation.

This court ruling represents one of the numerous workings of neo-liberalisation that complements neo-liberalism and marginalization in Nigeria, like elsewhere in the developing countries.

Despite being favoured by its own contrived neo-liberalisation (following the British colonial neo-liberalism) since the first decade of post-colonial Nigeria, the federal government has resorted to a political solution in order not to leave the littoral states to return "home empty

handed" by offering them some amount of the revenue that it collects into the federal pool.

This demonstrates the federal government's own awareness of the challenges posed by the prevailing bad governance to the transition from statehood to nationhood that has remained elusive.

In connection with the latter matter it must be recalled that exploitation decimating the littoral states, as well as the rest of the Niger Delta, has led to a series of declarations of self-determination by its ethnic nationalities in post-colonial Nigeria. The 30-month-long Biafra-Nigeria civil war remains a stark reminder of this challenge.

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