

REVENUE ALLOCATION AND RESOURCE CONTROL CONFLICTS IN OIL PRODUCING STATES IN NIGERIA

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Abstract

Several studies on resource control conflicts in oil producing states in Nigeria have identified the amount of financial resources available to oil producing states because of the revenue allocation strategies adopted by the federal government as the key driver of conflicts. Some of these studies postulate that the failure of the federal government to adequately apply derivation principle is a major contributor to resource control conflicts. This paper takes a different dimension. It argues that even though the extent to which derivation principle is applied may contribute to resource control conflicts, the manner in which available revenue is utilized is also a major factor that should not be neglected. The paper demonstrates that increase in revenue accruing to state governments based on derivation does not basically result in development and prevention of conflicts in oil producing communities. The paper therefore recommends effective and judicious use of available revenue as a strategy for managing resource control conflicts and not just revenue allocation principle.

Keywords: Revenue allocation, resource control, conflict, federalism, Nigeria

Introduction

Nigeria is one of the major oil and gas producers in Africa with over two million barrels per day in 2018 (NNPC, 2019). The country also has the largest oil and gas reserves in sub-Saharan Africa, with an estimated 37 billion barrels of oil and 188 trillion cubic feet of gas (Malden, 2017). The Nigerian government depends heavily on the oil and gas sector. The sector contributes 95% of export revenues, 80 to 85% of government revenues, and approximately 32% of gross domestic product (GDP) (African Development Bank, 2019). Since revenue from oil constitutes the major source of revenue shared among the various levels of government, revenue allocation has been a strategic issue in Nigeria.

The allocation of revenues to different levels of government in Nigeria can be traced to the colonial period. Over the years different principles have been used as a basis for revenue sharing. In some instances revenue sharing systems have been used as a way to address local claims over resource ownership or demands for more benefits from resource extraction. In others, they are viewed as compensation for environmental degradation and other negative effects of extraction. In still others, the distribution of revenues has been employed to help defuse violent resource-related conflicts (World Bank, 2014).

In federal states like Nigeria revenue allocation to different levels of government which is sometimes described as fiscal federalism is a necessary requirement for the performance of the

various functions of government including the maintenance of internal security. Nigeria's fiscal federalism emanated from historical, economic, political, geographical, cultural, and social factors (Rupley, 1981). In all of these, fiscal arrangements remain a controversial issue in allocating distributable pool account (DPA) of the federation since 1946 (Ekpo, 2004). This paper examines how revenue is allocated in Nigeria and how the utilization of available financial resources contributes to resource control conflicts. The paper is divided into seven sections. The first is the clarification of the major concepts used in the paper. These concepts are revenue allocation and resource control. The second section is the theoretical framework. The third section is a historical overview of revenue allocation in Nigeria. The fourth section focuses on the reasons for resource control conflicts in Nigeria. The fifth section considers the role of the judiciary in managing resource control conflicts. The sixth section examines the link between resource utilization and resource control conflicts while the seventh section is the conclusion and recommendations.

Conceptual Clarification

Revenue Allocation

Revenue allocation can be described as a method of sharing the centrally generated revenue among different levels of government and how the amount allocated to a particular level is shared among its constituents for economic development (Dang, 2013). Additionally, Olowononi (2000:5) broadly defines revenue allocation to 'include allocation of tax powers'. In Nigeria, the principle of derivation is used for revenue allocation as a strategy for compensating communities living in areas where natural resources such as oil are extracted. Derivation principle means that 'the proportion of revenue receivable by State Governments from the federation account must be in the same proportion with their contribution to the account' (Abubakar, 1986:10). The application of this principle in Nigeria makes oil producing states to receive more revenue from the federation account than non-oil producing states.

Resource Control

Resources can be defined as 'those components of the non-human world that are considered to be useful or valuable in some way' (Bridge, 2009: 1219). In the view of Hudson (2005: 42) 'natural resources are not naturally resources.' It takes social, political and cultural work to define part of nature as a resource. An aspect of nature is usually considered a resource if it provides satisfaction as defined either socially, politically, culturally, technologically or biologically (Zimmermann, 1951: 15). When an aspect of nature is considered a resource it sometimes becomes an object for struggle and conflict. Resources become an object of political contestation between groups over their immediate useful properties (Huber, 2019).

Resource control therefore refers to the ability of communities and regional governments to determine how natural resources located within their territorial boundaries should be extracted and the freedom to utilize these resources without inference from the federal government. Douglas (2005:4) observes that it is an 'actual control of resources by the people who live in communities with these resources for the support of life'. From the perspective of Ikporukpo (1981), a common thread linking all the conflicts over control of resources in Nigeria especially the Niger Delta is the feeling of the people that they are not getting enough benefits from the exploitation of resources in their territory.

Theoretical Framework

This paper is anchored on the resource curse paradigm. The major theorists of the resource curse hypothesis have sought to establish a direct causal linkage between abundant natural resources endowment and the propensity towards armed conflicts, civil wars and political instability in developing countries (Orogun, 2010). The resource curse (also known as the paradox of plenty) refers to 'the failure of many resource-rich countries to benefit fully from their natural resource wealth, and for governments in these countries to respond effectively to public welfare needs. While one might expect to see better development outcomes after countries discover natural resources, resource-rich countries tend to have higher rates of conflict and authoritarianism, and lower rates of economic stability and economic growth, compared to their non-resource-rich neighbors' (Natural Resource Governance Institute, 2015).

The discourse on the oil-development nexus in Africa is often established on the view that oil breeds corruption, misgovernance, human rights abuses and violent conflict (Obi, 2009). This perception is clearly a spin-off of the 'Dutch disease' and 'resource curse' theses, which are mainstream explanations for (resource) conflicts and insecurity in Africa. The 'resource curse' thesis seeks explanations for the causes of violent conflicts by demonstrating how huge natural resource endowments rather than brighten the prospects for development, paradoxically motivate people to struggle over resources, or act as an motivator for armed groups to engage in conflict in order to exploit the opportunity to loot (Obi, 2009).

The detrimental effect of natural resources on other industries has been well documented in Iran, Russia, Trinidad and Tobago, and Venezuela, all of which have either stunted manufacturing sectors or saw a precipitous decline in manufacturing. These impacts can be minimized if the country has the absorptive capacity to transform resource revenue inflows into tangible investments, such as roads and electricity; the government uses resource revenues to make investments in the economy that generate non-resource sector growth; or the government places a portion of its resource revenues in foreign assets. Over the last 25 years, Chile, Indonesia, Norway and the UAE have largely managed to overcome Dutch disease. (Natural Resource Governance Institute, 2015).

For most Nigerians, especially those living in the Niger-Delta, Nigeria's oil wealth is actually 'oil of penury' or a curse, because it has produced only poverty, underdevelopment and conflicts since its commercial exploitation began in the late 1950s (Olarinmoye, 2008). Such a conclusion is not aberrant as 'it is now almost conventional wisdom that (natural) resources are a curse for developing countries' (Robinson et al. 2005:2) with abundance of natural resources causing poor growth and raising the incidence, intensity and duration of conflicts (Olarinmoye, 2008).

Historical Overview of Revenue Allocation in Nigeria

The history of revenue allocation in Nigeria can be associated with the evolution of federalism in 1946. Over the years several revenue allocation commissions have been appointed to examine the revenue sharing arrangements in Nigeria and make appropriate recommendations. These commissions include Phillipson Commission (1946), the Hicks-Phillipson Commission (1951), The Chicks Commission (1968), The Raisman Commission (1958), The Binns Commission (1964), The Dina Interim Committee (1968), the Aboyade Technical Committee (1977), the Okigbo Commission (1980), and Danjuma (1988) commissions and the Revenue Mobilization Allocation and Fiscal Commission (1989) (Akindele, 2002). The recommendations of these commissions often influenced the formula adopted by the government in sharing government's revenue among the various levels of government. These commissions based their recommendations on

different revenue sharing principles such as; equality of states, derivation, population, even development, geographical considerations such as landmass and terrain, national interest and population. Derivation principle is based on the notion that revenue sharing in a federal state should be based on the contributions of each federating unit. Equity refers to the equality of states, regardless of variations in population. "Land mass" is expected to take into account the differences in the geographic areas covered by each state. The equity dimension is expected to promote socioeconomic development in the different states of the federation. Efficiency principles or fiscal efficiency refers to the efficient use of fiscal resources by each state. In general, the total proportion of revenue shared on the basis of these efficiency principles has rarely exceeded 30-35 percent, as governments (both civilian and military) distrust the measurement criteria proposed by experts, especially in respect of fiscal efficiency" principles (Adedotun, 1991).

The derivation principle was regarded by the 1946 Phillipson commission as a way of making regions with natural resources benefit from their natural resources based on contribution to the central revenue account. The principle of derivation became the major basis of revenue allocation between 1954 and 1957 due to the dominance of Nigerian's export market by the three main ethnic groups especially with cocoa from the West (Anugwom, 2001). Since the discovery of oil in 1958, the percentage derivation due for mineral producing states began to decline. This trend called for concern when recommendations made by the Binns commission of 1964 rejected the principle as part of the revenue allocation formula. When the military took over power in 1966, it set up an interim committee (Dina committee) that again recommended the derivation principle due to its relevance. The committee argued that the rent from the onshore oil production be fully given to the state from which the oil extraction was made, while 10% of the royalties be distributed on the basis of derivation (Ekpo, 2004). The military government did not accept the committee's recommendations and then enacted Decree 13 of 1970. The Decree introduced a revenue allocation formula which was based on 50% equality of states and 50% on population, retaining derivation only on onshore oil production. This formula was more beneficial to non-oil producing states (majority) than the oil producing minority. At this time oil contributed about 70% of the total revenue accruing to the federation's account (Ikpatt and Ibanga, 2003). Currently, 13% of the revenue allocation formula is based on derivation. Section 162, Sub-section 2 of the 1999 Constitution (as amended), explicitly states that no less than 13 per cent derivation should accrue to oil-producing states.

Reasons for Resource Control Conflicts in Nigeria

Conflict over resource control in Nigeria can be viewed basically as a contention over the allocation of revenue from oil. In other words, conflict over revenue allocation system in Nigeria's federal state is seen as endemic in the Southern part of Nigeria where over 80 per cent of Nigeria's annual revenue is derived (Anugwom 2005). Resource control conflict became a major national issue in Federal-State relations in Obasanjo's Nigeria, with the littoral states (Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Ogun, Ondo and Rivers) claiming that the natural resources located offshore ought to be treated or regarded as located within their respective states. The claim by the littoral states was more so accentuated by Decree No. 106(1992) which abrogated the onshore/offshore dichotomy for the purpose of calculating the amount of revenue accruing directly from any natural resources derived from any state pursuant to Section 162(2) of the Constitution of the Federal Republic of Nigeria 1999. It is also important to observe that Section 162(2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) states that: (a) the natural resources located within the boundaries of any State are deemed to be derived from that State; (b) the seaward boundary of each of the littoral States is the low water mark of the

land surface thereof or inland waters within the States; (c) the natural resources located within the territorial waters of Nigeria and the Federal Capital Territory are deemed to be derived from the federation and not from any State; and that (d) the natural resources located within the Exclusive Economic Zone and the Continental Shelf of Nigeria are subject to the provisions of any treaty or other written agreement between Nigeria and any neighbouring littoral foreign State, derived from the federal and not from the State. Among the revenue allocation principles, derivation has always been the most controversial and has contributed to conflict over the control of resources. The derivation principle means that states that produce higher revenue to the federal government should receive a commensurate allocation. That is, the allocation of resources to them should be higher too (Omodero, Azubuike and Ekwe, 2018).

The conflict manifests in different ways. The first struggle has been championed by the state governors of the South-South geopolitical zone who have struggled with the federal government over the sharing of oil revenue and the need for the oil producing states to control their own resources. Secondly, there is the incessant conflict between the oil producing communities and the multi-national oil exploiting firms operating there. While the former struggle or face-off between the state governors and the federal government has been largely devoid of violence, the conflict between the oil communities and the oil firms has been violent. This takes the form of kidnapping and taking of hostages (oil workers) by the communities, destruction of oil pipelines and other vital installations and killing of oil company workers (Umukoro, 2018). The oil communities reactions have been fuelled apparently by the devastating impact of oil exploitation on the general eco-system in the region as well as the perception of marginalization in the sharing of the dividends of oil by both the oil firms (in the lack of adequate compensation, basic infrastructure, employment opportunities for indigenes etc.) government (disenchantment with the revenue allocation utilization of oil revenue in developing other areas of the country the Niger Delta). Predictably, some of the actions taken by and against the oil firms have also been borne out of the collaboration between these firms and the federal government. While the federal government is far away from these communities, firms operate in the immediate environment of these communities. (Agumwon, 2005).

The Judiciary and the Management of Resource Control Conflicts

During the administration of Chief Olusegun Obasanjo especially in 2002 there were serious demands from leaders of the South-South geopolitical zone for an abrogation of the on-shore/off-shore dichotomy in the calculation of the derivation component of national revenue. Under the derivation formula, revenue is allocated on the basis of the geographical location of any revenue yielding resource. Thus, those on whose soil, a particular resource is located gets the lion share of revenue from that resource. The prevailing practice has been the calculation of the derivation component which belongs to the oil producing states from the revenue from on-shore crude only. Hence, the resource control struggle has been more of a political effort to improve the resources or revenue allocated to the South-South states by calculating the derivation component from both on-shore and off-shore oil revenues. Even though the South-South zone is synonymous with the Niger Delta region, there is a significant difference from a constitutional point of view (Anugwom, 2005).

A major problem associated with the current percentage on derivation is the Supreme Court ruling in 2002, when the federal government filed a suit against the littoral states requesting a resolution of the seaward margin of a littoral state within the federal republic of Nigeria for the purpose of calculating the amount of revenue accruing to the federal account directly from any

natural resource obtained from that state in pursuant to Section 162(2)[4] of the 1999 constitution of the Federal republic of Nigeria (Rodrigo, 2012).

The Attorney General of the Federation then was Chief Bola Ige (now late), who sought the interpretation of the supreme court with respect to the payment of revenue to states from resources derived from the Nigerian territorial waters bordering the coastal territories of some states in the southern part of the country. This was with respect to the constitutional provision on derivation as enshrined in the 1999 constitution (Rodrigo, 2012). The Attorney General also sought the interpretation of the court on the legal meaning of the territory of a state i.e. whether it could be said that off-shore petroleum resources which were derived in Nigerian International waters formed a part of the territory of a state whose shoreline adjoined the waters for the purposes of calculating the derivation fund due to that state. The littoral states of Nigeria have always argued that offshore oil resources formed part of the resources derived from their states and as such should be used in calculating the proportion of revenue due them from the Federation Account.

Since all the states of the federation would be affected by the decision of the Supreme Court, all of them were joined as co-defendants. The case presented the opportunity for the oil bearing States (Rivers, Delta, Akwa Ibom, Cross River, Bayelsa and Ondo States) to make a case for increases in their share of the Federation Account and to seek the consequential order of the supreme court to annul the confiscatory actions and attitude of the Federal Government under the guise of what it called “first line charge” to the Federation Account which they claimed had denied them access to the fullest benefits from the derivation principle. Thus, the case, *Attorney General of Federation v. Attorney General Abia State and 35 others* (SCNJ(4), 2002:1-2) was a major milestone in Nigeria’s fiscal federalism and revenue allocation regimes. In its ruling, the supreme court did sustain the plaintiff’s argument, declaring that for the purpose of calculating revenue accruing to the federal account directly from any natural resource obtained from a littoral state pursuant to section 162(2) of the 1999 constitution, the seaward margin will be the low-water mark of the land surface thereof or in specific cases (like in Cross River State) with archipelago of Islands, the seaward margin will be that of the inland waters within the state (Rodrigo, 2012). However, a Bill abolishing the offshore/onshore dichotomy ruling of the Supreme Court was signed into law by the then President of the Federal Republic of Nigeria, Chief Olusegun Obasanjo in 2004 after approval from the National Assembly (Ojameruave, 2004).

Resource Utilization and Resource Control Conflicts

When resources are discovered but not properly utilized by political leaders, development challenges which precipitate conflicts often increase. This is mostly occasioned by cases where government exploits resources from lands without visible benefits replicating in the land where the resources were taken from. Since the year 2000, oil producing communities in Nigeria have received large sum of money from the federation account as a result of the implementation of the derivation principle in the revenue allocation process. The Nigerian Extractive Industries Transparency Initiative (NEITI) in its report defines 13% derivation as, “the financial incentive that is enshrined in the Constitution to be distributed to oil producing communities, based on the production input to serve as benefits and encourage the community to create enabling environment for more production of crude oil and gas.” Available data from NEITI, Federation Account Allocation Committee, and the National Bureau of Statistics (NBS) revealed the revenue received from selected states of the Niger Delta as shown below:

Derivation Revenue Received by Selected States in the Niger Delta between 2000 and 2018 in Trillions of Naira

State	Amount Received (₦ trillions)
Akwa-Ibom	2.6
Rivers	2.5 (2000-2017)
Delta	2.2 (2000-2016)
Bayelsa	1.7

Source: <https://guardian.ng/saturday-magazine/cover/oil-producing-communities-reek-of-poverty-despite-over-n10t-13-derivation/>

A breakdown of the report by the Federal Account Allocation Committee, (FAAC) shows that in January 2017, the sum of N26.83 billion was shared, N34.11 billion in February and N3.80 billion in March. Further analysis showed that in April, May, June, July and August, 2017, the sum of N35.75 billion, N29.94 billion, N26.96 billion, N29.89 billion, and N31.59 billion was shared, respectively, among the states. Also, in September, N41.97 billion was shared, while N40.22bn was shared in October. November and December had N40.85 billion, N43.21 billion respectively.

Meanwhile, due to the steady increase of oil prices, there was an increase in the allocation to the oil producing states. Between January and April, 2018, the oil producing states shared N217.25 billion. Specifically, in January 2018, the sum of N51.74 billion was shared, in February, the sum of N52.04 billion, while in March, the highest allocation for the period under review was shared with the sum of N57.49 billion, while there was a drop in April to the tune of N55.98 billion. It is on this basis that Akwa Ibom, Rivers, Delta, Bayelsa, and Edo states have since December 2000 received over N9t as 13 per cent derivation, which ought to serve as a catalysts for the transformation of the oil-producing communities.

In spite of the huge amount of revenue Nigeria has derived from crude oil production, the country still struggles to reduce unemployment, income inequality and its dependence on oil (African Development Bank, 2014). The period of economic growth due to oil exports has not sufficiently trickled down to the poor, even though around 77% of total government revenues come from the oil sector (Freedom House 2012). It is widely accepted that the misappropriation of public funds and assets by corrupt elites has been a major cause of Nigeria's underdevelopment (Global Witness 2012). Nigeria is included in the main international corruption assessments, including the World Bank's Worldwide Governance Indicators, Transparency International's Corruption Perception Index and the Global Corruption Barometer, as well as the World Bank business surveys. For instance, the Worldwide Governance Indicator regarding control of corruption, which ranges from 0 (lowest control of corruption) to 100 (highest control of corruption), shows that the levels of corruption in Nigeria have remained alarmingly high during the past years. The country scored just 11 on control of corruption in 2012, and little significant variation can be seen since the first assessment in 1996, when Nigeria scored approximately 9. Nigeria's current score on control of corruption puts the country way below the sub-Saharan African average of 30 (World Bank 2013).

Similarly, Nigeria scores poorly on Transparency International's Corruption Perception Index. In the 2014 assessment the country gained two points compared to 2013, receiving a score of 27 on a scale from 0 (most corrupt) to 100 (least corrupt). With this score, Nigeria ranks among the 38 most corrupt countries in the world (it is ranked 136 out of 175 countries assessed). This score is

comparable to those of Cameroon, Lebanon and Russia, and means the country comes in at 31 out of the 47 countries assessed in sub-Saharan Africa (Transparency International 2014). With regard to the magnitude, studies suggest that public funds of between US\$300 and US\$400 billion have been lost to corruption since Nigeria became independent in 1960 (Global Witness 2012).

Another dimension of the challenges associated with judicious use of the 13 percent derivation revenue is the problem of debt. It has been observed that the states where oil is produced are the most indebted in Nigeria in spite of the large sum of revenue accruing to them from 13 percent derivation (Abdallah, 2019). The oil producing states have a total domestic debt stock of N1.25 trillion as at March 2019, according to official data released by the Debts Management Office (DMO). Rivers leads with N225.59 billion, closely followed by Delta with N223.44 billion debt, Akwa Ibom N199.77 billion, Cross River, N167.25 billion, Bayelsa, N133 billion and Edo N86.37 billion (Abdallah, 2019). The Federal Ministry of Finance also indicated that the oil producing states in Nigeria have collectively received N44.68 trillion from the Federation Account Allocation Committee (FAAC) as 13 percent mineral derivation revenue from June 1999 to December 2018 (Abdallah, 2019).

The huge amount of money received by oil producing states in Nigeria as a result of the application of the derivation principle over the years is capable of ameliorating the development challenges in the if properly utilized. This is based on the fact that increased development in the region will lead to more economic activities and in turn more revenue for the country and reduce resource control conflicts. Unfortunately, the poor utilization of fund because of corruption accounts for underdevelopment and violent conflicts in the Niger Delta (Obi 2009). Despite claims of neglect and abandonment, studies have shown that governments of oil-producing states in Nigeria had over the years, failed to utilize the resources provided them to develop their states and the region. This is evident from the fact that many top government officials from oil producing states and other parts of Nigeria have faced different forms of corruption charges amounting to \$22 trillion dollars related to oil revenues.

Conclusion and Recommendations

This paper showed that the struggle for resource control has been a major issue in the Niger Delta. The struggle contributed to the introduction and implementation of the 13 percent derivation principle. The implementation of this derivation principle made some states in the Niger Delta to have access to huge amount of revenue. In spite of this economic fortune, inefficient utilization of the revenue has made most of the development challenges in the Niger Delta to remain unabated. The inefficient utilization of the revenue accruing to these states can be attributed to the problem of corruption. In spite of the presence of institutions such as the Economic and Financial Crimes Commission (EFCC) to fight against corruption, it has been noted that corruption still flourish. The presence of political institutions to maintain accountability does not necessarily translate into efficient utilization of resource rents or the absence of a resource curse, even though Robinson et al (2005:7) rightly suggest “that countries with institutions that promote accountability and state competence will tend to benefit from resource booms since these institutions ameliorate the perverse political incentives that such booms create and countries without such institutions however may suffer from a resource curse”. According to Sachs and Warner (1999), what matters is the ‘Institutional Quality Index’, ‘the quality of the institutions’, the extent to which such institutions promote the use of rational and meritocratic criteria in allocating public sector resources. The index ranks Botswana, Chile, Malaysia and Thailand ahead of Algeria, Ecuador, Mexico, Nigeria, Trinidad and Tobago, Venezuela and Zambia in terms of institutional quality. Botswana, Chile, Malaysia and Thailand all happen to be resource rich

countries that have succeeded in avoiding the paradox of plenty, whereas Nigeria, Trinidad and Tobago, Venezuela and Zambia all suffer from the resource curse (Olarinmoye, 2008). It is therefore pertinent that existing anti-corruption agencies should wake up to their responsibilities and ensure that public funds are properly utilized to the development of oil producing communities.

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