British International Journal of Education And Social Sciences
Vol.8, No.8; August- 2021
ISSN (3342 – 543X);
p –ISSN (4519 – 6511)
Impact factor: 9.82

OIL WITHIN BORDERS: THE NIGERIAN FEDERALISM AND INTERNAL BORDER DISPUTES OVER SHARING OF OIL REVENUE

Dr. Okechukwu Richard Oji
Director of Research, National Boundary Commission

Abstract: Nigeria was a burgeoning agrarian economy before she struck oil in commercial quantities in January 1956. However, oil revenue complexified the intricate power play among Nigeria's ethnic groups. This paper examined how oil wealth intensified internal border disputes within the oil producing states in Nigeria. It argued that the arbitrary creation of states and poor management of oil resources accounted for this border disputes. The paper recommended the need for the practice of true fiscal federalism as a panacea to the problem oil-related internal border disputes in Nigeria.

Keywords: Oil Within Borders, Nigerian Federalism, Internal Border Disputes, Sharing Of Oil Revenue

Introduction

Nigeria's claim to significance in the world rests on the strength of its bulging human population, enormous natural resources and intractable development-in-reverse conundrum. It is the biggest oil producer in Africa and the fourth largest exporter of liquified natural gas in the world (EIA, 2016). It is also a positive specimen of 'resource curse', the fabled tendency of countries that are rich in mineral resources to languish in corruption, inefficiency and poverty.

The most populous country in Africa is a giant petrostate with feet of clay. Proceeds from crude oil export constitute the lion's share of the nation's export earnings and foreign exchange. Oil revenue serves as the ballast of the liquidity of the federal, state and local governments. Expenditure of oil revenue radiates to all sectors of the economy. Hence, Nigeria's fortune rises and falls with oil prices wings (Aigheyisi, 2018).

Nigeria was a burgeoning agrarian economy before she struck oil in commercial quantities in January 1956. Until the country changed tack, agriculture was its mainstay. Different regions produced and exported cash crops from for which they had comparative advantage. The eastern region concentrated on palm oil and kernels; the western region, cocoa and coffee; the northern region, groundnut, hide and skin; and the south-south region, rubber (Okotie, 2018).

The exploitation of petroleum resources in Nigeria ushered in an era of prodigious revenue flow, the like of which has never been seen before. The rise of crude prices brought in easy and bountiful windfalls that filled the government coffers. It exponentially increased the revenue profile of the country and made the authority to control the purse strings a privilege coveted by the subnational groups and individuals. This new normal changed politics into a veritable gold rush. It bred the perception of political office as means to strike pay dirt which in turn fostered corruption among the political class and envy among the top brass of military, who staged coups under the messianic pretext of intervening to disrupt the unmediated looting of public treasury by hedonist civilians.

Oil revenue complexified the intricate power play among Nigeria's ethnic groups. As soon as it gained ascendancy over other foreign exchange streams, it began to fuel the strong tension between the harmony and acrimony that underlie relations among the multitudinous rivals. Oil money has morphed into a double-edged sword. It is both a unifying and a divisive object in the country. It is unifying in the sense that it is a compelling cynosure upon which all the otherwise belligerent rivals are fixated. All the discordant groups who bristle at the claustrophobic inconvenience of being cramped within the same circumscribed nation space share a desperate need for oil revenue. They all crave the alchemy of oil. It brings them together. Every month, the federal, states and local governments converge to share oil revenue.

On the other hand, oil revenue is an object of vexatious wrangling. All the constituent groups are in a feisty, perennial scrambling to cop a sizeable chunk of the revenue. This jockeying widens the tribal, cultural and linguistic fault lines and hardens the groups in their postures of mutual distrust and benign antagonism. It underpins the banality of identity politics in Nigeria, a nation that is at best a raucous argument among its disagreeable members and at worst a flailing experiment in a forced amalgamation of a multitude of unlike ethnic groups.

The contention around oil revenue derives from the history of Nigeria as a creation of colonialist fiat. Britain peremptorily established a circumscribed arrangement for peoples of diverse cultures and worldviews, without any regard for the volition of the groups or the odds that the ethnic groups would grow in cooperation, compatibility and harmony with time. Without a shared ideal, there is little that holds Nigeria together as one country. To borrow the metaphor of a Yoruba proverb, the fall of the elephant draws a crowd and a contest of countless knives for the largest part of the giant prize. The elephant, of course, is the coffers overflowing with petrodollars, and the countless knives are the groups jockeying to carve the carcass to their individual advantage.

Nigerian Pseudo-Federalism and The Sharing of Oil Money

Nigerian federalism has been defined interchangeably by the principles of derivation, national interest and unitary exertions of military regimes (Khemani, 2001). The enactment of the federal constitution in 1954 occasioned the devolution of fiscal powers over expenditure and revenue generation to the three regions of east, west and north. Revenues collected at the center, mostly from export, import and excise duties, were shared to the regions based on the derivation approach. This model changed, however, after the country gained independence in October 1960. The derivation principle was revised in favour of national unity. This watershed marked the beginning of the instrumentalization of the federal system of government to cater to social and political expediencies of the pluralistic state.

The centripetal Nigerian federal system is now effectively cast in concrete. It's the mold in which resource allocation in the ethnically diverse, petroleum-rich, most populous country in Africa has taken definitive shape. Because of the sheer number of competing interests and a history of distrust among the political actors from the major tribes, the resource allocation formula has been a source or cause of heated public debate, vexed disputes and armed conflict. The clamor of the subnational entities for more from the proverbial national cake (Babalola, 2019) is ever ringing in the air and is often charged with loud claims of marginalization of the ethnic minorities by the dominant tribes and tinged with mutual recrimination.

Revenue allocation is, thus, a critical and sensitive subject in Nigeria. It is at the heart of existential cohesion in a nation that has fought a protracted civil war and is fraught with active separatist clamors. Baker

(1984) captured it succinctly, "revenue allocation is not a secondary matter, but a primary issue that is fundamental to the political stability of the country as a whole".

Sub-section (2) of section 162 of the Nigerian constitution stipulates that revenue allocation must be predicated on population density, equality of the states, internal revenue generation, land mass and terrain (Demaki, 2013).

Border Disputes among Subnational Governments over Oil Wells

Oil and gas, like other highly prized nonrenewable natural resources, are unevenly distributed within the borders of countries. This means that contours of inequality occur in nature (Ross, Lujala and Rustad, 2012). The loaded dice has ramifications for intra-country harmony, in that it confers advantages on some and leaves others. A predictable consequence of the variation in natural resources endowment among regions within the country is that resource-rich regions develop a sense of entitlement to a larger share of petroleum revenue which is derived from their backyard.

The area known as the Niger Delta is rich in oil and gas. It has evolved into the veritable heart of Nigeria, pumping the lifeblood that gives the body politic a semblance of ruddy health. The sprawling region consists of six states in the South South –Akwa Ibom, Bayelsa, Cross River, Delta, Edo and Rivers; two states in the South East –Abia and Imo –and one state in the South West. It measures about 70, 000 square kilometers –about 7.5% of Nigeria's total land mass–and is characterized by vast arable land, mangrove swamps, forests, rivers, aquatic life and predominantly rural villages.(Duru,1999:81). As of 2006, the Niger Delta had a population of 40 million, representing about 23% of Nigeria's total population of over 140 million (National Population Commission, 2006).

The ethnic minorities of Niger Delta have been actively protesting their subjugation by the majority ethnic groups dating to the 1950s. As a disadvantaged collective in a numbers game, they were at the receiving end of exclusion by ruling political parties and governments controlled by the ethnic majority groups. Their disenchantment waxed into a pointed demand for regions of their own. The Willinks Commission of 1958 dismissed the ask; instead it offered Niger Deltans a promissory note in form of constitutionally guaranteed fundamental rights. The Commission also accorded a special developmental status in the form of a Niger Delta Development Board. The commencement of commercial oil mining in the region in 1958 reinforced the clamour of Niger Delta aborigines for inclusion and provided an impetus for their agitation for control of the lucrative commodity. The emergence of oil was a force-multiplier of the fraught dynamic of inter-ethnic relations in Nigeria. It heightened the previously muted struggle between the northern hegemony headed by the Hausa/Fulani muslim oligarchy and the eastern region comprising Niger Delta minorities and dominated by Igbos. The dispute, aggravated by other oblique factors, culminated in a 30-month long civil war that lasted between 1967 and 1970.In the aftermath of the war, which was decisively won by the federal troops, the military regime headed by soldiers from the northern part of the country, balkanized the regions into baby states and concentrated power in a nanny-like central government. The regime created the states under the pretext that the regional system of government was inimical to national unity. However, the regime created more states in the northern muslim region than the southern christen region. This disparity was inspired by the desire of the northern elite to have greater claim to the oil revenue literally flowing from the Niger Delta region. More states in the north meant that the north would be eligible for more oil revenue.

Weaponizing power-grab decrees, successive military juntas headed by northern natives consolidated the distributive prerogative of the federal government over oil and gas produced by southern minorities of the Niger Delta. Some of the instruments used to execute this cumulative expropriation are the 1976 constitution which gave the federal government absolute control over mineral rights, the Land Use Act of 1978 and 1993 and the Petroleum Act of 1969.These efforts smacked of expropriation by installments. These decrees had the effect of reducing the region's derivation-based share of oil revenues from 50% to 1.5% in 1984 and increasing it marginally to 3%.The military rulers also created a disparity in the number of states in the northern and southern parts of the country, awarding 17 states to the south and 19 states plus the federal capital territory to the north. This inequality means that northern states get their plurality of fingers on the oil revenues generated in southern states (Onimisi, 2014).

Oil revenue sharing is such a touchy hot button topic in Nigeria that all previous attempts to achieve an agreeable formula through consensus fail (Shehu*et al*., 2017). The country is currently using the ''not less than13%'' derivation formula. This figure is a product ofa negotiated truce between irreconcilable camps. The delegates to a constitutional conference convened in 1995 were divided between8% and 18%.To break the impasse, they settled for an average value of the two figures. This became the operative derivation standard (Ikpatt and Ibanga, 2003).

This region has underwritten the survival of the entire nation, providing the lion's share the GDP and the national budget since 1975 (Dokubo, 2004). Ironically, the area's generous contribution to the liquidity of Nigeria belies its disadvantaged condition. The oil-rich Niger Delta boasts little in the way of development and infrastructure. This situation is made worse by the fact that the region is now considerably a less livable space than it was before the barrel of oil was siphoned out of its perimeters because the cumulative impact of environmental pollution stemming from the activities of oil companies and the poor choices made by state governments in the region.

This seeming injustice is the underlying cause of unrelenting agitation of the oil producing states and communities for a fair share of oil revenues. For a long while, the Nigerian state viewed the apparently justifiable calls from the Niger Delta for the federal government to channel benefits commensurate with its level of contribution to the people of the region as intemperate taunts of people who happened to be born in the land of the buried treasure. Successive governments cracked down on the prominent faces of the crusade, with the intent to quell the discontent and keep the oil flowing. The infamous killing of the Ogoni 9in November 1995 crystalized the federal government's determination to repress the voices of protests drawing the attention of the international community to the marginalization of Niger Delta and the pollution of the water, land and air of the region. Be that as it may, the force tactics only drove the malcontents underground, setting the stage for a subsequent eruption of kidnapping of expatriate workers, sabotage of oil installations and seizure of industry assets for commercial purposes.

Over time, the complaints of the people of the region morphed into a localized epidemic disorder. Local militias proliferated. Disenchanted youths with entrepreneurial instinct and a violent bent recognized business opportunity in their disadvantaged position. They engaged in calibrated vandalism an illegal economy, engaged in oil bunkering and formed gangs ofidle youths into. All of this convulsed the country, causing a drop-off in the volume of crude production and attendant decline in oil revenue.

To defuse the insecurity in the region, the government created Niger Delta Development Commission and the Ministry of Niger Delta Affairs. This is more of tokenism than an affirmative action. It has not resolved the issues at the agitation in the oil producing communities.

The establishment of these bodies has only served to highlight the failure of the state governments to advance development in the Niger Delta. The state governments have done little to justify the humungous allocation they receive from the federal government every month. Rather, the states are known to be hotbeds of corruption, over and above their non-oil producing counterparts that do not enjoy the flow of derivation money.

Border Disputes among State Governments over Oil Wells

Internal border disputes area ubiquitous reality in Nigeria. This is due to the sustenance of the western style of boundary delineation initiated by the colonial administrators. The subsequent serial creation of more administrative units validated the colonial boundary markers and partitioned more spaces. The problem with the creation of states and local governments-mostly out of political expediency-by government officials with little knowledge of the situation on ground is that the boundaries they drew did not match with the pre-existing reality. The lines did not fall neatly within the distinct ancestral, cultural and linguistic peculiarities of the aborigines in the affected places. The disparity between the official boundaries and the living history of the areas is the main cause of land disputes in post-colonial Nigeria.

Case 1: Federal Government versus the Littoral States of Nigeria

Some states in Nigeria are mostly coastal. This makes them littoral and eligible to receive the due derivation percentage of the revenue from offshore oil wells in their maritime boundary up to 200meter isobaths. The littoral status confers on a state the right to 13% of the revenue derived from crude oil within its boundaries every monthly. It is therefore a lucrative position to be maintained (Ukpong and Ikoh, 2014).

In 2002, the Federal Government took its dispute with the eight littoral states of Akwa- Ibom, Bayelsa, Cross-River, Delta, Lagos, Ogun, Ondo and Rivers State over the Southern (or seaward) boundary of each of these States to the Supreme Court. The Federal Government argued that the southern (or seaward) boundary of each of these States was the low-water mark of the land surface of such State or, the seaward limit of inland waters within the State, as the case so requires. The federal government, thus, insisted that natural resources within the continental shelf of Nigeria belong to it and as such could not be deemed as though they were derivable from any state in the country. In effect, the federal government prayed for a determination that the 13% derivation should not be applied to revenue realized from the sale of offshore oil and gas. The littoral states asserted that ‘’not less than’’ 13% of the revenue from the offshore oil were payable to them. The apex court ruled in favour of the federal government (Ebeku, 2003).

The court gave the verdict based on a plethora of international precedents and authorities, although there is no provision for a dichotomy between onshore and offshore oil in the Nigerian constitution.

Case 2: **Akwa Ibom versus Cross River States**

Until the October 2002 judgment of the International Court of Justice (ICJ) which decided that the oil-richBakassi Peninsula belonged to Cameroun and not Nigeria in October 2002, the western part of the oil-rich peninsula was within Bakassi Local Government Area of Cross River State. Bakassi lies at the Cross River estuary, making it necessary for a maritime corridor to be created out of the maritime corridor of the contiguous Akwa Ibom state. The ICJ’s decision on the land and maritime boundary tussle between Nigeria and Cameroun excised the estuary portion of Cross River state, thereby causing it the loss of its seaward boundary (Chukwu 2012).

Excited by the potential ramification of this ruling, Akwa Ibom state requested that the National Boundary Commission (NBC) and the National Planning Commission (NPC) to close the maritime corridor in line with the implication of the judgement. This occasioned the adjustment of boundaries in the states of the Niger Delta on the basis of historical relationships. The changes resulted in the loss and gain of land and maritime portions, including oil wells and fields.

The 76 oil wells, apportioned to Akwa Ibom under the maritime corridor arrangement, were restored to

Cross River state. Eightysix (86) oil wells attributed to Akwa Ibom were reassigned to Rivers sate. 68 oil wells in Rivers state were transferred to Abia State. Oil wells and fields located in Olusasiri were transferred from Rivers to Bayelsa state.

In 2009, Cross River State took its dispute with Akwa Ibom State over the ownership of 76 oil wells situated in the Atlantic Ocean to the Supreme Court. Cross River State made the claim that it was ''entitled to derivation revenue from 76 oil wells within 200 meters water depth Isobath contiguous to its territory as contained in Sections 1 and 2 of the Allocation of the Principle of Derivation Act 2004'' (Ukpong and Ikoh, 2014). The court ruled that the claim of Cross Rivers state lacked merit and ruled that the oil wells belonged to Akwa Ibom state.

Case 3: Enugu, Kogi and Anambra states

In this case, communities in three (3) contiguous states are simultaneously claiming to the Aguleri-Odeke part of Anambra river basin. The dispute stemmed from the announcement by a local oil company in 2001 that it has discovered crude oil in commercial quantity in that location. All the communities within the basin area claimed ownership of the field and the black gold beneath it.Igga community of Enugu state tookAguleri community of Anambra state to court over the basin:the court ruled in favour of Aguleri. In the same vein, Ibajilocal government of Kogi State brought a lawsuit against Enugu-OtuAguleri over the ownership of the same property and lost the case. Recently, the dispute between Aguleri and Odeke community of Anambra and Kogi states escalated, resulting in violent killings, displacement of people and disruption of oil production in the area(Adum, Ekwenchi, Odogwu and Umeh, 2019)**.** The dispute has yet to be resolved on a note of finality.

Case 4: Rivers and Bayelsa

A court recently ruled that the disputed oil wells and fields in Soku belonged to Rivers state not Bayelsa. The dispute emanated from errors in the administrative map of Nigeria. All the editions of the map from the colonial times up to the 10th edition showed that the Santa Barbara River marked the boundary between the Kalabari villages in Rivers state and the adjacent Nembe villages of Bayelsa state. The 11th edition of the map published by the National Boundary Commission and the Office of the Surveyor General of the Federation in 2000 redefined the boundaries between Kalabari and Nembe from west of the Santa Barbara River to San Bartholomew River, a deviation from all antecedent administrative maps and archival materials (Briggs, 2019).

Rivers state government went to court to challenge the shifting of the boundaries which cost it 13% of the revenue being derived from the oil wells and fields. The court ruled it in its favour and ordered that Rivers is the rightful beneficiary of the derivation revenue from the natural resources produced from the area in question. The judgement was celebrated by the plaintiff and denounced by the respondent, leading to exchange of caustic words between the two state governments.

The Causeof the Border Disputesover the Oil Wells

According to Uwakwe (2018), there are 86 interstate boundaries in Nigeria and 48of those boundaries are actively being disputed. Violent clashes between neighboring communities are common. However, the clashes derive from feuds over land which are believed to be precious non-transferable bequests from the forefathers, meant to be passed on to the coming generation for farming and building of residential houses.

The disputes over borders at the level of states tend to spring from the desire of the parties involved to control the natural resources in the contested locality. This is especially true for oil. In Nigeria, oil wells as crown jewels. If oil wells are within the borders of a state, the state automatically begins to receive 13% of the revenue of the crude produced there from.

The status of an oil producing state is vigorously coveted, contested and asserted in among subnational governments in Nigeria(Ettah, Ukwayi and Ingwe, 2014). A state officially recognized as oil producing is entitled to a monthly largesse which accrues only to the states in the exclusive category. The political class who have the purse strings oil revenue is expended at will by the political class. It rarely trickles down to aborigines of the oil producing villages.

The attraction of the oil money at the beck and call of the political leaders presiding over oil producing states raises the stakes for the politics in those states. The fight over the oil wells are a zero-sum game. This makes politics a do or die affair, with the consequence that violence is emblematic of governorship elections in those states.

Conclusion

Oil wells are crown jewels coveted by the federating units in Nigeria. Where the boundaries lie determines which state is recognized as the putative owner of the oil wells therein and the rightful beneficiary of the monthly 13% derivation largesse. Although human beings live in the disputed areas, the tussle over the correct boundary is not motivated by a seeming disadvantage in a state being diminished in number because its population is wrongly attributed to another state. The boundary disputes are materialist. They are about revenue. The fight over potential oil revenue downplays and often ignores the anthropological nuances, as though man was made for oil and oil for man.

REFERENCES

Aigheyisi, I. S. (2018). Oil price volatility and business cycles in Nigeria. *Studies in Business and Economics* 13(2): 31-40.

Adum, A. N., Ekwenchi, O., Odogwu, E., Umeh, K. (2019)**.** Communication and Resource Conflict Resolution: The Case of Aguleri-Kogi Feud Over Ownership of Crude Oil Finds. Journal of Resources Development and Management 56: 51-59.

Babalola, D. () Revenue Allocation in Nigeria. In: The Political Economy of Federalism in Nigeria. Federalism and Internal Conflicts. Palgrave Macmillan, Cham. Pp 79-110.

Briggs, N. (2019). Soku oil wells: our story –Rivers state government. https://www.thenewsnigeria.com.ng/2019/12/16/rivers-vs-bayelsa-facts-of-the-resolved-soku-oil-wells-palaver/

Chukwu, I. (2011). How verdict on 86 oil wells affect Rivers, Akwa Ibom economies. *Business Day*, p.12.

Demaki, G. O. (2013). Fiscal federalism and Development of the Neglected oil Producing Niger Delta Region of Nigeria. International Journal of Engineering Science Invention 2 (7): 2319 – 6734.

Ebegbulem, J.C., Ekpe, D. and Adejumo, T. O. (2013). Oil Exploration and Poverty in the Niger Delta Region of Nigeria: A Critical Analysis. International Journal of Business and Social Science 4 (3): 279-287.

EIA – U.S. Energy Information Administration (2013). Country Brief: Nigeria. U.S. Energy Information Administration. <https://www.eia.gov/beta/international/analysis_includes/countries_long/nigeria/archive/pdf/nigeria_2013.pdf> accessed April 2, 2017.

Ebeku, K.S.A. (2003). Nigerian supreme court and ownership of offshore oil. Natural Resources Forum 27: 291-299.

Ettah, G.I., Ukwayi, J. K., and Ingwe, R. (2014). The contest for oil/resources in a federal system: the onshore-offshore dichotomy case between the Federation of Nigeria versus Abia and the Littoral. Bulletin of the Transilvania University of Braşov Series VII Vol. 7 (56) 205-216

Ikpatt, C; and Ibanga, N. H; (2003) "Nigeria's Mineral Resources: A Case for Resource

Control"at http://www.nigerdeltacongress.com/narticles/nigeria_mineral_resources_a_case.htm.

Khemani, S. (2001). Fiscal federalism and service delivery in Nigeria: the roles of states and local governments. March 2003 Seminar/Fiscal Fed Report prepared for the Nigerian PER Steering Committee. World Bank. http://www1.worldbank.org/publicsector/decentralization/March2003Seminar/FiscalFedReport.pdf

Okotie, Sylvester. (2018). The Nigerian Economy Before the Discovery of Crude Oil. In: The Political Ecology of Oil and Gas Activities in the Nigerian Aquatic Ecosystem. Pp 71-81. 10.1016/B978-0-12-809399-3.00005-7.

Onimisi, T. (2014.) The politics of state creation in Nigeria and the economic viability of the existing 36 States. Int. J. Soc. Sci. Manage. 1: (2): 64-68.

Ross, M.L, Lujala, P., and Rustad, S. A. (2012). Horizontal inequality, decentralizing the distribution of natural revenues and peace. In: High-value natural resources and post- conflict peacebuilding. Routledge.

Shehu, M. I., Bin Othman, M. F., Osman, N. B. (2017). Resource control and allocation in Nigerian federalism: the oil dilemma. International Journal of Management Research & Review 7 (3): 237-251.

Ukpong, E. A. and Ikoh, M. U. (2014). Institutionally Generated Crises and the Challenges of Economic Integration in South-South Nigeria. Journal of Humanities and Social Science 19 (1): 19-27.

Uwakwe, I. S. (2018). An exploratory assessment of interstate boundary disputes in Nigeria. International Journal of African and Asian Studies 46: 21-27.