

# A Retrospective Analysis of Oil-induced Selective Federalism in Niger Delta, Nigeria

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## Abstract

The paper established that oil based federalism has failed the Niger Delta. Oil rents/royalties has induced the Nigerian state to have systematically operated a federal structure that is suffocating the Niger Delta, which manifested in the glaring absence of basic amenities, the unpleasant environmental circumstances for hosting oil facilities, the physical menace from the Joint Task Force (JTF), etc. Youth restiveness became the direct result of perceived and real material deprivations in the recent past. The paper concluded that the peace resulting from the Presidential Amnesty Programme for ex-militants is only but temporal, unless a sense of and real indicators of sustainable federalism such as fiscal federalism, environmental federalism, environmental sustainability, livelihood sustenance, basic material provisions, etc, are introduced in the Niger Delta.

**Keywords:** Niger Delta, Oil, Federalism, Fiscal Federalism, Environmental degradation, etc

*Among the many constitutions proposed by philosophy and put to the test by history, one alone reconciles the demands of justice, order, liberty and stability, without which neither society nor the individual can live...this one constitution is nothing other than the federal system.*

*--Pierre-Joseph Proudhon*

## 1. Introduction

A federal constitution, as Proudhon (2005:173) observed above, presupposed the existence of distinct entities and diversities for federating units. These diversities exhibit characteristic patterns as (a) forces of unity, (b) forces of disunity and (c) a point of compromise between (a) and (b) which form the foundation for any federal system (Dikshit, 1971; Ohwona, 1995). The agreement-disagreement-compromise triple helix<sup>2</sup> (representing the symbiotic relations yoking together federating units) opened to federalism is a medium of meeting the needs and solving problems of a diverse people (Akinola and Adesopo, 2011). Federalism has the efficacy in promoting healthy interactions, sometimes conflictual but eventual compromises that lead to the enjoyment of liberties, opportunities and social amenities (Elazar, 1971; Awa, 1976; Inman and Rubinfeld, 1997).

The liberties and opportunities, in form of basic life sustaining amenities, envisaged from federalism are a far cry in the oil rich Niger Delta, Nigeria. But why is it that a region so rich in oil and gas resources lives in abject poverty, with its attendant environmental and social consequences of hosting the oil and gas industry in Nigeria? Why is the region rather saddled with avoidable conflicts, which sometimes resulted in unpleasant consequences (Watts, 2008ed; Watts, 2010; Aaron and George, 2010eds)? In the midst of such suffocating discomfort to oil communities, the oil in the Niger Delta sustains Nigeria's ego seen displayed within the West African sub-region and in international arenas as the African Union, United Nations, etc, (Mayall, 1976; Ihonvbere, 1982, 1991; Shaw, 1983; Adedipe, 2004; Adeniji, 2005; Ambe-Uwa, et al, 2007; Meierding, 2010). Thus, the whole question of a federal system meeting the wishes and aspirations of the citizens is secondary. Oil dependence dictates the type of political institutions and policy regimes successive governments in Nigeria have offered on the table for the Niger Delta region (Smith, 2008). Such issues in contemporary federal system in Nigeria have propelled this paper in the context of investigating the factors that have ensured that the administration and management of Nigeria's federalism remain contentious, controversial and conflict prone. The rest of the paper is in five parts. Immediately following this introduction is a conceptual clarification on federalism and fiscal federalism. Thereafter, section three identifies and discusses trajectories of selective federalism in Nigeria's Niger Delta. The fourth and fifth sections draw conclusions and recommendations from the paper.

## 2. Conceptual Clarity

### 2.1 Federalism

Federalism remains a widely discussed concept, yet the definitional problematique would not go away. Interestingly, therefore, plethora definitions engulf the academic discourse on federalism (Livingston, 1952; Wheare, 1963; Gamper, 2005; Sagay, 2008). Wheare (1963) in consonance with his self caution that "where

*common usage differs so much, the academic man must be careful not to adopt too rigid a definition” (p.1), gave a simplified definition of the federal principle as “the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent (p.10)...that each government should be limited to its own sphere and, within that sphere, should be independent of the other” (p.14). Kenneth Clinton Wheare’s definition qualified federalism as simply regulatory federalism (Super, 2005), a system where the centre and the component units have mutual independence and acts as co-ordinates. But while stressing the element of independence of the various levels of governments in a federal system as pioneered by most federalist scholars, commensurate stress has never been placed on the interdependent elements in a federal system.*

Scholars have proposed a mutual interdependence perspective on federalism. Renowned American federal scholar, M.J.C. Vile (1961:199) proposed *“a mutually interdependent political relationship; in this system a balance is maintained such that neither level of government becomes dominant to the extent that it can dictate the decisions of the other, but each can influence, bargain with, and persuade the other...where each level is to some degree dependent upon the other, particularly in relation to matters which vitally affect the other level...there is a balance of power between federal and state governments which reflects very well the way in which a federal system is in fact operated” (p.197). He cautioned that if the component units depend on the centre while the centre remaining independent, then it is unitary government instead of federalism. Also, if the component units are independent of the centre while the centre remains dependent on the regions a confederation is in place rather than federalism. Vile concludes that “between these extremes lies the federation—a system of government in which neither level of government is wholly dependent upon the other, nor wholly independent of the other” (p.197).*

In a similar vein, Ranjit Sarkaria (in Elaigwu, 2002:84) posited that *“the classical concept of federation which envisaged two parallel governments of co-ordinate jurisdiction, operating in isolation from each other in watertight compartments, is no where a functional reality now. With the emergence of the Social Welfare State, the traditional theory of federalism completely lost its ground. After the First World War, it became very much a myth even in the old federations... By the middle of the twentieth century, federalism had come to be understood as dynamic process of cooperation and shared action between two or more levels of government, with increasing interdependence and centrist trends”.*

From the discussion so far, the point is made that a federal system exists when power is shared between a central government and components units. As a form of government, it is usually adopted in heterogeneous societies where people of diverse origins unite to form a common government, wherein unity in diversity is preserved (Jinadu, 1979, Proudhon, 2005). Though diversity is expressed in culture, language, religion, and even geography (Dikshit, 1971), they are united for political and economic gains (Riker, 1975). Politically, the constituents give up political autonomy for security reasons (Mill, 2005). Economically, the aim is to achieve a common market (Rodden and Ackerman, 1997) and an optimal provision of public goods (Sharma, 2003). Inman and Rubinfeld (1997) also posited that people desiring federal governments do so for a mix of three reasons: (a) “an efficient allocation of national resources”, (b) ensuring “political participation and a sense of the democratic community” and (c) to “protect basic liberties and freedom”.

From a legal perspective, Appadorai (2004) examined federalism as a system of government where powers of the state are duly allotted to different levels of government by the constitution. Thus, in a federal system, the constitution serves as the source of power and where state functions are categorized into the exclusive (functions performed by the centre, e.g. defense, currency), the concurrent (functions jointly by the centre and component units, e.g. education, health), and the residual lists. Furthermore, all federal states are bound by written and rigid constitutions and a supreme court, which necessitate the fact that matters specifically stated in the exclusive, concurrent and residual lists cannot be altered either by the federal government acting alone and the state government acting alone (Wheare, 1941). One area in the federal principle where the constitution plays a dominant role, especially in ensuring mutual interdependence among the federating units is fiscal federalism, the subject of the next section.

## 2.2 Fiscal Federalism

Fiscal intergovernmental relations or fiscal decentralization, as political economists call it, is awash with numerous contributions from Samuelson (1954), Musgrave (1959), Oates (1972, 1977), Sharma (2005) and Bamgbose (2008). According to Oates (1999) fiscal federalism is concerned with *“understanding which functions and instruments are best centralized and which are best placed in the sphere of decentralized levels of government”.* For Pierre-Henrie (1991:19) *“fiscal federalism, it is all in once, the territorial organization of a country; the principle underlying repartition of powers, competencies, public revenues and expenditures between hierarchical levels of government; and the degree of territorial centralization/decentralization of territorial administration. It is thus a set of precepts underlying the conduct of public actions in more or less decentralized states”.* In furthering the frontiers of the discussion, Sharma (2003) posited that *“a federal approach is...a dynamically balanced approach; one that constantly keeps on adjusting the contrasting forces of*

*centralization and decentralization to create a system that can ensure good governance in accordance with the rapidly changing global and local scenario...the good governance of the present time has to be federally flexible and dynamically decentralized and institutions of fiscal federalism are crucial for achieving such a dynamic equilibrium”.*

Extending the discourse from above, scholars identify fiscal federalism as one major component of mutual interdependence between the centre and regional governments and a crucial determinant of the continued survival of federal states, as an improperly constituted fiscal structure remains a perpetual source of intergovernmental wrangles in federal states (Oworawo, 2012). The likely skirmishes would emanate from the inability of various levels of government to meet their respective political and constitutional responsibilities. Though the constitution remains the power source in a federal state, Olaloku (1979:109) pinpoint the “nature of the functions and revenue sources of the three levels of government” as one among three reasons for revenue transfers from a central level to a lower level of government. He further stated that where “...an imbalance...develop between revenues and responsibilities. It then becomes the duty of the higher level of government to make good such an imbalance by making transfers of financial resources”.

Achieving financial transfers from the centre to component levels of government compelled federalist to introduce specific principles in guiding revenue sharing. Among the several principles that readily come to mind include derivation, need, national interest, efficiency, fiscal equalization, diversity, etc (Ariyo, 2003; Kalu, 2011). These guiding principles notwithstanding, fiscal autonomy is crucial in achieving coordinate relations between the centre and the regional governments for “*financial subordination makes an end of federalism*” (Wheare, 1941:17).

Government role in the provision of public goods<sup>3</sup> as a means of ensuring the welfare of the citizens is the basis of fiscal federalism. Government remains the sole custodian of public interest and the provision of public goods is her most sacred of all duties in a democracy. The bed-rock of any true federal system is the typology of fiscal federalism practiced by the federating units. However, it remains to be seen to what extent the guiding principles of fiscal federalism as outlined above are carefully followed in Nigeria’s practice of federalism.

### **3. Trajectories of Selective Federalism in Nigeria’s Niger Delta**

The basis of the Niger Delta question has been “*that a region which accounts for 90% of Nigeria's revenue be developed; that the means of livelihood of its inhabitants have been greatly hampered by the exploration activities that feed the rest of the nation. The question is about a fair deal for some very endangered Nigerians in Nigeria*” (Hosiah Emmanuel in Ibodje, 2008). However, the failure of successive governments in Nigeria to address to the Niger Delta question compelled the restiveness experienced in the Niger Delta in the recent past. Presently, an unusual kind of peace, the typology Zalik (2004) qualifies as “the peace of the graveyard” currently envelopes the creeks of the Niger Delta. The temporal peace is assumed to be prevailing for two reasons, the Presidency of Goodluck Ebele Jonathan, a Niger Delta indigene, as Nigeria’s president and the Presidential Amnesty granted to the former militants. However, the prevailing peace is unsustainable as the circumstances and conditions that compelled the erstwhile restive environment in the Niger Delta still stare the inhabitants in the face. What is that is so difficult on the part of the Nigerian government to holistically address the Niger Delta question? Is it attributable to ethnicity politics? An unholy desire for oil rents? Is it a weapon to subjugate Niger Delta ethnic minorities? Such questions have propelled this paper in the context of investigating the factors that have ensured the development paralysis in the Niger Delta.

#### **3.1 Fiscal Federalism in Nigeria**

One issue that has come to crowd-out the modus-operandi of good governance and true federalism shortly after political independence is the politically influenced intergovernmental fiscal relations in Nigeria (Adedotun, 1991; Ikein and Briggs-Anigboh, 1998; Odubajo, 2011; Anyadike, 2013). It may be recalled that derivation principle was the rule of the day when Nigeria’s major ethnic groups dominated the economic spheres of Nigeria and thus felt economically self reliant to attempt secession at different times of Nigeria’s political history (Ayaode, 1973). In this respect, legislators of Northern extraction in one of their 8-point demands for continued loyalty to Nigeria in the 1950s request “*that all revenue shall be levied and collected by the regional government except customs revenue at the port of discharge by the central agency and paid to its treasury. The administration of the customs shall be so organized as to assure that goods consigned to the Region are separately cleared and charged to duty*” (Akinola and Adesopo, 2011:253). According to Ayoade (1973:72) between 1953-1957 when the “*world price of cocoa was very high the Western Region perceived itself rich enough to finance itself as a sovereign state. It argued that it was contributing more to running the federation than it ever gained from it...we think, very natural that those who have up to now, at great losses to themselves, been making by far the largest financial contributions to the development of Nigeria as a whole...and who are spited and insulted into the bargain, should insist on standing on their own rights, at least for a change...This economic interpretation also at least partially explains the Eastern threats of secession from 1964*”. It was no wonder, monies realized from

crops or minerals were utilized by the respective regions to embark on well meaning projects/edifices that are of much envy up to this day. For example, the use of the proceeds by the various ethnic groups to build universities for themselves: Ahmadu Bello University, Zaria (Northern region), Obafemi Awolowo University, Ile Ife (Western region), and the University of Nigeria, Nsukka (Eastern region).

Sadly, the discovery of oil and the subsequent dominance of oil as the mainstay of the Nigerian economy met a change in Nigeria's fiscal federalism. A centralized fiscal system was introduced so much to the detriment of the Niger Delta, which Melford Okilo (erstwhile governor of old Rivers State, Nigeria) argued that "*derivation as a principle of revenue allocation has continued to be deliberately suppressed since crude oil became the mainstay of the country's wealth simply because the main contributors of the oil wealth are the minorities*" (Akinola and Adesopo, 2011). Chief Obafemi Awolowo also argued that "*where the opponents of the principle of derivation believe that they have the advantage of numbers, they insist on all the revenues being collected into a common pool and then shared out on the basis of population, where this advantage is absent, they still insist on a common purse from which allocation to all concerned should be made on the basis of equality*" (see Ikein, 2008:87). Thus, revenue allocation based on derivation was abandoned for a number of conditions that discouraged hard work, such as equality per state, population, social development, land mass, and revenue generation. Therefore instead of revenue generation, revenue sharing became the order of the day with the consequences of such practices (the decay in the political, social and economic spheres in the country) still staring Nigerians in their faces (Ojo, 2010).

Furthermore, the prevalence of one sector over another is made worse by a revenue sharing arrangement that allocates majority of the revenue to a non-producing centre at the detriment of producing areas (Uche and Uche, 2004). The practice of a true fiscal federalism with respect to the oil revenue sharing formula in the country is a landmark case of the Nigerian state's ineptitude to the developmental aspirations of the Niger Delta region. Oil revenue allocation has been the subject of much contention before and after Nigeria's independence. Revenue allocations have varied from as much as 50%, arising from the fair regional autonomy in the first republic to an abysmal 10%, made worse by successive military juntas (see table below).

**Table 3.1 Oil Revenue Sharing Formula (1958-2001)**

Year	Federal	State	Local	Special Projects	Derivation Formula <sup>4</sup>
1958	40%	60%	0%	0%	50%
1968	80%	20%	0%	0%	10%
1977	75%	22%	3%	0%	10%
1982	55%	32.5%	10%	2.5%	10%
1989	50%	24%	15%	11%	10%
1995	48.5%	24%	20%	7.5%	13%
2001	48.5%	24%	20%	7.5%	13%

**Source:** Revenue Mobilization and Fiscal Commission, 2002

What is abnormal with this oil revenue sharing formula is that while the unproductive consuming centre (i.e. the Federal Government at Abuja) enjoys the highest percentage share of the oil revenue, only 13% is left for the development of the oil bearing areas. However, the hypocrisy of the Nigerian government was revealed when the Igbetti Marble Revenue Sharing Formula (see table below) is examined vis-à-vis the oil revenue sharing formula above.

**Table 3.2 Igbetti Marble Revenue Sharing Formula**

S/N	Stakeholders	Proportion of Distribution
1	Host Community	10%
2	Local Govt. Council	10%
3	Exploring Company	25%
4	Federal Government	20%
5	State Government	30%
Total		100%

**Source:** ERA/FoEN, 2000

The Igbetti Marble formula came into existence when marble was discovered in Igbetti town in Ondo State in 1979, and the then governor of the state, late Chief Michael Ajasin proposed the above formula, which was accepted by the Federal Government. The formula as reproduced above was exactly how the proceeds from the marble were distributed in a pre-determined proportion among the various stakeholders. The formula at least went down well with all the stakeholders. Therefore, one wonders why the Federal Government that adopted this formula for the Igbetti Marble mining turned around and unilaterally appropriates the resources from oil and gas producing communities of the Niger Delta. If this formula, consistent with fiscal federalism, were extended to the oil and gas industry, restiveness in the Niger Delta would not have lingered from 1970 till date. Instead, a

government policy which placed premium on revenue sharing has rendered non-oil bearing states in Nigeria unproductive (Ibeanu, 2008). As a panacea, derivation remains “*the only revenue oriented principle of revenue allocation, unlike other principles such as population and equality of state, which are expenditure oriented. As revenue oriented criterion, it serves as a major factor for the promotion of the most desired “national interest” of the country. It creates satisfaction for the producer of the revenue by compensating him for his efforts, sufferings, deprivations and ecological damages associated with the generation of the revenue such as in the oil industry*” (Okilo in Uche and Uche, 2004). The enormity of the unproductive Nigerian non-oil states became evident in April, 2005 when the various component states returned nothing to the federation account except the Niger Delta region (see table below).

**Table 3.3 Contributions of Zones (States) to Federation Accounts, April, 2005**

S/N	Zones	% Contribution of States to Mineral Revenue	Total
<b>1</b>	<b>North-East</b>	<b>0.00</b>	
	Adamawa	0.00	
	Borno	0.00	
	Gombe	0.00	
	Jigawa	0.00	
	Taraba	0.00	
	Yobe	0.00	<b>0.00%</b>
<b>2</b>	<b>North-West</b>		
	Kaduna	0.00	
	Kano	0.00	
	Katsina	0.00	
	Kebbi	0.00	
	Zamfara	0.00	
	Sokoto	0.00	<b>0.00%</b>
<b>3.</b>	<b>North-Central</b>		
	Benue	0.00	
	FCT-Abuja	0.00	
	Kogi	0.00	
	Kwara	0.00	
	Nassarawa	0.00	
	Niger	0.00	
Plateau	0.00	<b>0.00%</b>	
<b>4.</b>	<b>South-East</b>		
	Abia	1.31	
	Anambra	0.00	
	Ebonyi	0.00	
	Enugu	0.00	
	Imo	1.44	<b>2.75%</b>
<b>5.</b>	<b>South-West</b>		
	Ekiti	0.00	
	Lagos	0.00	
	Ogun	0.00	
	Ondo	3.97	
	Osun	0.00	
	Oyo	0.00	<b>3.97%</b>
<b>6.</b>	<b>South-South</b>		
	Akwa Ibom	16.93	
	Bayelsa	23.42	
	Cross River	1.53	
	Delta	20.1	
	Edo	0.084	
Rivers	29.58	<b>91.64%</b>	

Source: Tamuno, 2011, p.182

### 3.2 Oil and Environmental Degradation in the Niger Delta

Loss in the productivity of arable land and fishing grounds emanating from oil exploration activities are major

concerns for oil bearing communities (Onduku, 2004; Ibeanu, 2008; Opukiri and Ibaba, 2008). Oil communities are fence-line neighbours to gas flaring sites vis-à-vis the oil spills that are common scenes to behold. It is reported that “(i) about 300 spills occur annually in the Niger Delta, (ii) less than 50% of these spills are cleaned up, and (iii) less than 25% of affected environment is remediated” (Emmanuel in Statoi, 2006:22). More so a human dimension, in form of environmental refugees, to environmental degradation fundamentally unsettles communities dependent on land and rivers for their sustenance (Opukiri and Ibaba, 2008). It is not dearth in relevant environmental guidelines and policies; instead implementation weaknesses, lapses or failure from relevant federal environmental agencies in Nigeria such as the Department of Petroleum Resources (DPR) and National Environmental Standards and Regulations Enforcement Agency (NESREA) to checkmate such heinous pollutions is the cause for concern. The Niger Delta region stands the risk of un-sustainability in such a callous state of reckless environmental indifference from concerned authorities; a scenario the “**Earth Magna Charta**” requests “*every individual and institution now think and act as a responsible trustee of Earth, seeking choices in ecology, economics and ethics that will provide a sustainable future, eliminate pollution, poverty and violence, awaken the wonder of life and foster peaceful progress in the human adventure*” (McConnell, n.d). The indigenes of the Niger Delta region are aware of the poor state of their environment (see table 3.4), but indigene/NGO awareness and the sundry environmental guidelines are not enough safeguards to stem-out the huge environmental degradation that is being perpetrated on a daily basis by oil Transnational Corporations (TNCs). Instead the militarization of the region by the Nigerian state is identified as the modus operandi to ensure an uninterrupted spoliation of the Niger Delta environment secure oil rents/royalties.

**Table 3.4 Community Awareness of Environmental Problems in the Niger Delta**

S/N	Environmental Problems Identified	Perceived Effects of Environmental Problems
1	Oil spillage	(a) loss of soil fertility (b) pollution of fishing waters, leading to loss of fish population and other aquatic organisms (c) pollution of drinking water affect health of the people (d) associated with social strife (e) Negative effect on mangrove ecosystem.
2	Land acquisition	(a) reduction of arable land (b) deforestation and land degradation (c) floods due to blockage of natural water courses as a result of construction of access roads and other facilities.
3	Gas flaring	(a) air pollution (b) loss of safe habitat (c) land becoming arid in near areas of gas flares (d) reduction of animal population in areas near gas flares (e) extinction of natural herbs and other non-timber forest products in areas near gas flares
4	Environmental Impact Assessment Studies	Communities are generally ignorant about EIA activities. They seem not to be aware of public forum for the discussion of the EIA report.
5	Other environment-related problems and general problems of the oil industry (such as poor compensation, rural-urban migration, increasing city population, etc.	(a) pressure on existing resources (b) high cost of living (c) reduction of rural population (d) social vices and crime (e) corroding roofing sheets of buildings (f) population pressure on the ‘oil city’

Source: Orubu, et al, 2004, p.211

The next section dwells on the role of the military/security agencies in ensuring a safe haven for business-as-usual in the Niger Delta.

### 3.3 The Military and the Niger Delta

In the 1970s, soldiers were rarely seen in rural communities in the Niger Delta region, except for retirees that return home after a meritorious service to their fatherland. The military as an institution was then held in awe and respect. However, all of such has totally waned due to political and extra-legal purposes for which they are deployed to undertake in contemporary Nigeria. One such extra-legal military purpose for which the military is deployed is the enormous presence of the Joint Task Force (JTF), hurriedly put in place by the then Obasanjo regime to protect oil formations and petro-business in the Niger Delta region which for intent and purposes has

been detrimental to oil bearing communities. According to Ibeanu (2001, 2008) state avidity for oil rents/royalties is the *raison d'être* for the massive military presence in the Niger Delta region. Thus, scholars, civil society groups and NGOs have raised the concern that the avid interest in natural resources like oil by governments make oil states to exhibit predatory behaviour such as increased budgetary allocation to the defense sector (see appendix A), lack of long-term investment in education, and provision of health infrastructure for the citizenry, etc (Robinson 2001, Bergesen, et al 2000, Onduku, 2004, Schollaert and Van de gaer, 2009; Karl, 1997; Karl and Gary n.d; Ross, 2012). In 2003 aspersions were made against the Obasanjo government for making huge budgetary allocation for security when Nigeria was not in any threat environment except the militant activities in the Niger Delta. In what followed the militarization of the Niger Delta, interpreted as ensuring national security by the Nigerian government, is often interpreted as Nigerian state desire to ensure an uninterrupted flow of oil proceeds. To this extent, a polarised conception of security exists between the Nigerian state and the oil bearing communities of the Niger Delta (Ibeanu, 2002/2003; 2008:215). To oil communities' security is environmental sustenance, absence of deprivation, an equitable distribution of resources, etc. Whereas for oil states, like Nigeria, succumbing to such demands connotes docility, weakness and it is uncharacteristic. Not surprisingly oil states seldom embark on negotiations instead they are known for their use of lethal force. But the military option had never returned the expected gains which compelled the federal government to offer presidential amnesty package<sup>5</sup> to the militants for disarmament (Akinola and Adesopo, 2011). Does the amnesty package have all it takes to ensure sustainable peace in the oil rich region? The presidential amnesty for militant youths of the Niger Delta had indeed progressed in favour of the Nigerian government. Nigeria's oil production had massively increased following the amnesty deal (Sayne, 2013; [www.indexmundi.com](http://www.indexmundi.com)) but there still exists an unprecedented presence of the JTF in all oil platforms in the region which signify a suspicion that all is still not well. The prevailing peace in the region is not sustainable as the environmental and livelihood circumstances that precipitated the erstwhile militant environment still stir the inhabitants in their faces (Adeyemo and Olu-Adeyemi, 2010; Aghedo, 2012).

#### 3.4 Oil and the Rule of Law in the Niger Delta

It is expected that an ensuing democratic environment enthrone the dividends of a democratic space that translates into civil, economic and political rights (see Article 25, UDHR, 1948:9). But to what extent are such expectations not fulfilled in Third World countries? Development scholars decipher sundry elements such as religion (Huntington, 1993), colonial legacies (Baro, 1999), ethnicity, human rights abuses (Jungk in Clapham and Jerbi, 2008) as being responsible. Which of these is responsible for Nigeria's present comatose state of affairs? It will be recalled that Nigeria's recent march towards democratic dispensation is over ten years now yet expectations are still earnestly made of the democratic space impacting on the wellbeing of the average Nigerian. The enormous wealth Nigeria's current democratic government received from petroleum is ordinarily expected to impact positively on her citizens but oil windfalls are never translated into ensuring economic development in the country. The plight of the oil rich Niger Delta, in such circumstances, is frightened with gross inequities that manifest in form of income inequality (Baro 1999), unemployment, social dislocations and environmental degradation (Watts, 2008), as shown in the following sub-sections:

##### 3.4.1 Employment

Government regulations on employment of indigenes in the oil and gas sector are crystal clear. It is 100% for the lower rank, while 75% goes for the middle level workers. Sadly, these regulations are never honoured by oil TNCs. The employment roll-call of most companies is never encouraging at all (table below 3.6). Shell and Nigeria state owned NNPC could not publish the share of Nigerians in their employment. Curiously, one would pause to inquire into the employment behaviour of oil TNCs in Nigeria.

**Table 3.5 Employment Record of oil TNCs in Nigeria**

Company	Employees	Share of Nigerians
Chevron	2,000	90%
Mobil	1,900	96%
NNPC	16,000	Not reported
Shell	10,000	Not reported
Statoil	43	95%
Petronas	30	Not reported

Source: Amadi, et al, 2006, p.12

In this respect, a number of reasons have been adduced for the employment structure in the oil industry. For example, while identifying ethnicity politics as the motive of the employment colouration of a number of oil companies in Nigeria, Darah (2003) argued that "*the bureaucratic and administrative middle levels reserved for Nigerians are occupied by people from the three favoured ethno-national regions of the North, the East, and the West. For example, Shell is a vineyard of the power blocs of the Hausa-Fulani, Yoruba West and non-oil producing sections of Igbo-speaking Eastern states. Chevron is a virtual colony of the Yoruba, so much so that*

*Yoruba language is the lingua-franca in the Escravos terminal of the company. Of course the job recruitment and award of juicy contracts are done in Lagos and Abuja". Amadi, et al (2006) identified deliberate falsification of work permits as a practice common among oil TNCs in cornering jobs for expatriate staff for job positions that are ordinarily meant for Nigerians. He stated that "the big oil companies cheat when it comes to allocation of jobs to Nigerian nationals. Several spoke about the quota rules for ex-pats vs. Nigerian nationals on different levels of seniority, and how these rules are broken, when international oil companies bring in foreign workers to do Nigerian quota jobs where qualified Nigerian nationals are available. The trade union representatives said the most common way of doing this was through making false qualification statements in the work permit applications, so that they could bring in, say a drilling technician on an engineer quota".*

What is missing in Nigeria's brand of federalism is simply justice, especially justice as fairness (equitable sharing of advantages and disadvantages arising from oil exploration), justice as equitable distribution (equitably distributing oil proceeds), and justice as human dignity (issues of minimum rights for a dignified living) (Sachs, 2003). In a nutshell, the totality of the Niger Delta question and protests emanating thereof may be likened to what Ukah (2013: 132) described in the following interrogative dynamics:

*What is the right to life without the right to eat? What is the right to breathe without the right to clean air? What is the right to rest without a quiet atmosphere? What is the right to good health without good Medicare? What is the right to development without good education? What is the right to patriotism without the right to participation? What is the right to security without the protection of the law? In a word, what is the freedom without substantive liberty? And specifically what is the right to peace without the right to Justice?*

#### 3.4.2 Infrastructure

The Niger Delta environment is a peculiar one. It is a region of difficulty bedeviled with first nature geographical challenges arising from its remoteness and challenging topography that makes communities segmented and development worrisome (Udo, 1970), with a range of second nature geographic challenges relating to infrastructural development, service delivery, etc (Naude, 2007; Higgins, 2009). Though, these striking geographic concerns are acknowledged, the abysmal developmental and infrastructural lag in the Niger Delta is too worrisome to behold after over fifty years of oil exploration in the region.

Successive Nigerian governments have had cause to set-up government ministries (e.g. the Ministry of Niger Delta Affairs) and development agencies (the Oil Mineral Producing Areas Development Commission, OMPADEC and the Niger Delta Development Commission, NDDC) to oversee the infrastructural development of the Niger Delta yet, the government that set up these development agencies exhibit glaring inconsistencies. For example, government monetary releases to the development agencies reveal a lot (see table 3.6).

**Table 3.6 Federal Government Releases to NDDC 2001-2009 (#'000,000)**

Year	Budget Allocation #	Releases #	Releases % Budget	Releases % Federal Govt. Rev.
2001	10,000	7,500	75%	1.40%
2002	12,650	11,385	90%	1.85%
2003	10,064	10,064	100%	1.40%
2004	14,000	7,000	50%	1.33%
2005	60,150	17,357	29%	1.20%
2006	96,250	26,130	26%	1.13%
2007	26,565	24,000	19%	1.10%
2008	79,200	19,050	25%	1.30%
2009	27,120	27,120	100%	1.50%
Total	426,000	156,484	36%	-

**Source: Revenue Mobilization and Fiscal Commission, Abuja, February 9, 2009**

Investigations reveal that the stifling financial constraints on the development agencies had rendered them impotent. The resultant effect is that communities in the Niger Delta live in perpetual abject poverty, want and despair.

#### 4. Violence against Basic Rights

Issues of basic rights in oil-bearing communities in the Niger Delta amount to four basic complementary duties/responses from oil TNCs: respect for communities, protect the environment, promote human rights and fulfill signed Memorandum of Understandings; functions oil TNCs have so far not fared well (Aaron, 2012). Issues of basic rights in the Niger Delta simply amount to demands for basic life sustaining amenities from the Nigerian state and oil TNCs, which among others include - basic education, healthcare centres, employment, etc. In a true federalism, such demands are guaranteed and non-negotiable (Sagay, 2003, 2011). However, in Nigeria



such demands are not guaranteed in oil communities and even where they are provided it is far in between and always achieved through protest. A clean environment is a guaranteed right (Boyle, 2012). The Niger Delta environment is not only severely threatened (UNEP, 2011) but a recurrent issue area of protest from oil communities. State owned regulatory institutions such as DPR, NESREA, the NNPC and the Ministry of Petroleum Resources, etc, are either structurally weak or so compromised that they look away when diverse abuses are perpetrated (Schubert, 2006) thereby serving “global capital expressed in petro-business” (Ibeanu, 2001:13).

## 5. Conclusion

The adverse influences of oil are copious in all the failures identified above as manifestations of selective federalism in Nigeria. Oil based federalism in Nigeria has, indeed, failed the Niger Delta region. Also, the oil motivated granting of presidential amnesty to ex-militants has, though, recorded increased oil production which favoured the Nigeria government; the resulting peace from the amnesty package is yet to fully impact on the indigenes of the Niger Delta (Adeyemo and Olu-Adeyemi, 2010). Therefore, to many indigenes the exercise is a ruse or as they wonder, what explains the illegal refineries that currently litter the creeks of the Niger Delta? The issues that compelled restiveness in the first instance are still commonplace: lack of employment, environmental degradation, threatened livelihood sources, glaring absence of basic amenities, desecration of cultural values/land, social dislocation, etc. As long as the real and perceived injustices to the Niger Delta continue, peace will ever remain unsustainable (Ibeanu, 2008; Sagay, n.d). Sustainable peace in the Niger Delta depends largely on the practice of true federalism, but, where such expectations remain illusive, Nigeria’s federalism will become obsolete “because it would prove unable to cope with...outstanding problems...to satisfy living demands” (Laski, 2005).

## 6. Recommendations

- a. A true federalism centred on a fiscal federalism where derivation is its corner stone be made medium for promoting the Nigeria project forward,
- b. As a basic requirement of economic democracy (Sodaro, et al, 2001), the Nigerian government should provide the dividends of democracy, especially job creation,
- c. The political leadership of the Niger Delta states must enthrone political and economic accountability to the region that has received so much revenue from the federation account, while negotiating for a higher revenue allocation formula or the ultimate: resource control, and,
- d. Oil TNCs should collaborate with oil communities in securing oil installations, as employing those who you think are guilty of misconduct is a sure way of preventing the misconduct.

## Notes

1. The phrase false/selective federalism as used in the paper represent state conducts that run contrary to a true federalism, which promotes accelerated economic development, unifies and binds people together, triggers intellectual dialogue and provokes a healthy rivalry in revenue generation. See Chijioke, et al, 2012,
2. The concept of Triple Helix, see Etzkowitz and Leydesdorff (1997) and Etzkowitz (2002)
3. A good that is both nonrivalrous and non-excludable in consumption. See UNIDO, 2008:7
4. The derivation formula refers to the % of the revenue oil producing states retain from taxes on oil and other natural resources produced in the state,
5. The Presidential Amnesty was proclaimed on June 25, 2009 for a period of sixty days.

**Acknowledgements:** The author wishes to acknowledge the immense criticisms and contributions of anonymous reviewers on earlier versions of this paper.

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**Appendix A**  
**Trends in Defence Expenditure in Nigeria, 1986-2004**

Year	Nominal Defense Exp. N' million	Exp. Per capita N' million	Inflation Rate (%)	Real Defense Exp. N' million	Growth Rate (%)	Nigeria's Pop.	GDP N' million
1986	825.700	10.87	5.40	152.780	-	75.996	70,806.40
1987	2,155.000	27.52	10.20	211.270	160.990	78.315	71,194.90
1988	1,720.100	21.28	56.00	44.910	(20.180)	80.839	77,733.20
1989	2,219.300	25.12	50.50	54.260	29.020	88.350	83,179.00
1990	2,285.200	26.54	7.50	304.690	2.970	86.115	92,238.50
1991	2,711.700	30.47	12.90	208.590	18.660	88.992	94,235.30
1992	2,677.100	29.24	44.50	60.160	(1.280)	91.570	97,019.90
1993	6,381.600	67.75	57.30	111.570	138.380	94.189	99,604.20
1994	6,607.700	68.20	57.00	115.920	3.540	96.883	100,936.70
1995	9,360.400	93.93	73.10	130.010	41.660	99.653	103,078.60
1996	15,686.200	152.84	29.10	535.370	67.580	102.633	106,600.60
1997	18,285.900	172.99	8.50	2,151.280	16.570	105.702	109,972.50
1998	25,161.900	231.14	10.00	2,516.190	37.600	108.862	113,509.00
1999	24,566.900	219.12	6.60	3,722.260	(2.360)	112.117	116,655.50
2000	37,490.400	328.83	6.90	5,433.390	52.610	115.772	121,207.80
2001	63,471.700	534.40	18.90	3,358.290	69.300	118.772	126,323.80
2002	108,147.600	885.23	885.23	6,888.380	70.390	122.169	131,789.80
2003	61,723.300	491.18	491.18	5,462.240	(42.390)	125.663	136,460.00
2004	85,047.400	657.97	657.97	4,383.890	37.790	129.257	145,380.00
Mean	25,080.27	214.19	130.99	12,994.96	35.81		

Source: Olowononi, and Aiyedogbon, 2008

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