

## **FISCAL FEDERALISM, RESOURCE CONTROL, AND RESTRUCTURING IN NIGERIA: THE CONTENDING ISSUES**

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**ABSTRACT:** *The dynamism and complexity of Nigeria's fiscal federalism have occupied the front burner of academic and political discourse since the return to democratic rule. The discussion on Nigeria's fiscal practice became necessary because it has created several crises threatening the continued existence and continuity of the Nigerian state. The desertion of true federalism in Nigeria has led to the neglect and marginalization of the Niger Delta region of Nigeria, where the country generates the bulk of its wealth through oil and gas exploration and exploitation. The Niger Delta region oil-producing states have been very vocal in their agitations for a fair share of the country's wealth by the restructuring of the parameters for sharing and allocating the wealth of the nation located within their region. The agitations for resource control, it is believed, would make more resources available to the various states to ensure economic and social development. The protests have arisen for the reason that a more substantial portion of the nation's wealth goes to the federal government at the detriment of the oil-producing states. The Nigerian federal government is yet to make any significant attempt to alter the status quo. No constitutional amendment is has been made to ensure the practice of true fiscal federalism in the country. This paper examined the debate and concept of fiscal federalism. It explores revenue allocation formula in Nigeria and the statutory role of revenue mobilization allocation and fiscal commission, the quest for resource control and Nigeria's federalism, dimensions of resource control agitations by the Niger Delta region, and causes of the Niger Delta crisis. The paper concludes with some profound recommendations on the way forward.*

**KEYWORDS:** fiscal federalism, revenue allocation formula, resource control, restructuring, Niger Delta region, Nigeria

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## **INTRODUCTION**

For several years, the debate on Nigeria's fiscal federalism has been the focus of public discourse. The importance of the issue has brought Southern Nigeria (South-South, South-East, and now South-West), for the first, together to fight for a common interest. The central theme at the 1957 Constitutional Conference in London and the 1958 Conference that culminated in the enactment of the 1960 Independence and 1963 Republican Constitutions was the practice of federalism and resource control. Both the 1960 Independence Constitution and the 1963 Republican Constitutions provided for some fundamental principles of fiscal federalism and

resource control given the level of derivation percentage accruable to region. Both constitutions were either suspended or repealed by the ruling military regimes, in the course of the nation's political evolution, and the country tilted towards what looks like a unitary system but a robust Federal Government. With the return of democratic governance and the contending developmental problems that the Niger Delta region had successively experienced, there has been a spontaneous call for the institutionalization of resource control and true federalism.<sup>1</sup>

Nigeria has been grappling with problems ranging from ethnic conflicts, provision of necessary infrastructures, and management of natural resources, accepting federalism in principle but practicing fiscal centralism in actuality and refusing states adequate political room to feel free since it obtained independence from Britain in 1960. These matters led to the calls for a fundamental restructuring of Nigeria and the restoration of true federal principles to curtail the disagreements and of current, the campaign for resource control by eight littoral states of the country and the whole Niger Delta Region.<sup>2</sup>

The core problem in Nigeria's fiscal federalism practice is that oil and gas accounts for more than eighty percent of the country's total revenue used for the country's developmental programs, nevertheless, the oil-producing communities are the least developed area of the country. Lamentably, the exploration and exploitation of the products are causing the systematic destruction of the ecosystem in the oil-producing region ensuing in environmental degradation, pollution, and attendant unemployment and mass poverty. The lack of sensitivity of the multinational oil companies to contribute to the social and economic development of their host communities is another issue of agitation for the oil-bearing host communities who are now seeking redress, restitution, and reparation. Therefore the need to further investigate and proffer solutions to the lingering fiscal federalism issues in the country. Nigerian federalism is alleged to be bastardized and afflicted with Dutch disease.<sup>3</sup> The country is also suspected to be practicing fiscal centralism, especially on the revenue side of the fiscal equation<sup>4</sup>, and the practice is giving rise to determined agitations for resource control by oil-bearing communities in the country.<sup>5</sup>

Abnormalities in Nigeria's federal system, such as the colonial factor, military rule, structural imbalance, over-centralization of power in the central government, among others, have overtime perpetuated various thorny issues and challenges within the Nigerian federation. The contending issues in the Nigerian federalism include but are not limited to resource control, revenue allocation, state creation, federal character question, and leadership crisis. From the pre-colonial to the post-independence era and up to the present democratic dispensation, resource control has remained the most contentious issue among the tiers of government. Of

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<sup>1</sup>Ngozi, N. and Adewale, K.K. 'Fiscal Federalism and Resource Control in Nigeria' [2015] (6)(4) *Journal of Economics and Finance*, 21-26:21.

<sup>2</sup>Adesopo, A.A. and Asaju, A.S. 'Natural Resource Distribution, Agitation for Resource Control Right and the Practice of Federalism in Nigeria' [2004] (15)(4) *J. Hum. Ecol.*, 277-289.

<sup>3</sup>Nenyiaba, C.I. 'Fiscal Federalism and Issues of Resource Control in Nigeria' [2013] (4)(3) *International Journal of Economic Development Research and Investment*, 42-59; Kirk-Greene, A.H.M. 'The Peoples of Nigeria: The Cultural Background to the Crisis' [1967] *African Affairs*, 4; See Nwoba, M.O.E. and Udoikah, J.M. 'Community Development and Corporate Social Responsibility in Ebonyi State: An Investigative Study of Selected Mining Firms and Communities' [2016] (10)(2) *Journal of Policy and Development Studies*, 54-62.

<sup>4</sup>Ayodele, J. 'Fiscal Federalism: The Nigerian Experience' Ad-Hoc Expert Group Meeting, 7th - 9th October, 2003, UNCC, Addis Ababa.

<sup>5</sup>Nenyiaba, supra note 3.

note, like most federal systems, Nigeria operates a system in which the federal government harnesses the natural resources and shares revenue with the states and local government, a practice which is a departure from an ideal federal constitution in which, the regions or states are the federating units and control resources located in their territories. The implication of this is a pointer to the fact that fiscal federalism in Nigeria has not been able to contribute optimally to the socio-economic development of the states<sup>6</sup> thus, the calls for resource control and restructuring of the Nigerian federation to reflect the ideals of true federalism.

## THE CONCEPT OF FISCAL FEDERALISM

Fiscal federalism is all about the management of the resources within a federation, sharing, and distributing of these resources, according to the approved formula, among the various levels of government. Fiscal federalism amounts to the control and management of resources within the territory of the federating unit.<sup>7</sup> Federalism is a political system in which several states defer some powers to a central government while retaining a limited measure of self-government. A federal body gives rise to fiscal federalism, a concept that is often used to describe the fiscal relationship between tiers of government and the public finance practice in a federal system of government. It is viewed as the subfield of public economics concerned with the division of policy responsibilities among different levels of government. As a subfield of federalism, fiscal federalism is a specific form of public finance organization involving the co-existence of varying degrees of fiscal powers.<sup>8</sup> Fiscal federalism refers to the fiscal operations of a federation whereby each tier of government (federal, state and local), operate separately, distinct from a unitary government whereby the central government is all-powerful and only delegate duties to the lower tiers.<sup>9</sup>

In other words, fiscal federalism is a mechanism or process of the sharing of resources among the federating units to enable them to fulfill their constitutional obligations. It is a concept used to explain a system of government wherein the fiscal responsibilities rests with the various tiers of government in the country.<sup>10</sup> Apart from the United States, Russia and Canada, countries that are known as federalist include Australia, Brazil, Germany, India, Malaysia, Mexico, Nigeria, and several others. On the other hand, Switzerland, Cameroon, France, Italy, Japan, Kenya, Morocco, South Korea, Sweden, and Uruguay are models of unitary systems. Furthermore, confederation is a group of loosely confederated States or a group of States that became a political entity wherein they retain their independence but function together for purposes, for example, defense - examples are African Union (AU) and European Union (EU)<sup>11</sup>

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<sup>6</sup>Monday, D. and Samuel, A.A. 'The Politics of Resource Control in Nigeria: Agitation and Innovation' [2016] (7)(7) *International Journal of Politics and Good Governance*, 1-13.

<sup>7</sup>Robert, I.E.O., *Resource Control: Legal Right of the Niger Delta Region of Nigeria?* (University of Lagos Press 2008), p. 25.

<sup>8</sup>Nenyiaba, supra note 3; Josephine, A.A. Agbonika. and Adukwu, W.N. 'Fiscal Federalism and Judicial Imperative for Rebasement of the Nigerian Economy' [2016] (3)(2) *International Journal of Business, Management and Allied Sciences (IJBMAS)*, 1-11: 9.

<sup>9</sup>Nenyiaba, *ibid*.

<sup>10</sup>John A.M. Agbonika, 'Fiscal Federalism and Economic Development in Nigeria' in J.A.M. Agbonika, Josephine, A.A. Agbonika and Olokooba Saka Muhammed (eds), *Topical Issues on Nigerian Tax Laws and Related Areas* (Volume 2, Salem University College of Law, Kogi State, Nigeria 2018), p. 480.

<sup>11</sup>Nenyiaba, supra note 3.

Nigeria's fiscal federalism, similar to those of other federations, is predominantly characterized by the sharing of fiscal resources between the different levels of government that constitute the federation. Nevertheless, the country's social and economic inequality has persistently made the issue of revenue allocation, the most contentious feature of Nigeria's federal system. Currently, no single fiscal theory has been developed to ensure the equitable distribution of revenue in a federal system; federations adopt principles that seem to favour their circumstances. And most importantly, they ensure the design of their fiscal policies to realize and sustain economic development. In perfect and close-knit federations, such revenue-sharing formulae as the principle of need and equalization are principal, while loose federations like Nigeria are typically inclined to the derivation principle, which is the process of distributing centrally generated revenue to constituent units with regards to the contribution made by a group to the country's more substantial income.<sup>12</sup>

However, the practice of fiscal federalism in Nigeria is a negation of true federalism. Moreover, the social-economic conditions and development in Nigeria, in general, portrays a perplexing paradox. Despite a robust endowment in natural and human resources, the height of poverty of the citizens stands in contrast to the nation's immense wealth. Nigeria is amongst the 20 countries in the world with the widest gap between the rich and the poor.<sup>13</sup> Nigeria is challenged seriously by poverty. Out of every 10 Nigerians, seven live on less than \$1 a day, and the picture is getting worse by the day.<sup>14</sup> Thus, the necessity to survey the possibility of redeploying a new revenue-sharing model that would ensure the tenet of true federalism and that revenue allocation among the federating states of the nation is justifiable, inspire exploitation of its viable natural resources and ultimately result in the reasonable economic development of the entire country.<sup>15</sup>

### **REVENUE ALLOCATION FORMULA AND THE STATUTORY ROLE OF REVENUE MOBILIZATION ALLOCATION AND FISCAL COMMISSION**

Fiscal federalism, generally as a concept, connotes revenue generation in a federal system of government primarily through taxes. Thus, while revenue points at all sources of income for the government, including grants, loans, foreign aids, etc., from internal and external bodies, taxation constricts at the income generated by the government through the exercise of its taxing powers on its citizens and subjects. Tax is thus one of the ways of generating revenue by a government.<sup>16</sup> Fiscal federalism is concerned with the relationship among the various levels of

<sup>12</sup>Dele, B. 'Fiscal Federalism and Economic Development in Nigeria: The Contending Issues' [2015] (3)(2) *Global Journal of Political Science and Administration*, 53-69:54; See Chrisantus Ode, *Systems Relations Approach to Intergovernmental Relations (IGR) as Propounded by Chin (1969) and cited in Olugbemi (1980)*. <<https://www.projecttopics.org/systems-relations-approach-intergovernmental-relat...>> accessed 17 July 2019.

<sup>13</sup>Igbuzor, O. 'The Millennium Development Goals: Can Nigeria Meet the Goals in 2015?' A Paper Presented at a Symposium on the Millennium Development Goals and Nigeria: Issues, Challenges and Prospects. Organized by the institute of Chartered Accountants of Nigeria (ICAN), Abuja District on 27<sup>th</sup> July, 2006 at Sheraton Hotel and Towers, Abuja; See Otu, J. and others. 'Analysis of Poverty Indices in Underdeveloped Countries: Nigeria Scenario' [2011] (2)(2) *Medeterranian Journal of Social Sciences*, 175-183.

<sup>14</sup>Amobi, D.S.C. 'The Human Capital and Millennium Development Goals in Nigeria: The possibilities and impossibilities' [2008] (2)(1) *J. Policy Dev. Stud.*, 15-16.

<sup>15</sup>Neniyaba, supra note 3.

<sup>16</sup>Michael, T.O. 'Resource Control and Appraising Debates on True Federalism in Nigeria: Critical Perspectives and Political Options' [2017] (2)(1) *Research Journal of Humanities, Legal Studies & International Development*, 95-115:99; Afolayan, M.S. 'The Problem of Taxation and True Federalism in Nigeria' [2013] *Ekiti State University Law Journal*, 5.

government concerning the allocation of national income and the assignment of functions and tax powers to the constituent units in a federation. Perhaps the most critical issue in fiscal federalism is the revenue allocation formula, the sharing of national revenue between the different tiers of government (vertical revenue sharing), and the distribution of income amongst states (horizontal revenue allocation).<sup>17</sup>

Although, the question of how to acquire, increase, allocate, and expand revenue has constituted an issue in Nigerian society since it came into existence in 1914. It was from 1946 that the issue of revenue sharing began to raise severe national concern due to the fusion of fiscal operation in the country with the coming into effect of the Richards Constitution. The Richards Constitution provided for the Legislative Council for the whole country and Regional Councils with extensive measures of devolution with the issue of revenue sharing coming into sharp focus. Consequently, various Revenue Allocation Commissions were set up at different times to examine the effect of revenue sharing between the center (federal government) and the regions and among regions and local governments.<sup>18</sup>

Thus, the fiscal federalism concept was introduced first in 1946 in Nigeria after the Richards Constitution was adopted. The period 1947 to 1952 marked the commencement of the acknowledgment of sub-national governments during which financial responsibilities decentralized to the three regions of the North, the West, and the East. In the year 1966, the period of military rule commenced in Nigeria, whereas twelve states were created in 1967. As observed by some scholars, the creation of more states and local governments was a deliberate tactic by the military to develop a dependency on the federal government. As at present, there are 36 states, the Federal Capital Territory, with a near status of a state and 774 local governments. As stated earlier, the issue of fiscal federalism in Nigeria has engaged various commissions and committees since the colonial days. Even today, this issue continues to be in the front burner of national discourse. The demands for resource control and restructuring demonstrate that this is still an unsettled issue.<sup>19</sup>

Currently, a system of revenue sharing exists whereby the federal government transfers some petroleum revenues to the 36 states governments and 774 local government areas in the country. Under the arrangement, 13% of petroleum revenues are paid as a derivation fund to the oil-producing states as stipulated by the 1999 constitution. However, the fate of revenues and the derivation fund has continued to be a source of controversy and tension between the federal government and the state governments. The general understanding is that oil and gas revenues are paid into an existing Federation Account with revenue sharing formula existing as follows: federal government 52.68 percent; state governments 26.72 percent; and local governments 20.60 percent.<sup>20</sup>

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<sup>17</sup>Joseph, C.E. 'Federalism and the Politics of Resource Control in Nigeria: A Critical Analysis of the Niger Delta Crisis' [2011] (1)(12) *International Journal of Humanities and Social Science*, 218-229.

<sup>18</sup>Ibid; Onwioduokit, E., *Revenue Allocation for a Stable Democracy in Nigeria: Options and Challenges* (Achimota African Christian Press 2002).

<sup>19</sup>Joseph, ibid; Ngozi and Adewale, supra note 1; Egwaikhide, F. 'Revenue Allocation: Perspectives from the Oil Producing States' in Akpan, E. and Enamidem, U. (eds), *Issues in Fiscal Federalism and Revenue Allocation in Nigeria* (Ibadan: Future Publishing Company 2003).

<sup>20</sup>Asume, I.O. 'Oil and Gas Revenues and Development Challenges for the Niger Delta and Nigeria'. Paper presented at the Expert Group Meeting on the Use of Non-Renewable Resource Revenues for Sustainable Local

It is, however, noteworthy that the Niger Delta region is displeased by the unfair allocation of revenue from the oil extracted from the area. In the report of the Special Committee on Oil Producing Areas in 2006, the oil communities accused the government of failing to provide for adequate compensation. The committee report observes that in 1958, 50 percent of the revenues from oil and minerals were allocated to the areas from which these resources were extracted. But subsequent years witnessed progressive reduction on the percentage allocated to the communities concerned. In 1970, it was scaled down to 45 percent, 1975; it was 20 percent. In 1979, it was abolished entirely. Revised to 10 percent in 1982, and 1992, it was doubled to 3 percent. In 1995 it was raised to 13 percent where it stands to date.<sup>21</sup>

The problem of fiscal federalism in Nigeria, among others, includes the dominance of the federal government in revenue sharing from the federation account, the centralist system of fiscal relations; the critical issue of over-dependence on oil revenue; conflict over sharing principle; and disharmonious federal-state relations. The question of fiscal ties between the tiers of government has remained and often the bases for the clamour for a restructuring of the federal structure. For instance, the economic recession in the country and dwindling oil revenue have hindered the ability of many states to pay salaries of their civil servants. The federal government had to bail out the states by providing funds for them to pay wages; this approach negates the principle of fiscal federalism whereby each tier of government is supposed to be financially independent.<sup>22</sup> Without financial autonomy of the various levels of government, a country cannot rightly claim to be a real federal state.<sup>23</sup>

Sequel to the turmoil from the oil economy and derivation principle application saga, the Federal Government established the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) in 1999 as a response to provide for all-embracing and lasting revenue body in Nigeria. RMAFC is a body that mirrors the Federal Character Principle in the composition of its membership and has enabling laws which authorize the commission to function as outlined below:

- 1) Monitor the accruals into and disbursement of revenue from the federation account;
- 2) Review from time to time, the revenue allocation formula and principles in operation to ensure conformity with changing realities;
- 3) Advise the federal, state and local governments on fiscal efficiency and methods by which their revenue is to be increased;
- 4) Determine the remuneration appropriate to political office holders; and,

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Development organised by the UN Department of Economic and Social Affairs Friday 21 September 2007 UN Headquarters, New York.

<sup>21</sup>Harvey, G.O.I, Public Relations and Peace Negotiation in Niger Delta. Phd Thesis (University of Salford 2016), pp. 34, 37.

<sup>22</sup>Adedeji, A.O. and Ezeabasili, I.E., 'Restructuring and Clamour for True Federalism in Nigeria: A Comparative Analysis' [2018] (5)(2) *Advances in Social Sciences Research Journal*, 160-168:166; See Ewetan, O.O., 'Fiscal Federalism in Nigeria: Theory and Practice' [2012] (1)(3) *International Journal of Development and Sustainability*, 1075-1087; Buhari 'Concerned' about States' inability to pay Salaries despite Bailout' *Premium Times Online* (28 April 2016).

<sup>23</sup>Angela, E.O and Emmanuel, O.C.O., 'Restructuring the Nigerian Federation for proper Functioning of the Nigerian Federalism' [2015] (5)(9) *Public Policy and Administration Research*, 147-157:152.

5) Make recommendations and submit its finding by a report thereto to the government of the Federation or the State, as the case may be, regarding the formula for the distribution of the Federation Accounts and the Local Government Accounts; and

6) Discharge such other functions as may be conferred on the Commission by the Constitution of the Federal Republic of Nigeria, this Act, or any other Act of the National Assembly.<sup>24</sup>

Statutorily, Part I, Section 32(b) of the Third Schedule to the 1999 Constitution, empowers the Commission to “review, from time to time, the revenue allocation formulae and principles in operation to ensure conformity with changing realities.” Again, Section 162(2) of the same Constitution which stipulates that: The President, upon the receipt of advice from the Revenue Mobilization Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of population, equality of States, internal revenue generation, land mass, terrain as well as population density: Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen percent of the revenue accruing to the Federation Account directly from any natural resources”,<sup>25</sup> alongside their substantive rules shows that they are fully empowered by the constitution to ensure that the issues of revenue and expenditure at the national level are disbursed judiciously, but the obvious question is, have they lived up to their constitutional requirement or are they bought over by the executives?<sup>26</sup>

More so, the authors do not quite see the rationale in giving the RMAFC the power to review the revenue formula for whatever reason; it should be the responsibility of the National Assembly to do so. Any method endorsed by the National Assembly should only be changed by the National Assembly when it deems it fit to do so in the light of changing realities. The problem has always been that the Federal Government is in custody of the money, shares it out to other units, and tends to appropriate to itself the lion’s share of the revenue.<sup>27</sup>

## THE QUEST FOR RESOURCE CONTROL AND NIGERIA’S FEDERALISM

<sup>24</sup>Dare, A. ‘Fiscal federalism in Nigeria: Theory and dimensions’ [2011] (2)(2) *Afro Asian Journal of Social Sciences*, 1-21; Anyadike, N.O., ‘Contemporary Issues in the Management of Nigeria’s Fiscal Federalism’ [2013] (3)(2) *Research on Humanities and Social Sciences*, 191-202:199; Revenue Mobilization, Allocation and Fiscal Commission Act, 1989, Part II, 6(1) (a)-(f). <[lawnigeria.com/lawsofthefederation/ReveNue-Mobilization-And-Fiscal-Commission-Act.html](http://lawnigeria.com/lawsofthefederation/ReveNue-Mobilization-And-Fiscal-Commission-Act.html)> accessed 19 July 2019; See E. Augustine, ‘Breaking: Buhari swears-in Chairman, members of RMAFC’ *The Nation News* (Nigeria, 27 June 2019); See Anthony, E. and Callistus, U.O. ‘Corruption and fiscal federalism in Nigeria: Analysis of the federal budgetary process, 1999 – 2016’ [2018] (12)(10) *African Journal of Political Science and International Relations*, 192-207; See ‘Channels News, ‘Top Eight Duties Assigned to RMAFC by President Buhari’ *Channels Television* (Nigeria, 27 June 2019).

<sup>25</sup>See Chapter 6, section 162(2), 1999 Constitution of the Federal Republic of Nigeria as Amended, 2010; See Chapter 6, Section 162-Distributable Pool Account. <<https://nigerian-constitution.com/chapter-6-part-1-section-162-distributable-pool-account/>> accessed 29 September 2019; See Ekemini Udim, August 2018 Allocation to Federal, States and Local Government Areas in Nigeria. October 4, 2018; See Local Government Financial Autonomy in Nigeria. <<https://researchcyber.com/local-government-financial-autonomy-nigeria/>> accessed 29 September 2019; See A.M. Odje, ‘13% derivation, falling crude oil price and the constitution’ *Vanguard Newspaper* (Nigeria, 18 February 2016).

<sup>26</sup>Anyadike, supra note 23. <<https://ekeminilawmaterials.wordpress.com/2018/10/04/august-2018-allocation-to-f...>> accessed 19 July 2019.

<sup>27</sup>Robert, supra note 7, p. 50.

Conceptually, resource control means the management of resources by the government of the area from whose jurisdiction the resources are found and explored.<sup>28</sup> In a federal state, it is the control and management of resources by states and local governments that own the resources. It involves acquiring political power over resources, production, management, and utilization in the area of the location to ensure the regeneration of the environment and overall sustainable development of the people. In true federalism, states and local governments should manage the resources from their territories under federal guidelines.<sup>29</sup> At their summit in Benin City, Edo State, on March 27, 2001, the governors of the South-South Zone, defined resource control as the practice of true Federalism and Natural Law in which the federating units express the rights to primarily control the natural resources within their borders and make agreed contribution towards the maintenance of general services of government at the centre.<sup>30</sup> Resource control is the practice of true federalism and natural law wherein the federating units express their rights to first and foremost control the natural resources within their boundaries and make a settled contribution towards the maintenance of general services of the central government.<sup>31</sup>

The concept "resource control" indicates a strong determination by communities and peoples whose resources have been taken away to recover ownership, control, use, and management of resources for the main benefit of the original owners (the communities and people) on whose land the resources originated. Resource control, nevertheless, does not bar the future distribution of the benefits of resources to the non-owners in a way agreeable to the vision of the vast humanity.<sup>32</sup> An understanding of Nigeria's federal structure is relevant to understand the nature of the campaign for resource control. In achieving this, however, intergovernmental relations models shall be employed as a guide. Generally, there are separated-authority model, the inclusive-authority model, and the overlapping-authority model.<sup>33</sup>

### **The Separated-Authority Model**

The Separated-Authority Model observes that there are within the territorial limits of each state two governments, constrained in their field of action, but independent of each other and supreme within their respective fields. Each has its separate departments, each has distinct laws, and each has its tribunals for their enforcement. Neither government can intrude within the jurisdiction of the other or approve any interference therein through its judicial officers

<sup>28</sup>Udoidem, J. and Udofot, P.O. 'Resource Control in African States: The Implications for Economic Growth and Development of Niger Delta Region in Nigeria' [2017] (3)(1) *Pearl Journal of Management, Social Science and Humanities*, 1-9:2; Tanzi, V. 'Fiscal Federalism and Decentralization: A Review of some Efficiency and Macroeconomic aspect' in Annual World Bank Conference on Development Economics 1995 <<https://www.econ.hit-u.ac.jp/~kokyo/course/material/.../04-LPF-note8.doc>> accessed 15 May 2018.

<sup>29</sup>Udoidem and Udofot, *ibid*; Adesopo and Asaju, *supra* note 2.

<sup>30</sup> Robert, *supra* note 7, p. 57.

<sup>31</sup>Udoidem and Udofot, *supra* note 28; Dafione D, Resource Control: The Economic and Political Dimensions (2001) <[www.waado.org](http://www.waado.org) > nigerdelta > essays> accessed 15 December 2018; See C.C.O. Oshodi, Historical Perspective on the Niger Delta, August 8 2010 <[iNigerian.com.https://www.inigerian.com/historical-perspective-on-the-niger-delta/](https://www.inigerian.com)> accessed 15 February 2020.

<sup>32</sup> Douglas, O.A, Community Guide to Understanding Resource Control <[http://www.waado.org/nigerdelta/Essays/ResourceControl/Guide\\_Douglas.html](http://www.waado.org/nigerdelta/Essays/ResourceControl/Guide_Douglas.html)> accessed 20 December 2010; See Ondotimi, S. Resource Control, Community Participation and Nigeria's Petroleum Industry Bill <<http://www.eisourcebook.org/cms/Nov%202013/Nigeria.%20Resource%20Control.%20Community%20Participation%20&%20the%20PIB.pdf>> accessed 15 February 2020.

<sup>33</sup>Dare, A. 'Nigeria's Federalism and the Agitation for Resource Control in the Niger-Delta Region' [2011] (2)(7) *International Journal of Sustainable Development*, 83-88.

with the acts of the other.<sup>34</sup> An observation of the pattern in this model shows that this model is impracticable in Nigeria's federal relations as the federal government, in practice, assumes the role of senior partner and the component units play a subservient role to the central government.<sup>35</sup>

### **The Overlapping-Authority Model**

The Overlapping-Authority Model focuses on the issue of bargaining and refers to an arrangement in which both the national and the state governments are the creation of the constitution and are, therefore, coordinate. The two authorities exercise their powers in a separate, independent, and autonomous fashion; they are linked only tangentially. The emphasis is on the bargaining process in the federal-state-local relations. There are national-state, national-local, and state-local relations.<sup>36</sup> Each level of government has its area of jurisdiction. It is also called the coordinate authority model. This model, like the first, does not represent pictures of Nigeria's federalism.

### **The Inclusive-Authority Model**

The Inclusive-Authority Model perfectly fits into the Nigerian situation in practice as this is contrary to any federal constitution. Before making the analysis, this model is explained thus: This model refers to an arrangement in which both the state and the local governments are subordinate to the central government regardless of whether the constitution recognizes or does not recognize the autonomy of the sub-national level of government. These two levels of government are in a weak position to pose any problem or to challenge the federal might and the overbearing nature of the central government. There is a clear-marked dependency relationship hence the choice of the term 'centralized federalism.' Although this is more pronounced under military rule, the great and interregnum control of the military has perpetuated and maintained this type of relationship in a democratic and democratized Nigeria where states go cap-in-hand to beg for money from the federal government. Under this arrangement, the minorities are at the receiving end. Their marginalization is in two folds (i) Marginalisation by the central government and; (ii) marginalization from the elite of their region.<sup>37</sup>

Under this arrangement, resource control cannot but remains a big dream of impossibility. Asking for resource control is asking for political restructuring of the country from the present federal-state-local arrangements to yesteryear's regionalism where the centre was fragile. Such methods are also called confederalism. The style of colonial dominion and the nature of the military dictatorship are the reasons for Nigeria's centralized federalism. The central government possesses enormous power and dictates the allocation of resources. The constitution, engineered by the military, also aggravates the situation. For instance, items on the exclusive legislative list place the federal government in an advantaged position. Empirical observation shows that there is too much money at the centre, leaving the component units in perpetual inadequacy to engender meaningful developmental projects primarily in the Niger-Delta where serious and fundamental attention is needed. The present arrangement, where

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<sup>34</sup>Richard B. et al., *Intergovernmental Fiscal Relations in Fragmented Societies* (Institute Du Fédéralisme Fribourg Suce 2001), pp. 21-22.

<sup>35</sup>Dare, supra note 33, 84; Richard, *ibid*.

<sup>36</sup>Dare, *ibid*, 85; Richard, *ibid*.

<sup>37</sup>Dare, *ibid*.

power, functions, responsibility, and resources are centralized, makes it practically impossible for any region to control resources. Control of resources, therefore, needs a significant constitutional amendment. Such a change is always tricky because of the politicization of the process and the seeming lack of justification for such a drastic change.<sup>38</sup>

### **DIMENSIONS OF THE AGITATIONS FOR RESOURCE CONTROL: THE NIGER DELTA IN FOCUS**

Generally, Niger Delta agitations for resource control and self-determination can be categorized into the following broad phases, namely (i) Era of peaceful protests and externalization of demands, and (ii) The emergence of violent and armed struggle.<sup>39</sup>

#### **Period of Peaceful Demonstrations and Externalization of Niger Delta Agitations**

Minority Agitations for resource control and self-determination during this period were characterized by immense confidence and reliance on peaceful means of seeking redress even under colonial rule. In 1957 testimonies were presented before the Willink Commission of Enquiry into the problem of minority fears in the new Nigerian state. Afterward, many protests and demands for justice and equity were without success. Similarly, the people of the resource bearing areas often resorted to litigations, which usually ended in unfavorable verdicts. The agitators also wrote letters to the colonial government as well as the post-independence Nigerian administrations on the Niger Delta problem. Following the failure of this approach, the agitators moved further by making representations to the government at all levels to make their letters useful. But in most cases, aside from the warm reception and empty promises, no meaningful achievement was recorded. Also, during this period, demonstrations were staged in the Niger Delta and other places during which pamphlets and banners were displayed to draw attention to the increasing crisis in the region further. Letters delivered in the affected state capitals, Abuja and Lagos, to inspire government interest.<sup>40</sup>

Externalization of Niger Delta agitations soon evolved mainly due to the growing centralization of the control and ownership of oil, and the politicization of the revenue allocation structure by the federal government to the disadvantage of the oil-producing minority states. In utter contradiction of the principles of fiscal federalism, Decrees 51 of 1969 vested upon the federal government, the complete ownership of all petroleum resources in Nigeria. Also, the federal government was given total control over the entire revenue accruable from offshore oil wells in the coastal waters adjoining the oil minorities by the Offshore Oil Revenue Decree No. 9, an action that finally cut the oil minorities off from direct oil revenue, and deepened their reliance on the majority nationalities for a share of the oil wealth. Thus, the oil minorities

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<sup>38</sup>Ibid.

<sup>39</sup>See James, O.A. 'Nigerian Federalism and the Resource Control Conflict in the Niger Delta' [2014] (16)(1) *Journal of Sustainable Development in Africa*, 24-36.

<sup>40</sup>Ibid; Igbaji Chiwendu, *Contending Issues in Nigeria Federal Practice-An Exploration of Contending Issues in Nigeria Federal Practice*. November 23, 2014 <<https://www.projectwriters.ng/contending-issues-nigeria-federal-practice>> accessed 17 July 2019; Jimoh I, 'Natural Resources for Sustainable Development: The Attendant Crisis and Control' in Hassan S. et al. (eds), *Perspectives on Nation-Building and Development in Nigeria: Environmental and Economic Issues* (Concept Publication 2008), 15; Saliu H, 'The New Wave of Violence in the Niger Delta and its implications for Nigerian Foreign Policy' in Hassan S. and others (eds), *Perspectives on Nation-Building and Development in Nigeria: Environmental and Economic Issues* (Concept Publication 2008) p. 348.

became alienated from their products, and this increased the agitation between them and the Nigerian state, which through its over-centralization of political and fiscal power, sought to exploit and dominate them alongside their strategic resources.<sup>41</sup>

Furthermore, the federal government jettisoned Derivation as the principle of revenue allocation (which benefited the major ethnic groups during the days of cash crop exports) in favour of the principles of equality and population of states, obviously in response to the change of Nigeria's source of wealth from agriculture to petroleum, and the wish of the majority groups to continuously dominate national revenue.<sup>42</sup> Observation on the fluctuating and diminishing fortunes of the derivation principle in Nigeria's revenue allocation system is quite revealing. From 100% in 1946, it dropped to 50% between 1951 and 1960. By 1970, it fell further to 45% under General Gowon's regime while under the Murtala/Obasanjo government; it wavered between 20 and 25%. Shehu Shagari's government cut it drastically to 5% while the Buhari-Idiagbon regime brought it down to its lowest ebb of 1.5%, while the present 13% emerged only after great agitations.<sup>43</sup>

The net effect of the federal takeover of the control of oil and the stifling of the derivation principle was that the oil minorities increased their opposition to domination by the significant nationalities, and devised new strategies aimed at externalizing their claims and grievances against the Nigerian state. Agitation movements like Movement for the Survival of Ogoni People (MOSOP), Ijaw Youth Congress (IYC), Ethnic Minority Rights Organization of Africa (EMIROAF) and Chikoko developed a clear national plan and stable organization at the accessible level. Above all, MOSOP, IYC, and Chikoko through the avenue of various global bodies and conferences successfully pushed the Niger Delta case to the front burner of global discourse by raising awareness about the environmental hazards caused by oil mining companies and highlighting the lack of representation of the Niger Delta people. The arrest and ensuing execution of Ken Saro Wiwa alongside eight of his Ogoni compatriots by the Abacha government in 1995 drew public outrage and brought substantial international attention to the pathetic condition of the people.<sup>44</sup>

### **The Emergence of Violent and Armed Struggle**

The Niger Delta's violent conflict and armed struggle started after the declaration of the Niger Delta Republic in 1966 by Jasper Isaac Adaka Boro. An Ijaw nationalist and a former police officer who led a rebellion against the Nigerian state to achieve liberation for the Niger Delta people through an armed campaign for greater Niger Delta autonomy, resource control and self-determination for the inhabitant of the region. While justifying his action, Boro argues that "the majority of the youths were so discouraged with the general disregard that they were prepared for any battle led by an excellent leader to achieve freedom... we were compressed in tyrannical chains and led through a dark pathway of continual political and social

<sup>41</sup>James, supra note 39; See Chiwendu, *ibid*; See Adetola, O. 'An Exploration of Contending Issues in Nigeria's Federal Practice' [2011] (3)(1) *Journal of Alternative Perspectives in the Social Sciences*, 1-33; See Kubiati, U. Oil, Minority Agitations, Militancy and Nation-Building in Nigeria, 6 September 2018 <researchcyber.com.author>ifiokobong>page> accessed 14 February 2020.

<sup>42</sup>James, *ibid*; Obi, C.I. 'Oil Minority Rights and the Question of Democratic Stability in Nigeria' [2000] (2)(1) *Journal of Cultural Studies*, 83; See Chiwendu, *ibid*.

<sup>43</sup>James, *ibid*.

<sup>44</sup>*Ibid*; Obi, supra note 36, 87-88; Asuni J.B., *Understanding the Armed Groups of the Niger Delta* (CFR 2009), 1; See Nigeria: Ogoni Widow testifies against Shell in the Hague, *BBC News* (Online, 12 February 2019).

deprivation". This conviction led him with the assistance of Samuel Owonaru and comrade Nottingham Private to enlisting young men to their purpose under the umbrella of Niger Delta Volunteer Force (NDVF), which eventually led to the establishment of a military camp at Taylor Creek. Training, in the use of weapons and explosives, was given to their recruits, numbering 150 men in the creeks and buses.<sup>45</sup>

On 23 February 1966, NDVF, under the leadership of Boro, Onwonaru, and Privates attacked a police station in Yenagoa, raided the armory, and kidnapped some officers in the police station. They blew pipelines, engaged the police in a gunfight, and announced the independence of the Niger Delta Republic. But in a swift response, their action was suppressed by the federal troop. Boro was arrested and subsequently put on trial on a nine-count charge of treason by the federal government. The deed had been done by instilling into the mind of Niger Delta people the consciousness that the region was being marginalized, oppressed, victimized, and deprived of the control of their natural resources, before the suppression of NDVF. Hence, this awakened the need for their struggle and agitation for self-determination.<sup>46</sup>

The 1990s witnessed a new phase of organized mass action by the ethnic minorities of the Niger Delta against centralized state ownership of petroleum resources. The Ogonis championed this new phase, a major oil-producing minority group and host to the bulk of Shell's operations in Nigeria. In 1990, the Ogonis, under the auspices of the Movement for the Survival of Ogoni People (MOSOP), presented the Ogoni Bill of Rights to the Government and People of Nigeria. The Bill detailed the complete degradation of the Ogoni environment from decades of oil exploration, the neglect of the Ogonis by successive federal administrations, and their political marginalization in the federation. Consequently, the Ogonis demanded political autonomy to participate in the affairs of Nigeria as a distinct and separate unit including the right to control their political issues, the right to manage and utilize a reasonable proportion of Ogoni economic resources for the development of Ogoni and the right to guard the Ogoni environment from additional degradation.<sup>47</sup>

Ken Saro-Wiwa internationalized the Niger Delta crisis through his publicities and the issue of the murder of Ogoni four that led to the hanging of Ogoni nine and execution of Ken Saro-Wiwa in October 1995. Ken Saro-Wiwa not only succeeded in directing the attention of the international community to the plight of the people in the Niger Delta but also-through his

<sup>45</sup>Ola, A. 'Causal Factors and the Dynamics of Resources Conflicts in Africa: A Comparative Analysis of Niger Delta and Marikana' [2014] (3)(2) *International Journal of Humanities and Social Science Invention*, 27-36:32; Sampson, I.T. 'Niger Delta Militancy and the Challenge of Criminalising Terrorism in Nigeria' [2009] (18)(2) *African Security Review*, 31; Isaac Adaka Boro and Niger Delta Militancy–Politics–Nairaland, 2012, pp. 1-2 <html:file://H:\NIGERDELTAFILE> accessed 1 November 2012; Tekena, N.T. 'Separatist Agitations in Nigeria since 1914' [1970] (8) *Journal of Modern African Studies*, 563, 577; See A.O. Hamzat, 'Why Restructuring is not worth it' *Sahara Reporters* (Nigeria, 27 September 2017); Ojatorotu, V. and Gilbert, L.D. 'Special Report: *Checkmating the Resurgence of Oil Violence in the Niger Delta of Nigeria*' [2010] *Niger Delta Book*.

<sup>46</sup>Ola, *ibid*, 32.

<sup>47</sup>Zacchaues, A. 'The Petroleum Industry Bill 2012 and the Niger Delta Region of Nigeria: Panacea or Placebo?' [2015] (38) *Journal of Law, Policy and Globalization*, 47-62: 53-54; International Crisis Group, 'Nigeria: Ogoni Land after Shell' Africa Briefing No. 54 (Dakar, 18 September 2008), 1-2 <<http://www.crisisgroup.org/en/regions/africa/nigeria/B054-nigeria-ogoni-land-after-shell.aspx>> accessed 1 February 2017; Ogoni Bill of Rights, Presented October 1990 < [http://www.mosop.org/ogoni\\_bill\\_of\\_rights.html/](http://www.mosop.org/ogoni_bill_of_rights.html/) > accessed 1 February 2017.

advocacy-paved the way for active global/civil society involvement with the problems at the core of the crisis in the region. He argues further that the participation of organizations, for example, the Commonwealth of Nations Amnesty International, Rainforest Action Group, Green Peace Movement, and the United Nations interventions in the Niger Delta crisis, demonstrated his submitted fact.<sup>48</sup>

The 1998 Kaiama Declaration, after the resolution of a meeting of the Ijaw Youths Conference (IYC) held in Kaiama, Bayelsa State, ordered all the oil-producing companies to vacate the region latest December 1998. This was an attempt by the Ijaw Youth Council (IYC) to reassert their rights over their land and resources. The Kaiama Declaration signed by several thousands of Ijaw youths marked the starting point of every radical demand and subsequent military operations against youth protests that followed.<sup>49</sup> The involvement of the Movement for Emancipation of Niger Delta (MEND) added a new dimension which includes, illegal bunkering, cultism, militancy, sea piracy, hijacking of vessels, hostage-taking, and kidnapping. The crisis assumed the aspect of abduction in 2006 in which over 300 foreign oil workers were recorded kidnapped in a venture which began in January 2006. The crisis took a fresh dimension with growing criminalization of the conflict, a weird booming business of hostage-taking for money, which has become a lucrative business.<sup>50</sup>

As noted earlier, the Adaka Boro rebellion of 1966 and the crushing of the uprising by the Nigerian Military Force represents the first significant use of arms in the Niger Delta agitations. Nothing of the sort occurred again until the 1990s that witnessed the emergence of ethnic militias and the attendant violent protestations against economic and political marginalization by the federal government.<sup>51</sup> Although the region has a long history of violence, the situation has gone from bad to worse with the emergence of armed militant groups willing to kill as part of their campaign for a more significant share of the region's oil wealth. The social, economic, and political dynamics of the region are understood better in the perspective of the long decade of disregard and underdevelopment of the area, occasioned by the exploitation and exploration of its abundant oil and gas mineral deposits.<sup>52</sup>

The persistent crises in the region are not current developments or incidence restricted to a few communities. They are flashpoints of the region's expression of long-term frustration at what the people of the area understand to be an inequitable distribution of income accrued from the

<sup>48</sup>See Ola, supra note 45; Ojatorotu V., 'Introduction' in Ojatorotu V. (ed), *Fresh Dimensions on the Niger Delta Crisis of Nigeria* (Conflict and Development Series, JAPSS Press Inc. 2009), 3; Ojatorotu and LD Gilbert, supra note 45.

<sup>49</sup>See Ola, *ibid*; Ibaba, I.S. and Ikelegbe, A., 'Militias, Pirates and Oil in the Niger Delta' in Okumu W and Ikelegbe A (eds), *Militias, Rebels and Islamist Militants Human Insecurity and State Crises in Africa* (South Africa; Institute of Security Studies 2010).

<sup>50</sup>See Ola, *ibid*; See Olasupo, O. 'The Consequences of Militancy in Nigeria's Niger Delta' [2013] (11)(2), *JORIND*, 149-157; Dike, V.E., *Niger Delta Crisis and the Nigeria Economy* (2001), 3 <<http://www.mhtml:file://H:\NIGERDELTAFILE\niger.org>> accessed 12 November 2018; See Sam, O.A. 'Insecurity and the Niger Delta Environment, Sustainable Peace and Development: An Overview' [2015] (5)(2) *Journal of Environment and Earth Science*, 57-66.

<sup>51</sup>Asuni, supra note 38.

<sup>52</sup>Festus, O.O. and Pearl, V.O. 'The Critical Analyses of Fiscal Federalism and Resource Control Agitation by the Political Leaders of Niger-Delta Region' [2015] (3)(4) *Journal of Education, Arts and Humanities*, 84-100; Azaiki S., *Inequities in Nigerian Politics* (Treasure Communication Resource Limited 2003), p. 147; Sabelo Gumedze, *Regulation of the Private Security Sector in Africa*, Policy Paper (Institute for Security Studies: Preterria, South Africa 2008).

oil produced from the district. Various militant groups sprung up to undermine the activities of the oil companies, using different methods and tactics, thereby daring the Nigerian government. Prominent among such armed groups and ethnic militias in the Niger Delta are the Niger Delta Peoples Volunteer Force (NDPVF), Movement for the Emancipation of the Niger Delta (MEND), the Joint Revolutionary Council (JRC), the Movement for the Survival of the Ijaw Ethnic Nationality (MOSIN), the Niger Delta Vigilante (NDV), Greenlanders, Egbesu, Martyrs Brigade, Niger Delta Liberation Army (NDLA), Chikoko Movement, Coalition for Militant Action in the Niger Delta (COMA) and Avengers.<sup>53</sup>

### **THE CALL FOR RESTRUCTURING: A CONTENTIOUS DEBATE**

Recently, restructuring has become a subject of national discourse in Nigeria. Although the word “restructuring” had been within the political lexicon for the last three decades or so, there has never been any time that its demand in the Nigerian polity has been this audibly pronounced.<sup>54</sup> The concept of restructuring has persistently gained currency, particularly in the present era of President Muhammad Buhari led administration. Restructuring is organizing something, for example, a system or a company in a fresh and dissimilar manner, which implies that restructuring entails alteration and re-organization of an existing system in a manner, unlike the way it used to be.<sup>55</sup> Restructuring in the context of Nigeria is regarded as a consistent call and move for the political reorganization of Nigeria’s federal structure, the system of government as well as<sup>56</sup> the economic redistribution of the resource among the component units of the federation based on true federalism.<sup>57</sup>

However, restructuring attracts different definitions from different perspectives, cutting across individuals, associations, and geo-political zones of Nigeria. Former Military President Babangida defined “Restructure” as devolution of powers to the extent that more responsibilities are given to states, while the federal government is vested with the responsibility to oversee our foreign policy, defence, and economy.<sup>58</sup> Alhaji Bahir Usman Tofa, a former presidential candidate of the defunct National Republican Convention (NRC), said the clamour for restructuring is a result of frustrations in sections of the country. According to him, it had become clear today in Nigeria that when any group of people talks about restructuring of Nigeria, it is mostly speaking about its frustrations about the country. He noted further that the agitation for restructuring of Nigeria centred around three things:

<sup>53</sup>Festus and Pearl, *ibid*, 90; James, *supra* note 39; See Hazen, J.M. and Horner, J. *Small Arms, Armed Violence, and Insecurity in Nigeria: The Niger Delta in Perspective*, Small Arms Survey Occasional Paper 20 (Small Arms Survey, Graduate Institute of International Studies, Geneva 2007).

<sup>54</sup>Harriet Seun-Asaju and Oludayo, J. ‘The Quest for Restructuring the Nigerian Nation: Myth or Reality? The Role of Libraries in Amplifying the Debate’ [2019] (41)(1) *International Journal of Legal Information*, 13-21:14.

<sup>55</sup>Ideobodo Nwafor-Orizu, Okolo, M.C. and Eze, K.T. ‘Political Restructuring in Nigeria: The Need, Challenges and Prospects’ [2018] (5)(1) *International Journal of Academic Research in Public Policy and Governance*, 26-49:28; See Oxford Advanced Learner’s Dictionary (9th ed.).

<sup>56</sup>Ali, I.A. and Sani G.W. ‘Agitation for Restructuring and Resource Control in Nigeria’s Federalism: Issues, Perspectives and the Way Forward’ [2018] (6)(1) *Covenant University Journal of Politics & International Affairs*, 1-18:6.

<sup>57</sup>Mohammed, G.D. and Sulaiman, M.A. ‘Federalism, Restructuring and National Question in Contemporary Nigeria: The Way Forward’ [2018] (9)(5) *Arts Social Sci. J*, 1-6:3.

<sup>58</sup>Sheshi, T.S. and Salahu, M.L. and Ilyasu, Y.A.. ‘The Politics of Restructuring and the Nigerian Unity: The Role of the Leadership’ [2019] (8)(2) *International Journal of Arts and Humanities (IJAH)*, 31-39:32.

marginalization, the dominance of others in their regions and resources, and opportunity distribution.<sup>59</sup>

Atiku Abubakar-the former Vice President of the Federal Republic of Nigeria, with the support of the President-General of Ohanaeze Ndigbo, Chief Nina Nwodo, and the spokesman for Afenifere, Mr. Yinka Odumakin, conceived that restructuring implies making changes to our present federal arrangement, in other to come closer to what our founding leaders instituted, in reaction to the very problems and challenges that led them to choose a less centralized system. It means transferring more powers to the federating units with the accompanying resources. It means greater control by the federating groups of the resources in their regions. It would mean, by inference, the reduction of the powers and functions of the federal government so that it would focus only on those matters that could best be handled by the centre such as defence, foreign policy, fiscal and monetary policies, customs and excise, aviation, immigration, in addition to setting and enforcing national standards on such matters as education, health, and safety.<sup>60</sup> Atiku Abubakar particularly supposed restructuring as devolution of more powers from the federal government and de-emphasizing federal allocations as a basis of sustenance of states.<sup>61</sup>

Others see restructuring as a call for the restoration of federalism as entrenched in the 1963 Republican Constitution, or as federalism with independent, self-sustaining federating units able to develop infrastructure, critical amenities, undertake other developmental projects, education and health without a central body interfering.<sup>62</sup> In other words, these people desire Nigeria to agree to the system of government in place before the military coup of 1966. Chief Arabs Sara-Igbe from South-South and Chief Ayo Opadokun from Southwest are at the vanguard popularizing the return to the 1963 constitution. According to them, all the present protests be it resource control, MASSOB, IPOB, OPC, Arewa youths, etc., are all a call for us to go back to what was in existence by 1966.

It was after the first coup in 1966 that the soldiers abrogated the 1963 Constitution and substituted it with a military fashioned central government<sup>63</sup> Dr. Arthur Nwankwo defines the restructuring process as the reinvention of the constitution of 1963; constitutionalizing the six geo-political zones as federating units and devolving considerable powers to the regions.<sup>64</sup> For Itse Sagay, restructuring the country means returning to true federalism and autonomy of the

<sup>59</sup>Nasiru, M.Y. 'Economy of Nigeria's Restructuring Debate' Paper Presented at the 2018 Nigeria Institute of Management (Chartered) Colloquium on Structure and Organisational Performance: The Case of Nigeria, Wednesday 23rd May, 2018 at the Chris Abebe Auditorium, Management House, Plot 22, Idowu Taylor Street, Victoria Island, Lagos, pp. 1-16:4.

<sup>60</sup>C. Ihuoma, 'Nigeria can be restructured in six months, says Atiku' *Punch Newspaper* (Nigeria, 20 July 2017); M. Emeka, and O. Chinenyeh, 'Nigeria'll never progress without restructuring-Atiku' *Vanguard Newspaper* (Nigeria, 20 July 2017); Editor, 'What restructuring means' *Guardian Newspaper* (Nigeria, 27 July 2017).

<sup>61</sup>Sheshi, Salahu and Ilyasu, supra note 58.

<sup>62</sup>Ibid.

<sup>63</sup>Uthman A., Abdul-Qadir, A. and Muhammad M., 'Restructuring Nigeria: Beyond Political Rhetoric and the Moral Panic' [2018] (3)(3) *International Journal of Humanities, Art and Social Studies (IJHAS)*, 33-45:38; See Restructuring is centred on political and economic ends by <<https://www.coursehero.com/file/p77ruid/restructuring-is-centred-on-political-and-economic-ends-by-those-who-are-not-in/>> accessed 15 February 2020.

<sup>64</sup>Nuhu Yaqub, What is in Restructuring in the Era of Change in Nigerian Politics, Proceedings of IASTEM International Conference, Dammam, Saudi Arabia, 17th-18th December 2016, p. 9; Nwofor S., 'Lazy Youths: Buhari promised change, delivered chains-Sen Bruce' *Vanguard Newspaper* (Nigeria, 23 April 2018).

federating groups as it was the case previously for her, unless Nigeria restructures, it would never develop. He reasons that there are significant disadvantages in the present overconcentration of power in the federal structure as it has made other tiers of government lazy and complacent to revenue generation in their states.<sup>65</sup>

The heated debate for the restructuring of the Nigerian federation has pitched southern Nigeria against northern Nigeria. We could safely argue that the protagonists are the people of the South, who genuinely desire the status quo in Nigerian federalism to change.<sup>66</sup> Ever since Nigeria returned to democratic governance in May 1999, there has been, in some instances, a coordinated attempt by the Southern Governors to advance the call for resource control and true federalism. To be specific, in one case, the Southern Governors Forum at a conference had issued a 17-point communiqué, which among others resolved that resource control and derivation should henceforth and be accepted as the basis for revenue generation and allocation; and that Nigerian's federal status as presently constituted be restructured along a legal framework that would grant a reasonable measure of autonomy to the states and parts of the federation.<sup>67</sup>

The leadership of Afenifere, the pan-Yoruba organization, has posited that the posture of the Northern Elders' Forum (NEF) in opposition to the call for the restructuring of the Nigerian Federation is a display of the hatred the northern leaders have for the country and its people. According to Afenifere, who made her position clear through its spokesman, Mr. Yinka Odumakin, there is nothing wrong with the call for restructuring. Those who are opposing the request do not love Nigeria and its people. Those who want continuity based on justice, equity, and fairness are the ones calling for the restructuring of the Nigerian Federation as it is presently.<sup>68</sup> The leader of the Yoruba World Congress, Emeritus Prof. Banji Akintoye, has noted that restructuring is necessary for the survival of Nigeria and that Nigeria must accept restructuring or dissolution. According to him, there may be no Nigeria to talk about if we delay restructuring any much longer.<sup>69</sup>

Presenting the position of Ohanaeze Ndigbo - the apex Igbo Socio-Political Organization, the President General, Chief John Nwodo, stated that the call for the restructuring of the Nigerian State is a call for a new organization of Nigeria on the foundation of equity and principles of federalism. According to him, we want to restructure because every country is moving forward, but our country is moving backward.<sup>70</sup> The Ohaneze expressed their unflinching support to the

<sup>65</sup>Gabriel T. and Godwin K., 'Restructuring, Secession and True Federalism: Ethnic Agitations and the Deepening crises of Nigerian Federalism' [2018] (7)(1) *World Journal of Research and Review (WJRR)*, 23-27: 26.

<sup>66</sup>Kingdom, S.M. and Unwana-Abasi, S.U., 'Restructuring Social Order and Development in Nigeria' [2018] (6)(10) *Global Journal of Arts, Humanities and Social Sciences*, 69-77:71.

<sup>67</sup>Ali and Sani, supra note 56, p. 8; See Political Restructuring and Devolution of Powers and National Development <<https://iproject.com.ng/political-science/political-restructuring-and-devolution-of-powers-and-national-development/index.html>> accessed 5 November 2019; S. Ezea, 'Concerns Over Optimal Utilisation Of Recovered Loots' *Guardian Newspaper* (Nigeria, 12 March 2016).

<sup>68</sup>F. Dapa, 'Restructuring: Northern leaders are enemies of Nigeria-Afenifere' *Nigerian Tribune Newspaper* (Nigeria, 13 May 2017).

<sup>69</sup>A. Banji, 'Nigeria must accept Restructuring or Dissolution-Interview with Femi Makinde' *Punch Newspaper* (Nigeria, 15 September 2019).

<sup>70</sup>B. Niyi, 'Nigeria: When agitation for restructuring comes with higher pitch from the creeks' *Guardian Newspaper* (Nigeria, 28 March 2018).

current clamour for the restructuring of the Nigerian State, as, according to them, only restructuring of the country will guarantee the full realization of the potentials of the different ethnic groups in the country.<sup>71</sup>

According to Prof. Chukwuma Charles Soludo, the present Constitution and its institutions suffocate novelty and competition and, therefore, detrimental to rapid economic transformation in a post-oil world. He noted that Section 162 of the Constitution had created a lousy Lottery Effect, damaged the motivation for wealth creation on the part of governments, and imposed lazy traditions of entitlements. As opposed to the productive, self-financing regions of the First Republic, all the tiers of government now converge at Abuja every month to share oil revenue primarily. Except perhaps Lagos State, hardly any other state or local government or even the federal government of Nigeria can fund its recurrent expenditures without oil money. He further expressed the view that devolution is a matter of survival for the FGN and the economy. Devolution of powers according to the principle of subsidiarity and variable geometry-away from the existing structure of unitary-federalism, with its unpleasant concentration of powers and duties at the incompetent centre; will give power back to the people.<sup>72</sup>

In a recent statement credited to Ezeife, the former Governor of Anambra State is said to have threatened that unless Nigeria restructures, it will face extinction. He noted every honest Nigerian knows we are at the brink of extinction; Nigeria will cease to exist; if we do not restructure. It is a joke for people to think we should not restructure.<sup>73</sup> According to Ike Ekweremadu-the out-gone Nigerian Deputy Senate President, the North believes the oil revenue would not come to them any longer; that is what they understand as restructuring. He insists Nigeria needs to be restructured as every region will benefit from this change.<sup>74</sup> Elder statesman and former Common Wealth Secretary-General, Chief Emeka Anyaoku, says Nigeria is under-performing and lacking national cohesion like never before. He noted that if our country is to succeed on the road to political stability and realization of its productive development potential, it must, by restructuring its existing governance structural design. It must go back to the true federalism practiced in the years before the military interfered in our national politics.<sup>75</sup>

<sup>71</sup>A. Jonhbosco, 'Restructuring'll allow maximization of potentials-Ohaneze' *Vanguard Newspaper* (Nigeria, 21 May 2018); See E. Amaize, and S. Oyadongha, and E. Idio, 'PANDEF Restructuring Summit: Four regions agree, two sitting on the fence' *Vanguard Newspaper* (Nigeria, 31 March 2018).

<sup>72</sup>Chukwuma C.S., Economic and Institutional Restructuring for the Next Nigeria. Being the text of the prepared speech by Prof. Chukwuma Charles Soludo, CFR, former Governor of the Central Bank of Nigeria at The Platform Nigeria's Annual Independence Lecture themed "Redesigning the Nigerian Economy with New Ideas" held at The Covenant Place, Beside the National Theatre, Iganmu; October 1, 2019; See Chukwuma C.S., Reconstructing Nigeria for Prosperity (2), September 17, 2012 <[https://www.proshareng.com/news/Reconstructing-Nigeria-for-Prosperity-\(2\)](https://www.proshareng.com/news/Reconstructing-Nigeria-for-Prosperity-(2))>; See C.S. Chukwuma, 'The Political Economy of Restructuring the Nigerian Federation (1)' *Vanguard Newspaper* (Nigeria, 3 August 2018); See B.S. Adesoji, 'Nigerian economy and its many problems-Charles Soludo' <<https://nairametrics.com/2019/10/02/nigerian-economy-and-its-many-problems-charles-soludo/>> accessed 16 February 2020; See N. Ibekwe, 'Nigeria's Constitution does not guaranty economic prosperity' *Premium Times* (Nigeria, 2 August 2018).

<sup>73</sup>Gabriel and Godwin, supra note 65, p. 25.

<sup>74</sup>Omotayo Y., Why the north is afraid of restructuring – Ekweremadu <<https://www.legit.ng/1217505-why-north-afraid-restructuring-ekweremadu.html>> accessed 6 July 2019.

<sup>75</sup>Jerrywright U., Nigeria under-performing, laking national cohesion like never before–Ayaoku <<http://www.legit.ng/1218670-nigeria-performing-lacking-national-cohesion-anyaoku.html>> accessed 7 July 2019; See T. Bakare, 'Full Speech: Resetting Nigeria on the path of predictable Progress' *Vanguard Newspaper* (Nigeria, 7 October 2019).

The Niger Delta Support Group (NDSG) has called for the immediate restructuring of the country from its current unsustainable unitary system to workable fiscal federalism with each state having control of its resources.<sup>76</sup> The leaders of the South-South urged the Federal Government to take the restructuring issue seriously, emphasizing that ‘change’ should commence with it. The region as well insisted on a new constitution that would delineate the powers of the Federal Government and the federating units, stating further that restructuring would make stronger the nation’s unity.<sup>77</sup> Governor Seriake Dickson of Bayelsa State stressed that the country was in dire need of devolution and that only devolution or restructuring would guarantee stability in the country.<sup>78</sup> On his part, Governor Wike of Rivers State has lamented that the Presidency and the ruling party at the national level, All Progressive Congress (APC), were not committed to the restructuring of the country.<sup>79</sup>

Reputable traditional rulers from the Niger Delta have also called for the restructuring of Nigeria. King Disrael Bobmanuel noted that restructuring is the way to go as it will entail finding better ways to do things and not the breaking up of the country.<sup>80</sup> On his part, Dr. Chukwumela Nnam-Obi, II, the Oba of Ogbaland, said that restructuring was the recipe that would ensure unity and development of every part of the country.<sup>81</sup> The Pan Niger Delta Forum (PANDEF), through its National Leader, Chief Edwin Clark, has warned that without restructuring, there would be no Nigeria.<sup>82</sup> Besides, one of the founders of the Pan Niger Delta Forum and former lawmaker representing Delta South Senatorial District, Chief Stella Omu, opined that restructuring is the answer to all the problems we have in Nigeria today and that any person that desires Nigeria to function well must embrace restructuring, which is the solution to the many of the issues confronting us as a people. According to her, if every state is allowed to control its resources, it will create a sense of competition and cure the laziness among the states<sup>83</sup> and change the mentality of state governors sole dependence on allocation from the federal account which they go cap in hand to beg to address development challenges in their states.<sup>84</sup>

Civil Society Organizations in the Niger Delta region have equally demanded the immediate restructuring of Nigeria. The groups, Foundation for Human Rights and Anti-Corruption

<sup>76</sup>U. Jeremiah, ‘Niger Delta Group calls for restructuring, fiscal federalism’ *Vanguard Newspaper* (Nigeria, 26 October 2018).

<sup>77</sup>A. Emma, and I. Davies, ‘Nigeria: ‘Change’ begins with restructuring, S-South leaders tell FG’ *Vanguard Newspaper* (Nigeria, 28 January 2018).

<sup>78</sup>Agency Report, ‘Buhari, Dickson meet; discuss restructuring, Niger Delta, others’ *Premium Times* (Nigeria, 25 May 2018).

<sup>79</sup>Amaize and Iheamnachor, supra note 75.

<sup>80</sup>Shola Oyeyipo, ‘Niger Delta leaders insist on restructuring’ *THISDAYLIVE* (Nigeria, 12 July 2018).

<sup>81</sup>C.G. Ameh, ‘Restructure or split Nigeria now-Niger Delta tells Federal Government’ *Daily Post Newspaper* (Nigeria, 3 July 2017).

<sup>82</sup>No Restructuring, No Nigeria, Niger Delta Leaders Insist (31 July 2017) <metrowatchonline.com>Highlights > accessed 1 February 2020.

<sup>83</sup>S. Omu, ‘Restructuring will address 90% of Nigeria’s problems-PANDEF Leader’ *Punch Newspaper* (Nigeria, 4 November 2018).

<sup>84</sup>See Restructuring will address 90% of Nigeria’s problems, *ibid*; See Vincent O. and Collins O. and Dele I., Intergovernmental Relations and Development in Nigeria: The Missing Link. A Paper Presented at the 31st National Conference of the Nigerian Political Science Association (NPSA) held at the International Conference Centre, Abakaliki, Ebonyi State, from Monday 26th–Thursday 29th March, 2018, pp. 1-17:11.

Crusade (FHRACC), Niger Delta Security Watch Organization of Nigeria (NDSWN), and Ijaw People Development Initiative (IPDI), argued that the only alternative to restructuring was separation. According to the group, restructuring is a political tsunami that no one can stop with rhetoric or appeal to sentiment. The option to the restructuring of Nigeria to the very structure at independence upon which our unity and indivisibility were built is separation by any means necessary. They noted that what Nigeria desires urgently are justice, fairness, and equality, and these can only be actualized through restructuring.<sup>85</sup>

On the other hand, the people of northern Nigeria are the antagonists of restructuring as they consistently entertain some fears on the intentions of the proponents restructuring.<sup>86</sup> For instance, Anthony Sani-a one-time Public Relations Officer of the Arewa Consultative Forum (a socio-cultural group of the people of the North), argues that the North is presently opposed to the restructuring of Nigeria specifically for the reason that there is not anything to restructure. He explained further that the North does not believe the predicaments of Nigeria can correctly be credited to the structure of government the country selected. What we believe is that the problems of Nigeria are due to the failure of leadership.<sup>87</sup> When traditional rulers and the leaders of the Urhobo Progress Union (UPU) and members of the Delta State All Progressive Congress (APC) paid President Muhammadu Buhari-a northerner, a courtesy call on Monday, June 25, 2018, at the presidential villa, Buhari said although he had heard their proposals for the restructuring of the federation, he wasn't sold on the idea just yet because calls for restructuring have mainly been regional and sectional.<sup>88</sup>

Some leaders of the northern Nigeria, who spoke on the platform of the Northern Delegates' Forum (NDF), have vehemently kicked against the calls for the country to be restructured to make the nation more active. The northern leaders, who participated in the 2014 National Conference, disassociated themselves from any effort by any group to seek out to implement or compel the federal government or any of its institutions to use the report of the conference, under any pretext to restructure Nigeria. They called on any group of supporters or individuals agitating for any structure of restructuring of the federation, primarily, to respect the current constitutional order and to seek out to do so within the limits and bounds set under our constitution and law. According to the NDF, to suggest otherwise would lead to chaos and anarchy.<sup>89</sup> An elder statesman from Northern Nigeria, Tanko Yakasai, at a public lecture organized by Africa Research and Development Agency (ARADA), has described the agitation for restructuring as a Yoruba agenda promoted by uninformed Igbo people. He sees the unrest as another attempt to foment trouble in the country. According to him, restructuring, like many

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<sup>85</sup>Godwin, supra note 79; See M. Omonigho, Alleged military invasion of Ondo community: Group threatens to sue Akeredolu' *Daily Post Newspaper* (Nigeria, 16 May 2017).

<sup>86</sup>Kingdom and Unwana-Abasi, supra note 66, p. 71.

<sup>87</sup>Yaquab, supra note 64, p. 9; See B. Akinloye, 'Northern elders disagree on restructuring' *Nigerian Eye Newsletter* (Nigeria, 31 July 2016).

<sup>88</sup>J. Egbas, 'President explains why he hates restructuring' *Pulse News Online* (26 June 2018).

<sup>89</sup>John O.N., 'Why we are against restructuring of Nigeria-Northern Elders' *Daily Post Newspaper* (Nigeria, 13 April 2017); O. Oghenevwe, 'Northern leaders kick against restructuring' *THISDAYLIVE* (Nigeria, 13 April 2017); See Realnews Magazine, Restructuring Nigeria: In Whose Interest?' *Voice of Nigeria* (Nigeria, 13 May 2017).

other problematic concepts, was conceived by Afenifere, an offshoot of Action Group, to destabilize the country.<sup>90</sup>

If not for the new voice of Prof. Ango Abdullahi – the former Vice-Chancellor of Ahmadu Bello University, Zaria, and Atiku Abubakar in support of restructuring, the Northern political elites have been silent over the issue of restructuring. Their silence, it is believed, is occasioned by the oil wells they primitively acquired in the Southern part of the country.<sup>91</sup> According to Atiku Abubakar - the current structure which concentrates too much power and resources in the centre makes us economically unproductive, uncompetitive, indolent, politically weak, disunited, and unstable.<sup>92</sup> Ango Abdullahi, who stated that the best alternative for the country was to go back to 1914 or 1960, said we should go our different ways. If, in contrast, we give credit to the British and our founding fathers, and we cannot have restructuring based on what existed in 1914, we should return to 1960 when the country operated regions”.<sup>93</sup>

A campaign group called “Restructure Nigeria” has suggested that states should be allowed autonomous control over their resources, education, electricity, and security system. They argued that these areas in the hands of the central government had been highly mismanaged. They believe that the solution they proffer is to ensure the development of communities in this area.<sup>94</sup> Olawale Oluwo, a one-time Lagos State Commissioner for Energy and Natural Resources in his article titled “A Case for Political and Economic Restructuring of Nigeria,” concluded that the current governance structure, where petrodollar money is shared every month persuades no state to develop its resources. It noteworthy that before the emergence of oil in Nigeria, the different regions invested much in commodities such as cocoa, groundnuts, coffee, palm oil, etc. However, fiscal federalism was sacrificed at the altar of the oil-boom.<sup>95</sup> Even Nasir Ahmad El-Rufai, over seven years ago in April 2012, wrote a widely published article titled “A Federation without Federalism.” The piece depicted the consensus among Nigerians, before and at present, that our federation has been dysfunctional, more unitary than federal, and not offering public goods to the majority of our people.<sup>96</sup>

The growing demands on the Nigerian state to restructure depicts from the history of how the federal system inherited at independence had functioned, with regions given the autonomy of raising and retaining their revenues while paying taxes to the central government, developing

<sup>90</sup>I. Nasir, ‘Restructuring is Yoruba agenda championed by uninformed Igbos-Tanko Yakasai’ *Premium Times* (Nigeria, 17 September 2018).

<sup>91</sup>Niworu, S.M., ‘Nigerian Federalism and the Clamour for Restructuring: Is It the Structures or the Leadership’ [2018] (1)(2) *Journal of Social and Political Sciences*, 205-214:207.

<sup>92</sup>Funke Adekoya, ‘Restructuring Nigeria: Pros, Cons and Matters Arising’ [2017] (1)(2) *Unilag Law Review*, 12-49:13.

<sup>93</sup>A. Ben, ‘Break up Nigeria or Go Back to Regionalism–Ango Abdullahi’ *Vanguard Newspaper* (Nigeria, 11 October 2017).

<sup>94</sup>Ibid, p. 19.

<sup>95</sup>Osmond, N.O., Kalu, A.S. and Nwosu, C.A., ‘Economic Restructuring: An Imperative for Diversification of the Nigerian Economy’ [2018] (6)(4) *International Journal of Innovative Development and Policy Studies*, 21-26:23; See O. Oluwo, ‘Nigeria: A Case for Political and Economic Restructuring of Nigeria’ *THISDAYLIVE* (Nigeria, 31 August 2016).

<sup>96</sup>Nasir Ahmad el-Rufai, Africa Programme Meeting Transcript: Next Generation Nigeria: What is restructuring and does Nigeria need it?-The Essence of the Restructuring Debate in Nigeria (Chatham House, London-The Royal Institute of International Affairs, 21 September 2017), pp. 1-8:3.

at their paces and engaging in healthy rivalries among themselves.<sup>97</sup> Interestingly, some persons, especially from Northern Nigeria, have equated the calls for restructuring as calls for dismembering Nigeria. Such concern is unfounded and the notion unconstructive because Nigeria has been restructured several times, without negative consequences. Since its creation, Nigeria has witnessed one structure of restructuring or the other. First, the 1938 restructuring of the South into the two regions of West and East; second, the agitations for a greater representative federation away from a tripartite configuration equivalent to the significant nationalities; third, the 12 states creation of the Gowon administration in 1967 after the civil war; fourth, the creation of a further 19 states structure in 1976 by the Murtala Muhammed administration; fifth and sixth, the creation of 21 and 30 states in 1987 and 1991 respectively, by the Ibrahim Badamosi Babangida regime; and seventh, the 36 states federation by General Abacha in 1996.<sup>98</sup> Nigeria has undergone a lengthy process of restructuring in terms of the number of geopolitical administrative entities constituting the polity.<sup>99</sup>

The calls for restructuring presupposes that there are some imperfections or defects in Nigerian federalism, which must be given priority attention to bring the version of the Nigerian federal system as close as possible to what is obtainable elsewhere. The restructuring imagined is one that allows people at different levels to grow according to their human and material assets and at their speed. This will most possibly let loose the energies and creativeness of the people in giving expression to demands for truer diversification of the national economy.<sup>100</sup> However, calls for restructuring in Nigeria do not seem to have so far appealed to successive governments in Nigeria that would give the calls serious considerations. The nearest they have done within the context of the recent agitations were the organization of the 2005 National Political Reform Conference (NPRC) by President Olusegun Obasanjo and the 2014 National Conference, convened by President Goodluck Ebele Jonathan. The outcome of these conferences has not yet led to the expected restructuring exercise in Nigeria.<sup>101</sup> Jonathan's successor, President Muhammadu Buhari, and his party, the All Progressive Congress (APC), it is alleged, do not seem to be excited by some of the critical recommendations of the 2014 National Conference, which the President Jonathan administration spent 9 billion naira to organize.<sup>102</sup>

## CAUSES OF THE CRISIS IN THE NIGER DELTA REGION OF NIGERIA

### A. Poverty, Lack, and Deprivation

Poverty, lack, and deprivation amidst its plenty of oil and gas resources are crucial factors responsible for the crisis and agitation of the people of the Niger Delta region. Notwithstanding

<sup>97</sup>Olu-Adeyemi, L. 'Federalism in Nigeria - Problems, Prospects and the Imperative of Restructuring' [2017] (5)(8) *International Journal Advances in Social Science and Humanities*, 40-52:44.

<sup>98</sup>Ibid; Editorial: 'Time To Heed Nigeria's Perennial Clamour for Restructuring' *Premium Times* (Nigeria, 14 September, 2016).

<sup>99</sup>Dele, A. 'Nigeria's Federalism and State Reorganization and Restructuring: Attempts at National Integration through Fragmentation' [2016] (4)(2) *International Journal of Academic Research and Reflection*, 40-51:40.

<sup>100</sup>Kingdom and Unwana-Abasi, supra note 66, p. 69; Editorial: 'Time to Heed Nigeria's Perennial Clamour for Restructuring' *Premium Times* (Nigeria, 14 September 2016).

<sup>101</sup>Sheshi, Salahu and Ilyasu, supra note 58, pp. 31-32; See Tenuche, M., 'The Composition of the National Political Reform Conference (NPRC) and the National Question in Nigeria' in Warisu, O.A. (ed.) *Political Reform Conference, Federalism and National Question in Nigeria* (Political Science Association 2005).

<sup>102</sup>Victor, E.I. and Ebong, I.B. and Tonye Inimo-Etele, 'Restructuring Nigerian Federalism: A Prognosis for Nation-Building and Socio-Political Stability' [2019] (5)(1) *Journal of Political Science and Leadership Research*, 1-18: 12; O. Osadare, 'Bakare wants FG to adopt National Conference Report' *Vanguard Newspaper* (Nigeria, 11 January 2016).

the hundreds of billions of dollars of oil revenue generated from the Niger Delta since the discovery of oil by the Nigerian government in, the people of the Niger Delta still lingers in horrible poverty and lack as they are without the necessities of life like water, electricity, modern health facilities, excellent transportation systems, modern housing, etc.<sup>103</sup> Some parts of the region, especially the riverine areas, are faced with the paradox of dwelling amid plenty of water but no water to drink. It reflects a society that is the source of wealth in which the majority of the residents are poor. The riverine areas especially have been faced with severe economic and social deficiency even though they have been responsible for the creation of the oil wealth that drives the Nigerian economy.

The Niger Delta, the source of Nigeria's vast oil wealth, is by far the most economically marginalized, poverty-stricken, and ecologically degraded area of the nation.<sup>104</sup> Life in the communities and creeks of Niger Delta is anything but fertile and prosperous. Nigeria's Niger Delta is an area where time appears to have stood at a standstill and where people live the most meager of life, leaving them bitter and annoyed for lack of benefit from the black gold that makes Nigeria the largest producer of oil in Africa.<sup>105</sup> Hence the striking paradox of the Niger Delta is that while it is a treasure base, it is also paradoxically Nigeria's poverty enclave. According to a 1995 World Bank Report:

*Despite its vast oil reserves, the (Niger Delta) region remains weak. GNP per capita is below the national average of US\$280. Unemployment in Port Harcourt is 30 percent and is believed to be equally high in rural areas. The rural population commonly fish or practice subsistence agriculture, and supplement their diet and income with a wide variety of forest products. Education levels are below the national average and are unusually low for women. While 70 percent of Nigerian children attend primary school, this level drops to 30-40 percent in some parts of the Niger Delta. The high cost of living exacerbates the poverty level in the Niger Delta. In the urban areas of Rivers State, the cost of living index is the highest in Nigeria.*<sup>106</sup>

Oloibiri community, where petroleum was discovered first in commercial quantities in the Niger Delta, exemplifies the rate of poverty and deprivation suffered by the people of the

<sup>103</sup>Festus and Pearl, supra note 52.

<sup>104</sup>Jonah R., 'Beyond the Oil Curse: Shell, State Power, and Environmental Regulations' [2010] (XII)(1) *Stanford Journal of International Relations*, 26-31: 27; Tom O'Neill, 'Curse of the Black Gold: Hope and Betrayal on the Niger Delta' *National Geographic* (26 February, 2006) <[www.daniellazar.com/wp-content/uploads/the-curse-of-black-gold](http://www.daniellazar.com/wp-content/uploads/the-curse-of-black-gold)> accessed 14 March 2019.

<sup>105</sup>James, supra note 39; See Legal Regime of Ownership of Petroleum and Land Use in Nigeria <[martinslibrary.blogspot.com/LAW](http://martinslibrary.blogspot.com/LAW)> accessed 16 February 2020.

<sup>106</sup>Innocent A.O., 'The Nigerian State and the Niger Delta Question' A Paper for the 22<sup>nd</sup> Annual Conference of the Association of Third World Studies, Americus, Georgia, USA, September 7, 2004 <<https://nigeriaworld.com/articles/2004/sep/071.html>> accessed 18 July 2019; Singh J. and Moffat D. and Linden O., The Niger Delta: A Stakeholder Approach to Environmental Development. *Africa Region Findings & Good Practice Infobriefs*; No. 53 (Washington DC.: World Bank, 1995); Christiana, K.O, 'Assessment of the Impact of Oil and Gas Resources Exploration on the Environment of Selected Communities in Delta State Nigeria' [2014] (3)(3) *International Journal of Management, Economics and Social Sciences*, 79-99; Ighodalo, A. 'Oil-Environmental Degradation and Human Security in the Niger-Delta Region of Nigeria: Challenges and Possibilities' [2012] (8)(26) *European Scientific Journal*, 77-92; Ken Saro-Wiw, *Similia: Essays on Anomic Nigeria* (Saros International Publishers 1991) p. 169; Festus Iyayi, *The Niger Delta: Issues of Justice and Development Agenda* (Centre for Democracy and Development (CDD) 2006).

region. It has become a community that has been described by Mr. David Serena-Dokubo in the following explicit language.

*A Virgin community in 1956, rich in oil deposits, trusting and believing its compatriots in the euphoria of the prospects of independence, but, sapped, sucked dry, subdued, despoiled, desecrated and deserted. A community having the misfortune of being part of the only one of the 36 States and Abuja NOT CONNECTED to the national electricity grid, having no school, no hospital, and no portable water, in fact, no nothing. A community, though in shock with toxic effluent and gaseous discharges from oil and gas producing activities, is facing the threat of extinction ostensibly for that reason, by the proposal of compatriots who publicly speak of schemes to evaluate and relocate its already-fragile population to the Nigerian hinterland. A community whose resources have been siphoned dry and squandered to build palatial edifices in other parts of the county; to build bridges even where there is no river; to sustain lavish lifestyles of wealthy compatriots, leaving it to wallow in abject poverty and utter hopelessness.<sup>107</sup>*

The pitiful predicament of the helpless populace of the Niger Delta is demonstrated rightly by the subsequent passage in the Niger Delta News Magazine.

*After the discovery of crude oil reserves in 1956 in the region, the serenity that hitherto characterized the area gradually evaporated, and the dark clouds of the curse of “Crude oil” began to envelop the Niger Delta region. Each day, for 17520 days, millions of barrels of the dark liquid gold were extracted from under their feet. They hear it is worth a lot of money, but they wallow in abject poverty. They listen to it is used to generate electricity, but they live in darkness, they hear a lot of wonders performed with the same dark substance that has only brought them pain, suffering, and death. Only a few works in the oil companies because a vast majority are isolated from centres of education. What they know about this black substance is that sometimes it covers their rivers and creeks, and deprives them of drinking water and their age-long occupation of fishing. Sometimes it spills onto their land, depriving them of vital land for subsistence farming. They see the ‘devil’s fire’ that burns day and night from huge furnaces that shoot into the sky as an inexplicable albatross. The people of the Niger Delta see beautiful cities built with the proceeds from the very substance that has brought them such pain and suffering. They see their fellow citizens elsewhere living in magnificent structures, driving on well-tarred roads, drinking clean water, enjoying electricity, and with much better access to education, and they wonder why they have been left holding the short end of the stick.<sup>108</sup>*

The Niger Delta crisis connected to poverty seems to agree with the position of the World Bank that poverty is among the reasons for conflict in oil-producing countries. In an outcome of research conducted, the Bank states that “the critical core cause of conflict is the lack of economic development such that several of the world’s poorest nations are confined in a tragic vicious cycle where poverty causes friction and conflict causes poverty.<sup>109</sup> The start of militancy in the Niger Delta region is attributed to the negligence on the part of the government

<sup>107</sup>Sagay I., ‘Nigeria: Federalism, the Constitution and Resource Control’ Test of speech delivered by Professor Itse Sagay (SAN), at the fourth sensitisation programme organized by the Ibori Vanguard at the Lagoon Restuarant, Lagos <[www.waado.org](http://www.waado.org)>Essays >Sagay> accessed, 20 August 2017.

<sup>108</sup>Sagay, *ibid*.

<sup>109</sup>Festus and Pearl, *supra* note 52.

and the elite in the area.<sup>110</sup> If people, especially young men lack employment or fruitful income-earning opportunities, the moderate “riches” conferred by war may offer them an attractive option. However, this view of conflict is based on the premise that fighting does provide opportunities for enrichment, which is difficult to argue in impoverished societies such as Afghanistan and Somalia.<sup>111</sup>

### **Underdevelopment and Unemployment**

In all its ramifications, the Niger Delta region is underdeveloped, even though it is the breadbasket of Nigeria. The backwardness is so severe the youths of the area are the enormous hit by the underdevelopment. Unemployment accounts for the reason many of them have resorted to militancy to draw national and global attention to their predicament. Regardless of all the claims by the oil companies to be engaged in the development of the region, it is to the contrary. That the alliance of the Nigerian state with the oil giants and the domestic bourgeoisie has played a dominant role in the underdevelopment of the Niger Delta is indubitable.<sup>112</sup> The pervasive underdevelopment made Whittington state that:

*The government and oil companies have profited by hundreds of billions of dollars since the discovery of oil. Most Nigerians living in the oil-producing region are living in dire poverty.*<sup>113</sup>

As has been noted earlier, unemployment is very high amongst the people of the Niger Delta region as the oil companies do not engage their employees from the area that produce the oil, but from non-oil producing areas of Nigeria. In the Niger Delta, the majority of the youths are unemployed. The Niger Deltans have not profited from the multinational oil companies operating in their communities. According to them, those working in these companies are less than five percent. A majority of the oil workers are from other regions of Nigeria.<sup>114</sup> The unemployment rate in the Niger Delta region is currently the highest in the country. One may be right to conclude that the state of infrastructure primarily reflects the context of neglect, which is capable of breeding dissatisfaction and, in turn, agitation for a redress of the degradation.<sup>115</sup>

### **Violation of Human Rights**

Violation of the Human rights of the people of Niger Delta accounts for one of the reasons for the crisis in the region. Multinational oil companies, for example, Shell, Mobil, Chevron, Agip, etc. have been very cruel to the people of the area. The human rights of the people are violated continuously by security forces at the request of the companies. There has been the incidence of severe use of weapons by security agencies in the course of peacekeeping, repeatedly leading to preventable loss of lives.<sup>116</sup> The Federal Government, applying the mechanisms of

<sup>110</sup>Ering S.O. and Bassey G.E. and Odike E.L. ‘The Niger Delta Crisis in Nigeria: Pre and Post Amnesty Situation’ [2013] (4)(6) *Mediterranean Journal of Social Sciences*, 421-427:426.

<sup>111</sup>Graham K.B and Frances S., Economic and Political Causes of Conflict: An Overview and Some Policy Implications (Centre for Research on Inequality, Human Security and Ethnicity (CRISE) Working Paper No. 81, February 2015) pp. 17-18.

<sup>112</sup>Kelly E., ‘The Unending Niger Delta Crisis: An Ecological Perspective’ [2013] (6)(1) *R&D Research and Discussion*, 24.

<sup>113</sup>Festus and Pearl, supra note 52.

<sup>114</sup>Ibid.

<sup>115</sup>Innocent, supra note 106.

<sup>116</sup>Innocent, bid; See Ecowas Community Court of Justice Ruling in the Case of The Registered Trustees of the Socio-Economic Rights & Accountability Project (SERAP) V President of The Federar Republic of Nigeria &

oppression, compellingly moves against the communities of the region through the use of regular and mobile police officers, complemented by trigger-happy soldiers and plain-clothes security forces who are prepared to kill at the least infuriation.<sup>117</sup>

There are cases where soldiers and other security forces were deployed by the federal government to exterminate whole communities. These comprise the 1994 Ogoni crisis, which led to the murder of the environmental rights leader, Ken Saro-Wiwa, and eight of his people. The Umuechan Saga of 1990; the Choba crisis of 1999; the annihilation of the Odi community in 1999 by the Olusegun Obasanjo administration who ordered the deployment of troops to invade Odi town that resulted in the death of many youths and destruction of the city.<sup>118</sup>

### **Environmental Damage and Degradation**

Ecological damage and degradation of the Niger Delta environment are also believed to be among the causes of the crisis in the region. It is an undeniable fact that the Niger Delta has been significantly damaged and degraded by oil and gas activities carried on by multinational oil companies in the region. The traditional economic mainstay of fishing and farming of the oil-bearing communities has, to a great extent, been destroyed by, for example, oil spillage and gas flaring. Oil spillage contaminates the rivers, streams, etc. thereby killing the fishes and other aquatic species, which in turn makes it impossible for the people to fish and thus, leads to food shortage.<sup>119</sup> On a general note, the environmental effects of oil pollution resulting from oil spillage include the degradation of forests, a drastic decrease in the nutrient value of the soil. The reduction of available landmass for cultivation; this has contributed to the decline in the bush fallow period from 3-5 years to one year in many of the communities. The destruction of food crop, cash crops and marine life; this ultimately lead to a decline in agricultural output and by extension its development.<sup>120</sup>

Oil spillage also degrades the land, thus making it unproductive and unsuitable for farming. Like most industrial activities, oil operators discharge their wastes into mangrove and freshwater swamps and the sea with little or no treatment. Untreated wastes degrade water quality and ecology of the receiving environment, thus harming human health. Due to water pollution caused by oil spillage, the streams and rivers become unsafe for drinking. The environment has become less likely to support the quality of life previously enjoyed by the people of the area. Animals and plant resources die out or become extinct, thus creating an imbalance in the ecosystem.<sup>121</sup>

On several occasions, people interviewed by Human Rights Watch said that spills in their area had made people sick who drank the water, especially children.<sup>122</sup> There is a lack of adequate,

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Ors (SERAP V. Nigeria, Ruling, Suit No: ECW/CCJ/APP/08/09 <[http://www.worldcourts.com/ecowasccj/eng/decisions/2010.12.10\\_SERAP\\_v\\_Nigeria.htm](http://www.worldcourts.com/ecowasccj/eng/decisions/2010.12.10_SERAP_v_Nigeria.htm)> accessed 16 February 2020.

<sup>117</sup>Innocent, bid.

<sup>118</sup>Ibid; See Robert, supra note 7, p. 86.

<sup>119</sup>Ibiba S. I., 'The Environment and Sustainable Development in the Niger Delta: The Bayelsa State Experience' Doctoral Dissertation (Department of Political/Administrative Studies, University of Port Harcourt, Nigeria 2004).

<sup>120</sup>Ibid.

<sup>121</sup>Implementation of the Management Response to the Extractive Industries Review (World Bank Report, December 2007).

<sup>122</sup>Ojo G.U. and Gaskiya J. (eds), *Environmental Laws of Nigeria: A Critical Review* (Friends of the Earth Nigeria 2003).

safe, portable, and consumable water in the Niger Delta region because the region's surface and underground waters have been and may continue to be polluted and contaminated by harmful substances.<sup>123</sup> Also, in most cases, the affected rivers, streams, etc. and land contaminated and degraded respectively by oil spillage are left unattended to in the form of cleaning up the spillage. It is equally noteworthy that the oil-bearing communities are, in most cases, not compensated for their farms, fish ponds, economic crops, and trees, etc. destroyed by oil spillage by the multinational oil companies responsible for the spillage.

Gas flaring creates air pollution that damages the Niger Delta biodiversity, causes noise and elevated temperatures, kills vegetation, suppresses the growth and flowering of some plants, and diminishes agricultural production. Gas also impacts negatively on the health of the Niger Delta populace. According to the United States Environmental Protection Agency (USEPA), many scientific studies have linked breathing particulate matter to several major health problems, comprising aggravated asthma, increase in respiratory symptoms like difficult or painful breathing, coughing, chronic bronchitis, decreased lung function, and premature death to gas flaring. Nigeria is alleged to have flared more gas than any other country in the world as of 1993.<sup>124</sup>

### **Insincerity of the Federal Government**

Nigerian Federal Government's alleged dishonesty to develop the region in a company with the state government is another factor attributed to being responsible for the agitation and crisis in the area. There were previous initiatives by the Nigerian state to develop the Niger Delta. The recommendation of the Wilkins Commission in 1958 led to the birth of the Niger Delta Board in 1961 though it did not, however, achieve much. Another effort to develop the region was the setting up of the Niger Delta Basin and Rural Development Authority in 1976. After that, the presidential task force was set up as a result of the youth restiveness in the region. Still, for the same purpose of developing the area, the Oil and Mineral Producing Areas Development Commission (OMPADEC) was set up in 1992. All of these did not make any tangible impact, not because of the people, but because of the failure in the governance system. The collapse in the Nigerian governance system has been a significant factor in hindering development in Nigeria. The laxity in accountability in the governmental order in Nigeria has done much damage to growth, particularly in the Niger Delta and Nigeria in general.<sup>125</sup>

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<sup>123</sup>Ibid; See Okhumode, H.Y. 'Addressing Environmental Health Problems in Ogoniland through Implementation of United Nations Environment Program Recommendations: Environmental Management Strategies' [2017] (4) *Environments* 28, 3; See Empire H. Nyekwere and Duson N. Ambrose, 'Environmental Remediation Management in the Niger Delta Region of Nigeria' Paper presented at the 5<sup>th</sup> National Conference on Environmental Sustainability in Nigeria: Challenges and Prospects held at Captain Elechi Amadi Polytechnic (Formerly Port Harcourt Polytechnic), Rumuola, Port Harcourt, Rivers State on 4<sup>th</sup> - 7<sup>th</sup> September, 2018, pp. 334-348.

<sup>124</sup>Tibba L.W., *Environmental Law & Policy of Petroleum Development; Strategies & Mechanisms for Sustainable Management in Africa* (1<sup>st</sup> ed., Anpez Centre for Environment and Development Port Harcourt 2002); See Outdoor Air Quality-Department of Environmental Protection, Montgomery County, Maryland <... <https://www.montgomerycountymd.gov/green/air/outdoor.html>> accessed 16 February 2020; See Air Quality Partners - Protecting Your Health < <http://www.aqpartners.state.pa.us/health.htm>> accessed 16 February 2020.

<sup>125</sup>Etiosa U. and Matthew A., *Coping with Climate Change and Environmental Degradation in the Niger Delta of Southern Nigeria* (Community Research and Development Centre Nigeria 2007), pp. 24-25; See Cassava Value Chain Project-Foundation for Partnership Initiatives in the Niger Delta (PIND) Foundation <<https://pind.foundation.org/project/cassava-value-chain-project/>> accessed 16 February 2020.

Then in 2000, the Federal Government of Nigeria set up the Niger Delta Development Commission (NDDC) with a mandate to conceive, plan and implement projects and programs for the sustainable development of the Niger Delta area and to undertake infrastructural development in the region. The NDDC began operation in 2001. Although NDDC has implemented some projects, some critics, however, think that NDDC had little impact on development in the region. Some accuse the commission of not carrying the communities along in planning development projects, and thus there is a lack of ownership of projects. The significant condemnation facing the NDDC is its lack of transparency and collaboration with the stakeholder in its operations. More so, NDDC is reported to have a culture of a massive abandonment of projects.<sup>126</sup>

The dishonesty of the Federal Government made the people, particularly the youths, to tackle the matter in a confrontational approach. Many indigenes of the area got frustrated with the circumstances, another expectation and assurance having vanished unexpectedly. It resulted in the self-help incidence of oil workers kidnapping. The people, in their opinion, felt that disturbing the flow of oil is the best way to react. They were of the view that crippling the source through which oil flows is the best way to register their anger against a government that has refused to fulfil its promises.<sup>127</sup> The entire violent agitation in the region was necessitated by the high rate of injustice in the Niger Delta by the Nigerian government on the one hand and by the oil multinationals on the other hand, which bordered good condition of living by the oil-producing communities.<sup>128</sup>

## CONCLUSION

The Southern part of Nigeria, predominantly, the Niger Delta region, has had a long history of injustice visited on them and has in like manner responded with violence.<sup>129</sup> From imperial humiliation through colonial exploitation, the area has journeyed to the present crisis of “internal slavery and colonialism” by the combined actions and inactions of a conspiracy that has chosen to collaborate with foreign interests. As the region over boil, the option left for the beneficiaries of the series of injustices against the people is to reverse their inhuman actions and institutionalize equity and justice with a measure of good conscience that should heal the wounds inflicted on the people for long. A pure return to true federalism is a direct cure for the agitations in the region. All cosmetic palliatives put in place by succeeding regimes can only be what it is, a waste of time and a useless venture.<sup>130</sup>

The resolution of the conflicts in the oil-producing communities of the Niger Delta is fundamental to the survival of the Nigerian state. There is a need, therefore, for the significant restructuring of the Nigerian State. Restructuring is indispensable given that it will create the just framework for the resolution of the conflicts, a structure that empowers the states to own and exercise full control over their resources. Nevertheless, the temporary intervention

<sup>126</sup>Etiosa and Matthew, *ibid*, 25; Akpe S, ‘Of the NDDC, Oil Companies and Abandoned Projects’ *The Punch Newspaper* (Nigeria, 14 May 2003).

<sup>127</sup>Festus and Pearl, *supra* note 52.

<sup>128</sup>Ola, *supra* note 45, 32.

<sup>129</sup>Human Rights Watch (HRW), *The Price of Oil: Corporate Social Responsibility in Nigeria Oil Producing Communities* (HRW 1999), p. 16.

<sup>130</sup>Victor U., ‘Strangulated Federalism’, Resource Rights Agitations and the Deepening Crisis in the Niger-Delta’ [2009] (1)(3) *African Journal of History and Culture (AJHC)*, 54-59; HRW, *ibid*.

measures, for example, the Niger Delta Development Commission (NDDC), must engage true representatives of the oil-producing states at the stages of program formation and execution and the general administration of those arrangements. However, in the absence of the establishment of a real federal system, these mechanisms would end up to be unsustainable in due course.<sup>131</sup>

However, in the short term, the revenue allocation formula, premised on derivation, has to be adjusted fundamentally in favour of the oil-producing states and local governments. Accordingly, an elaborated new fiscal federalism that assures the component units of the country their rights to development would enhance mutual respect and social harmony.<sup>132</sup> Nigeria can achieve such mutual respect and social peace through equitable distribution of wealth and by taken all grievances seriously rather than resorting to police and military measures to address this problem.<sup>133</sup>

Therefore, there is an urgent need to democratize the control of natural resources, with emphasis on the complete restructuring of Nigeria to the right constitutional, political, governance, socioeconomic, and fiscal framework. The prior approach will allow the Niger Delta Region have considerable autonomy, which will empower the people to exercise their natural rights to resources and development and participate significantly in the choice of the type of development appropriate for the region.

The author therefore recommends that the Nigerian Federal Government should focus on implementing sustainable developmental projects aimed at achieving socio-economic development of the Niger Delta States. Provide employment opportunities for the oil-bearing communities (especially for the youths) to drastically reduce the rate of unemployment, poverty and lack in the Niger Delta region. Also, the Nigerian Federal Government should work in synergy with the multinational oil companies operating in the Niger Delta region to clean up every oil spillage contaminated location.

Most essentially, the Nigerian Federal Government should tackle the problem of over-centralization of economic resources, which is at the core of the failure of Nigeria's fiscal federalism. According to them, Nigeria's fiscal federalism should emphasize revenue generation rather than revenue distribution, as this will guarantee the economic practicability of the federating units. Emphasis on revenue generation will discourage Nigeria's federating units' dependence on the Federation Account and promote healthy competition among the federating groups to build up their independent revenue sources.

Also, the law that vests all mineral resources under the soil of Nigeria in the federal government should be abolished. The Federal Government should give the Niger Delta Region complete ownership, control, and management of oil and gas resources situated in their different states. This can be achieved through the constitutional restructuring of the Nigerian polity to reflect resource control-which is a fundamental feature of true fiscal federalism. A contracted

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<sup>131</sup>Innocent, supra note 106; O. Vincent, 'Ibora Trial an Attempt to Rubbish Resource Control Struggle' *Daily Independent Newspaper* (Nigeria, 21 July 2004), 8.

<sup>132</sup>Innocent, *ibid.*

<sup>133</sup>Fadeyi, O.A. and Oduwale, T. and Adedigba, I.A. 'Theoretical Dimensions of Societal Ill-Values: Insurgency, Counter Insurgency and Sustainable Transformation Agenda' [2016] (2)(1) *International Journal for Research in Social Science and Humanities Research*, 16-40.

percentage of taxes should be paid to the Federal Government by the Niger Delta States. This approach will allow states to partner with the private sector to exploit mineral resources and pay agreed derivation to the federal government.