

Oil and Gas Revenues and Development Challenges for the Niger Delta and Nigeria

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INTRODUCTION

Nigeria is well endowed with mineral resources with petroleum forming a major part of the natural resource mix. With 40 billion barrels of proven oil reserves and a daily production of about 2.4 million barrels of crude oil, the country has become one of the major petroleum exporters in the world. The government and transnational oil companies earn substantial revenues and profits from oil and gas exports. However, amidst growing exports and increasing revenues to national, state and local governments, poverty levels in the country have been increasing while social infrastructures collapse. Dependence on oil and gas revenues has been a major factor in the inability of the state to create an enabling environment for sustainable development with the result that that citizens are disenchanted while violence has escalated in the country.

The increasing violence in the Niger Delta complicates a social situation characterised by massive poverty and environmental degradation occasioned by the exploitation of crude oil and natural gas in the area, as corruption has robbed communities of potential benefits from the considerable federal, state and local government revenues from oil and gas sales.

There is need for citizens and government to work towards promoting a new deal in democratic accountability in the Niger Delta region and Nigeria in general by improving participation and dialogue among communities, civil society and governments to ensure that government budgets work for the people.

OIL AND DEVELOPMENT CHALLENGES

In 2006, the Nigerian government estimated it is earning about \$36 billion each year from the extensive petroleum industry¹. Other estimates put current annual earnings at over \$45 billion². However, in 50 years of increasing oil and gas production, Nigerians remain among the poorest in the world and social infrastructure in the country are in states of decay, or have collapsed. As a classic example of the “resource curse”, Nigeria, the 6th largest exporter of crude oil in the world, fares miserably in many development indices.

The Nigerian case presents a good example of how huge investments in export focused extraction of non-renewable resources can exacerbate local impoverishment and conflict rather than promote development and democracy. Over the past decades, corruption and mismanagement have robbed the people of any real benefits from the substantial revenues and profits accruing to Nigerian governments and transnational oil companies.

Land Conflict

To facilitate exploitation of oil and gas resources, the Land Use Act decreed by past military regimes vest ownership and control of all land and mineral resources on the state. Government, without having to make any reference to communities, give away

¹ “Nigeria earns \$36bn from oil, gas annually,” Punch, Monday, 27 Nov 2006

² Human Rights Watch, “Chop Fine: The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State, Nigeria,” January 2007 Volume 19, No. 2(A), p.16

communal lands and forests to petroleum companies for exploration and exploitation of crude oil and gas. In the oil bearing Niger Delta region, the oil industry creates conditions for social dislocation and communal violence, as land expropriation by the state for oil activity creates scarcity of productive land.

As a result of the very reckless operations of oil and gas companies like Shell, Chevron, Agip, Total etc. all stages of oil activity including exploration, drilling, transportation result in the destruction of the natural environment and the livelihood of local people who depend on the land for survival. Forests and mangroves are cleared, community farmlands are destroyed, wetlands, creeks and community fishponds are polluted, while the air and rainwater is contaminated with dangerous gasses flared indiscriminately by oil and gas producing companies.

Oil versus Food

While the communities in the oil bearing Niger Delta area have experienced drastic decline in food production as a direct result of pollution, other Nigerian communities have also suffered from the indirect impact of the oil economy. With high revenues accruing to the government from oil exports, all other sectors of the economy were neglected by the state.

Government's reliance on oil export revenues has resulted in the crowding out of other productive sectors of the national economy. Previously vibrant agricultural sector and a robust manufacturing sector have suffered under collapsing national infrastructure including energy and transportation, as successive governments, not being dependent on taxes from non-petroleum sectors of the national economy, have diminished incentives to these sectors.

Oil Revenue and Corruption

With growing petroleum rents, government has come to rely less on taxes from citizens and other sectors of the economy. Corruption has robbed the people of potential benefits from the oil and gas industries, as the bulk of revenues have been looted or mismanaged by public office holders at all levels of government. The Economic and Financial Crimes Commission (EFCC) of Nigeria has estimated that the country lost as much as \$380 billion to corruption and waste between 1960 and 1999. Since then, the situation may have worsened, even under civilian rule.

The Democracy Imperative

The democracy and development challenges confronting the Niger Delta and Nigeria in general were heightened with the outcome of the April 2007 General Elections in Nigeria, which were characterised by massive fraud and violence. Electoral irregularities in the states of the Niger Delta were particularly severe, highlighting a region in crisis. Independent election monitors were unanimous in their condemnation of the elections after reporting that most Nigerians were not allowed to exercise their right to vote, as elections were not held in many areas. Results announced by the Independent National Electoral Commission (INEC) were condemned by Nigerian civil society monitors as a "charade", as they did not reflect the will of Nigeria's disenfranchised electorate.

The General Elections, which had offered an opportunity for Nigerian citizens to intervene in determining the direction of governance in the country were hijacked and

mismanaged by the ruling elite, resulting in even further of the people from a state that lacks democratic legitimacy. The growing disconnect between the communities and government creates fertile conditions for the spread of violence.

Increasing Alienation and Violence

The subsidence of a culture of public accountability and the prevalence of corruption among public office holders have fuelled fierce competition for political offices with contenders deploying violent mechanisms to deter opponents. The use of state apparatus and armed gangs by politicians has been on the increase across the country, and with it the harassment and abuses of the rights of citizens.

The majority of citizens have thus been alienated from the political processes, while those that speak out are sometimes targeted for intimidation and, sometimes, even outright elimination.

Unelected political office holders, including legislators have demonstrated a chronic lack of political will in providing the dividends of democracy in the form of improved infrastructure and social services. And with the electoral system de-legitimised as an avenue for political change, groups have emerged within communities that are employing extra-constitutional means to make demands of government. In the Niger Delta area of Nigeria, such groups now include a motley of urban and rural gangs and militia that continue to target the oil and gas industry while making political demands or seeking for cash payments.

During the past two years, the Niger Delta has been a theatre of increasing militia attacks on oil platforms, oil pipelines and oil vessels. The militia groups have also taken dozens of foreign and local oil workers hostage and have engaged in exchange of gunfire with Nigerian soldiers with of deaths and casualties recorded from both sides. Car bombings in the oil cities of Warri and Port Harcourt have also been linked to these militants.

Government and oil producing companies say attacks by militants in the Niger Delta have resulted in the reduction by about a quarter of Nigerian oil production. Since 2006 violence in the Niger Delta of Nigeria and the resultant production losses have affected global crude oil prices.

Some of the militias have made broad political demands for “resource control” and demanded for release of detained local politician and militia leader. However, the upsurge in militia activities in the Niger Delta is a reflection of disenchantment and local desperation in the struggle for survival, as well as quest to seek attention of the world to their plight in the hands of transnational oil and gas corporations and the Nigerian government. Criminal gangs are also increasingly exploiting the breakdown of communal order to unleash mayhem on citizens.

SHARING OF OIL AND GAS REVENUES

Nigeria operates a federal system with three tiers of government. These are the federal, state and local governments. The 1999 constitution presently in use in the country was essentially written by previous military regimes without democratic

participation. The constitution supports other legislations vesting ownership of land and petroleum resources on the federal government.

Petroleum exploitation in the Niger Delta region of the country has mainly been carried out by transnational companies that operate joint ventures with the federal government. With this arrangement, oil and gas revenues and taxes are paid to the federal government.

A system of revenue sharing exists whereby the federal government transfers some petroleum revenues to all the 36 states and 774 local government councils in the country. Under the arrangement, an attempt is made to pay 13% of petroleum revenues as 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 a Federation Account exist to which oil and gas revenues are paid with a revenue sharing formula existing somehow as follows:

- Federal Government 52.68 percent;
- States 26.72 percent;
- and local governments 20.60 percent.

What is not generally understood is that the funds distributed among the different tiers of government are based on the annual federal budget's estimate for the price of oil (\$30 in 2005 and \$35 for 2006). With oil prices considerably higher than the budgeted price, funds distributed, including the derivation fund becomes considerably less than what is due them.

Rising crude oil prices has resulted in the federal government accumulating funds into an "excess crude account", which includes all additional revenues over the price stated in the annual federal budgets. There has been a lot of controversy over federal government withdrawals from the excess crude account for ventures such as its payment in 2005 of \$12.4 billion to the Paris Club of creditors in a debt buy back deal. While the federal government is pushing arguments to justify its retention and management of the excess crude account, the oil producing states also claim that they are being short-changed by the federal government.

In recent weeks, the Revenue Mobilisation, Allocation and Fiscal Commission (RMAFC) has been proposing a Bill for a new revenue sharing formula among the three tiers of government that would give 53.69 percent for the Federal Government, 31.10 percent for the states and 15.21 per cent for local government.

A major feature of the proposed bill is the payment of some oil revenue derivation directly to oil producing communities, to be managed by the communities' traditional rulers, elders and youths. The supposed aim is to put an end to the restiveness in the oil producing Niger Delta region.³ Currently, the management of oil revenue derivation is in the hands of governors of oil producing states with little or no input from local communities.

³ Emma Ujah in Vanguard newspaper, 14 August, 2007

THE NIGER DELTA DEVELOPMENT: EFFORTS AND CHALLENGES

The development of the Niger Delta has remained a major challenge for the Nigerian state with local communities increasing their expression of dissatisfaction with government efforts. Since 1960, the area was recognised for special development attention. The Independence Constitution recognised the right of the oil-producing region to 50% of royalties deriving from oil and gas exploitation. This arrangement was cancelled by soldiers with the introduction of military rule in 1966.⁴

Since the military incursion into the centre stage of national politics, the Nigerian federal system has suffered major distortions with soldiers favouring a more unitary command system. Royalties have been replaced by the derivation principle, which progressively reduced revenue payments to the producing states from 50% to 1.5% before the figure was doubled to 3% in 1992. Following increased agitation by the communities of the Niger Delta, the 1999 constitution increased derivation to 13%.

Over the years, special agencies for development intervention in the Niger Delta have been created by the federal government. These have included the Niger Delta Basin Development Board (NDBDB) established in 1965 and, the Oil Minerals Producing Areas Development Commission (OMPADEC) in 1992.

In 2000 the Niger Delta Development Commission (NDDC) was established to replace the OMPADEC “to offer a lasting solution to the socio-economic difficulties of the Niger Delta region” by offering “rapid, even and sustainable development of the Niger Delta into a region that is economically prosperous, socially stable, ecologically regenerative and politically peaceful”.⁵

According to the NDDC Act, the Commission is expected to be funded as follows:

1. Federal government contribution of equivalent of 15% of monthly statutory allocation due to Niger Delta states.
2. 3% of total budgets of oil and gas producing companies.
3. 50% of Ecological Fund due to Niger Delta states.
4. Aid etc.

NDDC executives have complained of inadequate funding with the Federal Government consistently failing to fulfil its legal obligations. However, new President Umaru Yar'Adua has announced that under his administration, the Federal Government's funding obligations to the NDDC, as stipulated in its Act, would be fully discharged.⁶

The lofty goals set for the NDDC have not been achieved, as the Commission is entangled in the same legitimacy and corruption crises as previous initiatives. As an agency of the federal government, the NDDC is perceived by local communities as

⁴ http://www.nddconline.org/The_Niger_Delta/

⁵ The Niger Delta Regional Development Master Plan, 2006. p. 103

⁶ Daniel Idonor, Daily Champion, 7 September 2007

existing to facilitate the self-serving political goals of the ruling party with non-transparent over priced contracts and payments.

Initial efforts of the Commission on infrastructural development did not emanate from consultation and an adequate appreciation of community needs. For example, the NDDC built a landing jetty for Isua-Joinkrama community in Ahoada West Local Government Council of Rivers State. The facility meant to aid motorised boat transportation in riverine communities is useless to Isua-Joinkrama, which is accessible by tarred road and have not been using motorised boats for mass transportation. While money was being wasted by the NDDC on the jetty, other pressing needs of the people such as pipe borne water and health centre were ignored.

In 2006, the NDDC launched a Niger Delta Regional Development Master Plan (NDRDMP), which is a good statement of development goals and objectives for the Niger Delta. What is lacking in its background analysis is how to tackle some critical challenges:

1. The main causes of conflict, subsidence in sense of community, and breakdown of law and order in the region.
2. The role of the oil and gas industry, including its negative environmental and social impacts and potential to hamper effort at improving productivity of other sectors.
3. Serious oil/gas industry related environmental problems.
4. Ending gas flaring.
5. The monumental waste of revenues to the region from statutory sources (Federal, State and Local Government.) and oil/gas companies as a result of continuing fraud and corruption.
6. The problem of the illegitimacy of government at all levels, as a result of election rigging, which has eliminated confidence and trust in governance at local and national levels.

Despite the limitations of the NDRDMP, the document provides opportunities with its planned periodic monitoring, reviews and evaluation of the plan and implementation guidelines.

Unaccounted Allocations

The NDDC as an agency of the Federal Government suffers from the general failures of state. With more resources being allocated to state and local government councils in the Niger Delta states following marginal increase in the derivation fund to 13% of petroleum revenues, these lower tiers of government have also failed to perform. It is estimated that the states and local governments of the Niger Delta received about \$13 Billion in statutory allocations from the federation account between 1999 and 2004.⁷ In 2005, the government of Rivers State approved an annual budget of \$1.33 billion. The budget figures for the state have been on the increase since then.

Before 1999, local governments often lacked funds to invest in primary healthcare and education. Major increases in the price of crude oil in the international market meant that the Nigerian government got more revenue to distribute to the different

⁷ Niger Delta Regional Development Master Plan, 2006.

tiers of federal, state, and local governments. In 2006, four states of the Niger Delta (out of nine) including Akwa Ibom, Bayelsa, Delta and Rivers jointly received about \$1 billion as allocations for the month of July alone.⁸ Regrettably, local leaders have failed to utilise improved government coffers to meet the basic needs of communities.

Human Rights Watch investigated and documented these failures in Rivers State, which is in the heart of the oil producing Niger Delta region⁹. The report exposed massive corruption in local governments councils in Rivers State where local administrations have stolen or squandered funds meant to improve healthcare and education. The report identified the cause of continuing local government corruption in the inability of the people of the state to hold their local officials accountable for their actions, with basic information about the use of public resources at the state and local level kept a closely guarded secret. The state government oversight of the local governments is often carried out in a manner that is both secretive and ineffective. The report adds that “elections in Rivers State have been violent farces. Most of the officials who came to power in those polls have no real mandate from the people—and no real fear of being turned out of office at the next election.”¹⁰

Government and Transparency

The government of Olusegun Obasanjo expressed a commitment to promote transparency and fight corruption. However, the perception among many Nigerians is that the government at the centre did not match words with action, as corruption remained high, even at the presidency.

The Economic and Financial Crimes Commission (EFCC) was active in investigating cases of official corruption and making some high profile arrests. But the EFCC is seen by Nigerians as targeting the opponents of government. With the emergence of the new governments in Nigeria, the EFCC has failed so far to act on prosecuting the former state governors of the states of the Niger Delta who have variously been accused of mismanagement and outright stealing of public funds by citizens and organisations, including the EFCC. Instead the former governors continue to wield influence in government.

In the area of transparency, the Nigeria Extractive Industries Transparency Initiative Bill was enacted by the National Assembly and signed into law by the Olusegun Obasanjo administration. This legislation will be a useful tool for government and citizens in the quest for better transparency and responsibility in the management of revenues from mining, oil and gas.

THE PROSPECT FOR CHANGE

The failure of governance and the increasing poverty and conflict in the Niger Delta region of Nigeria poses serious challenge for government, citizens’ groups and development agencies in the area. However, the increasing global appreciation of the problem is an opportunity for concerted action.

⁸ Max Amuche, “For N/Delta Governors, A Golden Opportunity to Make a Difference”, 08.09.2006 in <http://www.thisdayonline.com/nview.php?id=55318>

⁹ Human Rights Watch, “Chop Fine: The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State, Nigeria,” January 2007 Volume 19, No. 2(A)

¹⁰ Ibid., p.3

While revenues are important in the development discourse, we must also give adequate attention to the continuing loss of livelihoods as a result of reckless operational practices of oil companies and the government. Oil money can provide roads and other social infrastructure, but will do little in repairing degraded farmlands and polluted wetlands which are the very foundation of community survival.

Civil Society organisations in the Niger Delta that have been active in exposing the negative environmental practices of the oil companies are also working to create platforms for the mobilisation of communities to combat corruption in the states and local government councils of the area, and to promote community participation in budget development and monitoring.

Vigorous community mobilisation is needed not just to counter looting of revenues allocated to the different tiers of government, but also to demand for and defend democracy. With rigged elections entrenching a civilian dictatorship in the country, democratic representation does not exist despite the many legislative houses in the centre and regions. Unelected political office holders in the Niger Delta area are mostly thugs that treat supposed constituents with utmost contempt. A regime of improved revenue management for sustained development cannot be achieved unless citizens are supported to take actions to confront illegitimate political leadership while promoting representative democracy.

While promoting the culture of democratic representation is of primary importance, citizens' actions should be supported by initiatives of government and international organisations that promotes transparency and accountability¹¹.

Government

- Need to strengthen the capacity and independence of law enforcement agencies to criminalize corruption by investigating and prosecuting cases in federal, state and local governments, rather than the practice of political settlements of corruption cases.
- Federal government should continue with practice of publishing all financial allocations to states and local governments and the Niger Delta Development Commission (NDDC);
- State governments should publish annual state budget proposals prior to presentation to the state houses of assembly.
- State governments should make public quarterly budget execution reports that detail monthly state government income from federal allocations and other sources, and state government expenditures, including allocations to local governments. And require local governments to make public quarterly budget execution reports, as well as local government budgets and expenditure reports when they are submitted to the state government;
- Work with national, state and local government legislative authorities to strengthen legislations that promote free information flows, fiscal responsibility and public accountability;

¹¹ see Human Rights Watch, "Chop Fine: The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State, Nigeria," January 2007 Volume 19, No. 2(A)

- Raise popular awareness by holding public hearings in various state locales as part of the budget-making process to allow for greater public scrutiny of government spending priorities;

International Development Agencies and Foreign Governments:

- Support citizens' actions that promote democratic participation at the local and national levels.
- Work to stop the complicity of western financial institutions that encourage looting of oil and gas revenues. In particular, governments of the developed countries must demonstrate commitment to development by ensuring the repatriation of looted public funds from their banks and other financial institutions.