

OIL, LAND ALIENATION AND IMPOVERISHMENT IN THE NIGER DELTA, NIGERIA

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ABSTRACT

The Nigerian state has earned huge revenues from the vast oil resources in the Niger Delta, since the advent of oil in 1956. However, despite the huge revenues, the Niger Delta remains an epicentre of pervasive poverty. The impoverish state of the region has been attributed in the main, to negative impacts of oil activities on the environment and their deleterious impacts on traditional means of livelihoods in the region. Thus, the impact of the land alienation through the Land Use Act on the Niger Delta has been given little attention. The paper interrogates the impacts of the Land Use Act and its application in the Niger Delta and the paper concludes that besides the issues of injustice, inherent in the Act, a nexus exists between the Land Use Act and poverty in the region. It recommends its immediate repeal.

Keywords: Oil, Land, Impoverishment, Niger Delta.

INTRODUCTION

The Niger Delta is defined historically, as, the area bound by the Benin River in the West, Imo River in the East, Aboh in the North and in the South, Palm Point at Akassa (Dike, 1956; Willinks *et al.*, 1958; Akinyele, 1998)¹. The Niger Delta so defined, currently comprises of Bayelsa, Delta and Rivers States. The land area totals 25,640 km²; low land area 7,400km², fresh water swamp 11,700 km², salt water swamp 5,400 km² and sand barrier islands 1,140 km² (Ashton-Jones, 1998). The region's ecology is of crucial importance, as it harbours many endemic species of diverse faunal and floral groups (Kingdom, 1990). The region has five major linguistic categories (Ijoid, Yoruboid, Edoid, Igboid and Delta Cross), with each embracing plethora of ethno-linguistic communities (Watts, 2003). These ethnic groups due to their individual population size are deemed ethnic minorities. The dichotomisation between majority and minority ethnicities has led often, to "competitive and conflictual" majority-minority ethnic relations (Osaghae, 1984) due to its attendant marginalisation and exploitation of ethnic minorities.

Arising from the above geographical features, land is a scarce commodity in the Niger Delta. However, the region's environment had in the past profusely provided for the inhabitant. Indeed, the pattern of livelihoods; farming, fishing, hunting, craft making and logging are occasioned by the environment. Palm oil grown in the region became an export commodity for Nigeria as far back as 1558, and by 1830, the region; now epicentre of crude oil production was the major source of palm oil that dominated Nigeria's export list for more than 50 years. The fortunes of the people have however, changed since the advent of oil in the region. Nigeria's oil exploration and production activities are located in the Niger Delta (De Montclos, 1994; Embassy of Nigeria, 2001). Oil activities gained momentum with the discovery of oil in commercial quantities at Oloibiri (Bayelsa state) in 1956 and oil export began in 1958. Oil revenues became the pivot of the nation's economy in the mid 1960s.. Oil

contributed 57% of export revenues in 1970; 96% in 1980; 97% in 1990; 76% in 2000 and 92% in 2004 (OPEC, 2005). Nigeria's oil reserve is estimated at about 40 billion barrels with about 2.4 million barrels daily production. In addition, the Niger Delta has natural gas reserves estimated at about 182 trillion cubic feet (TcF) (OGJ, 2005), making Nigeria the largest natural gas endowed country in African and among top ten in the world. Thus, the Niger Delta is regarded as the twelfth richest area in oil resources worldwide (Klett *et al.*, 1997).

However, oil activities have negatively impacted the environment as, oil operations have involved mostly massive gas flares (World Bank, 1995; Shelby, 1996:28; Gerth and Labaton, 2004). About 16.8 billion cubic meters of natural gas was flared in the Niger Delta in 2007, second only to Russia (Newsblog, 2009). This is despite various ultimatums given by the Nigeria state for an end to gas flaring. One of such ultimatums was a deadline of 31st December, 2010 for compliance on non-gas flaring by oil MNCs given by Nigerian Senate (Thisday, May 15th, 2009). This has also been accompanied by incessant oil spills (Grevy, 1995; Banfield, 1998; Emuedo, 2010). As at June 2010 it was estimated that about 546 million gallons of oil or the equivalent of an Exxon Valdez spill per year, have poured into the ecosystems of the Niger Delta in over 50 years of oil activities (Nassiter, 2010; Francis, *et al.*, 2011). Between 1976 and 2001 a total of 6,817 oil spills were recorded, with only 70% recovered (UNDP, 2006). The National Oil Spill Detection and Response Agency (NOSDRA) recorded another 2,405 spills between 2006 and mid-2010, with an increasing trend year-on-year: 252 in 2006, 598 in 2007, 927 in 2008 and 628 in 2009 (Ezigbo, 2010a) partly because the over 7,000 square km of aged pipelines linking 6006 oil wells (Watts, 2007) in the region needed replacement (Francis, *et al.*, 2011). Oil spills have degraded most agricultural lands and turned hitherto farming areas into wastelands (Odjuvwuedehie *et al.*, 2006). This is because oil impedes soil aeration, as, oil films on solid surface acts as a physical barrier between air and the soil (Chindah and Braide, 2000). Also, oil spillage causes the release of liquid hydrobous and other toxic chemical substances into farmlands and surroundings which hamper agricultural output and productivity (Awobajo, 1981). According to Ifeadi and Nwankwo (1989) in Nigeria about 62.8% of oil spill incidents occurred on farm lands. This has caused biological and physical changes of the environment (Moffat and Linden, 1995) with deleterious effects on socio-economic consequences (Elis, 1994; Amadi and Tamuno, 1999). These impacts are worsened by the fact that almost the entire region has been exposed to intense oil activities or its negative impact for oil is flung across the entire region in small pools, unlike in the Middle East where oil is found in few clusters.

Nigeria earns estimated \$60 billion oil revenues annually from the Niger Delta (Ploch, 2011) and has earned in the past 50 years over \$600 billion (Wurthmann, 2006; Watt, 2007; Steiner, 2008). The colossal revenues earned from oil, notwithstanding, the Niger Delta remains the epicentre of poverty in Africa (Time, 2006:20). Thus, some scholars opined that "Few regions in the world have been as unfortunate, as, Nigeria's Niger Delta; its abundant natural wealth stands in stark contrast to its palpable underdevelopment" (Francis *et al.*, 2011:9). This is a derivative of the fact that the region's huge oil resources have failed to improve the people's socio-economic conditions. A key factor responsible for the region's grim situation amongst others is oil-related laws enacted by the State to enhance easier access to land by the oil companies. The most litigious of these laws is the Land Use Act, which by its provisions and working manifestly entrenched poverty in the Niger Delta. However, most studies on the Niger Delta have focused on impacts of oil activities on the environment, and underdevelopment of the region despite the huge revenues earned by the Nigerian state from oil resources. As, such, impact of the Land Use Act on the Niger Delta has not been amply

scrutinised. Thus, the paper interrogates the Land Use Act and impacts of its application in the Niger Delta. The paper concludes that besides the issues of injustice, inherent in the Act, a nexus exists between the Act and the region's impoverishment. But a brief highlight is made of the hazards of oil operations in the Niger Delta before embarking on interrogation of the Act and impact on the region. Thereafter, the nexus between the Act and poverty in the Niger Delta are discussed. The paper ends with some concluding remarks and recommendation.

Conceptual Framework: The State, Petro-dollar Accumulation and the Niger Delta

Nigeria has been bedevilled by conflict associated with the effects of natural resource exploitation for human livelihood, settlement and sustainability of the ecosystem. This conflict is intrinsically related to structural conflict of groups and factional struggle for resources (oil revenues), and the mobilisation of state power by elite of the dominant ethnic group to advance intrinsic interests. As a result, what is called the Nigerian state functions merely as a machine tasked with the privatisation of public assets in favour of an extraverted neo-patrimonial state elite. In the Niger Delta it represents "a key technique of political domination"; specifically the export of unprocessed oil and gas-and the associated acquisition of rents-form the matrix of action' within which rulers and subjects operate (Obi 1997:141; Ukiwo; 2003:129; Eberlein 2006). This created a relationship between the oil companies and the state that is bound by an economic mutuality underlined by the state's dependence on oil rents for its revenues on one hand and the oil companies' reliance on the state to ensure the necessary conditions for oil extraction on the other. As such, the operational ethics of the oil companies is hinged solely on cost reduction and profits maximisation; an ethic that reaps the full benefits of operating in a political context marked by extraversion. This pattern of interaction between the state and the oil companies also shaped the character of the political elite such that members of the political elite have strong interests in the sharing, appropriation and utilisation of oil revenues. Thus, the main desire of the dominant political elite is to pursue, fast-track, secure, protect, and defend oil-related accumulation by desperate means, which include the threat and mostly the actual use of violence. Their only interest is to maintain a deeply compromised and extraverted state conducive only to predatory accumulation. This resulted in the privatisation of the state by custodians of power at all levels of governance, and its consequent utilisation for the pursuit of individual, sectional and ethnic interests; as against the pursuit of the common interests or the public good. These are the traits of "rentierism" (Beblawi and Lucianai, 1987; Beblawi, 1990:85).

The rentier state is dependent mainly on extractive resource rents, taxes and royalties paid by multinational companies (MNCs), (over 80% in oil-states like Saudi Arabia, Nigeria and Venezuela) (Amuzegar, 1999; Hodges, 2001; Frynas, 2004) and on profits from its equity stakes in MNCs' investments (Forrest, 1993:142; Yates, 1996:13; Ross, 1999:330). Rentier states are identifiable by a unique fiscal centralism; revenues from oil accrue to the state treasury directly, thereby centralising money and authority. Therefore, the state is dominated by revenue flows and the political mechanisms by which rents are "absorbed," distributed and spent (Kapucinski, 1982; ICG 2000; Birsdall and Subramanian, 2004). The rentier state is extraverted; it responds to the logic of external accumulation only, rather than internal accumulation. This ensures that the State is in reverse perpetuity. The ruling elite are not only compradors but extraverted blocking transition and local autonomy, which ensure a constricted and autocratic oil sector. Rentier states are markedly shaped by a combination of colonial legacy in the state structure and the luxury of natural resource revenues otherwise called the "rentier largesse" (Omeje, 2006:11).

Colonialism was characterised by a profusion of obnoxious laws and gross abuse of law by colonial officials and agencies, including the mining companies. The 'self-serving' tendencies in rule making and rule application, coupled with the obvious confusion between public and private spheres provided colonial officials and their corporate collaborators a key opportunity for amassing wealth. From fiscal stewardship, and legal justice perspectives, colonial agencies ran regime of lawlessness, hypocrisy and unaccountable rule. According to Mbembe (2001) the tendency to usurp the powers of the state for 'prebendal' purposes, was miniaturised and ubiquitous; it occurred everywhere in various guises. It must be noted however, that the regime of impunity widespread in colonial Nigeria was a departure from the common law, individual rights and principles of legal justice that were emergent in the metropole (Mbembe, 2001; O'Hagan, 1995). In the opinion of some writers, the miniaturisation of impunity and abuse of public office for prebendal gains resonates with the patrimonial tradition of politics in many pre-colonial societies in which social relations is essentially patron-clientelistic with its characteristic blurring of the modernist distinction between the public and private, the secular and sacred (Joseph, 1987, 1996). Prebendal² and (neo)patrimonial patterns of accumulation remain rife in post-colonial Nigeria, given their institutionalisation as acceptable modes of accumulation under the colonial state structures. The inclination of the elite of the dominant ethnic groups to use the instrumentality of state to oppress and subjugate minority groups overtly manifested with the advent of oil.

With oil as the mainstay of the economy, oil interests and control of the accruable revenues, became the defining features of the dominant elite forces. State apparatus were deployed to enhance their unfettered access to oil revenues. Before the advent of oil Nigeria's economy depended solely on agricultural commodities. Until the 1970s, Nigeria earned most of its foreign exchange revenues from agricultural products; cocoa, palm oil, groundnuts, and cotton. Agriculture provided 72% of the total national output in 1950, as against 1.1% by mining and oil. By 1960, agriculture contributed 66%, to the nation's economy compared to 1.2% from minerals. In 1970, GDP stood at N3.46 million, out of which crude oil contributed a mere 7.5% (Tell, 2008). The main agricultural commodities were produced by the three major ethnicities. During that period revenue allocation was based on the principle of derivation. Indeed, the principle of derivation, was the most common concept applied in revenue allocation in Nigeria from the creation of regions in 1951 till 1967 (Nwokedi, 2007:8-16). This implies that any region (now state) from which the bulk of revenue is derived gets extra revenue beyond what other states get (Ofuebe, 2005). Indeed, the principle of derivation was the vogue when amalgamation took place in 1914; each region collected revenues it generated internally from agricultural export crops, taxable import and excise duties (Nwokedi, 2005:28). Thus, Nwokedi (2007) opined that the principle of derivation requires that all revenues that accrue from or are attributable to any particular region is allocated in part or in full to such a state, irrespective of the fiscal jurisdiction involved or the machinery for the collection. The principle is closely related to the benefit principle of taxation. Its main attraction is that it ensures that a state of origin of any particular revenue would receive more than any other state from the revenue accruing from within its geographical boundary or area of jurisdiction. This is what Onuoha and Nwanegbo (2007:135) labelled taking care of the goose that lays the golden egg and Metz (1992) calls; practice of the national cake sharing towards the thought of National cake baking.

Indeed, a study of the country's revenue formulas before and after independence shows that from 1946–1970; the derivation principle was 50%. The revenue formulas covering this period were Phillipson 1946, Hicks-Phillipson, 1951, Chicks 1953 and Raisman 1958. However, Abayode 1977, Okigbo 1979 and National Revenue Mobilisation, Allocation and

Fiscal Commission 1989 de-emphasised derivation (Mbanefoh, 1993). These Commissions that are products of military regimes dominated by the three major ethnic groups, favoured what Ugo (2004:66) labelled “need and operation” and Obi and Okwechime (2008:352) termed “need and population”; euphemisms for population and landmass. As a result derivation revenue spiralled downward; 20% 1975-1980, 2% 1980-1983 and 1.5% 1984-1992 (Mbanefoh and Egwaikhide 1998), denying the Niger Delta, its oil revenue. This is exemplified by Revenue Mobilisation Allocation and Fiscal Commission (RMAFC) data on percentage contribution to national revenue and the percentage revenue allocation to each of the six geopolitical zones. The data shows that South-South geopolitical zone; that includes Bayelsa, Delta and Rivers (produces 90% of the oil) and the oil producing states of Akwa-Ibom and Edo and non-oil state of Cross River produces 91% of national revenue and receives 17% allocation. The South-East zone contributes 2.75% and receives 5.48% allocation. While the South-West zone contributes 3.97% and receives 7.43% revenue allocation. However, the three northern geopolitical zones; North-central, North-East and North-West makes no contribution to national revenues but received 7.48%, 8.00% and 8.31% revenue allocations respectively. Two things are worthy of note here (1) this change coincided with the advent of oil as the linchpin of the economy and its location in minority areas of the Niger Delta, (2) the two new areas of emphasis landmass and population are critically limited in the Niger Delta. Thus, as the Niger Delta people grappled with negative impacts of oil activities, and the stultification of the means of livelihoods their plight was further exacerbated by State policies deliberately contrived by the elites of the major ethnicities who personify the state, to enhance their share of oil revenues at the expense of minor ethnicities of the Niger Delta, who are otherwise denied. This led to Fashina (1998:109), assertion that “The weight accorded derivation principle appears to have been determined by the interests of the different elite factions of the major ethnic groups their political power”. However, besides denial of revenue, the state also enacted an obnoxious law “the Land Use Act” that confiscated the peoples’ land; subjecting them to abject poverty

The Land Use Act (1978)

The Land Use Act (1978) has as its core objective the neutralisation of the traditional rights of the Niger Delta people over their lands under customary laws. The Act in theory makes all lands the property of the Nigerian state and empowers state governors to revoke any right of occupancy for a nebulous “overriding public interest”, which Section 28 of the Act defined to include ‘the requirement of land for all oil activities or for any purposes connected therewith. The anti-Niger Delta people’s focus of the Land Use Act is exemplified by its technical distinction between payment for land (a property of the state) and compensation for investments (e.g. destroyed buildings, economic trees, farm crops, etc.) made by previous owners on land. The Act as applied to post-1978 land acquisitions abolished the transfer fees hitherto paid by oil companies to landowners. The evident disadvantage of the Act to the oil host communities and the abrogation of their customary land rights is further compounded by its ouster of the courts’ power to inquire into matters relating to the provisions of the Act. This position is further reinforced by relevant provisions of the 1979, 1989 and 1999 constitutions of Nigeria. Through the Land Use Act, the State monopolises all rights of access to all oil-rich lands, precluding legal recourse by the original land owners. Thus, the Land Use Act completely divested the Niger Delta people’s right to their ancestral lands and invested same in the state. As we shall see application and implementation of the Act impacted very negatively on the Niger Delta people.

Prior to the promulgation of the Land Use Act in 1978, no uniform land tenure system existed in Nigeria. In the southern states, there existed, a dual land tenure system; customary land tenure system and land tenure under the received English law (also named statutory land tenure system). The customary land tenure system varied amongst communities, though some common legal principles existed. In the northern states, however, there existed a system of 'public ownership' of land under a colonial statute that was retained and re-enacted after independence. Thus, before 1978 Nigeria had a plural land tenure system. A discussion of the northern Nigeria 'public' land ownership system is however, outside the focus of this paper. Suffice it to say that it is undisputable that customary land tenure system in southern Nigeria is based on the native laws and customs of the peoples. It was also widely accepted that "common ownership" (in fee simple/absolute title), whether within a family or a community is the traditional basis of customary land tenure. This is one of the basic features of indigenous land tenure system. Another basic feature lies in the role of management and control entrusted with the Titular head of the community or village; nobody, not even a member of the community or family, can make use of any portion of community/family land in any way whatsoever without the consent of the Titular head of the community. Right from the colonial era, this position was well-known and respected by all officers of government inclusive before the enactment of the Land Use Act. Thus, prior to the promulgation of the Act, oil companies after obtaining mining rights from the Nigerian State approached oil-host communities for a right of access to land for its operations. This provided the oil-host communities some sense of participation in oil operations, as compensation was paid for land access and damages to and any surface rights thereon. This sense of participation was abrogated with the unity of land rights with oil rights in 1978. The Niger Delta people have very strong attachment to land. But as we shall see, application of the Land Use Act, not only denied the Niger Delta people of their natural rights to land, but also their economic resources, thus, entrenching poverty in the region.

Land and the Niger Delta People

In many parts of Africa, land is not only held as a sacred entity but it is also a symbol of life and status (Wa Thiong'o, 1982). As earlier mentioned, in the Niger Delta, the people have strong psychological attachment to land. Land is not just a piece of earth in the region but the basis of the peoples' sociological existence. It determines their livelihoods, their traditional religion, their culture and their norms as such to the people, land is spiritual. Land is the medium of contact between the living and the dead (ancestors) and between the people and their deities. As, such, owning land confers on indigenes, an identity and membership in a specific ethnic group in comparison with foreigners, who are expected to buy land. The intense attachment of the Niger Delta people to land, its spiritual nature and importance is exemplified by a popular proverb in the region (among the Urhobos, Ijaws and Itsekiris) that says; "We did not inherit the land from our fathers, we borrowed it for our children". Thus, in the Niger Delta as anthropologists have suggested, land has a web of relationships among individuals and social groups. This is because forests are not just collection of trees, home to animals and a place for farming and gathering firewood; forests are also intrinsically sacred possessions (Mitee, 2002). As such, different and competing land-use options, is an issue laden with problems in the region.

This is so because human beings are land users, unlike other animals that merely occupy land. Arising from his status as land user, humans maintain strong interests in land, even if such interests are often impacted upon by socio-economic changes in the broader environment (Uchendu, 1979:63). In the Niger Delta as in rural societies, though in theory,

people seem to hold interests in land, the reality is that interests are held against other people and not on land as such. As Lloyd (1962:60) opined, a person may hold a number of rights against various people in respect of a plot of land. Anthropologists have made classification between two sets of land holdings; “allodial or plenary interests” and “dependent interest or contractual occupancy”. Allodial or plenary interests may be defined as the “claim and exercise [of] the most comprehensive rights in a piece of land”. The second category of interests is used with reference to people “whose interest falls short of the plenary or allodial status” (Uchendu, 1979:63).

Communities in the Niger Delta, exercise allodial interest in land, with families and traditional heads as trustees. In the Niger Delta, oil activities have eroded such interests, giving rise to the deepening crisis between the oil-host communities and the state on the one hand and between the oil-host communities and the oil companies on the other. This crisis is the offshoot of the Land Use Act 1978 that divested the people’s right to land and vested same on the state. The state enacted this legislation based probably on “eminent domain”; the power by which the state can “censure private property and take title for public use” (Cato Institute, 2002). Land as mentioned earlier holds both sociological and psychological importance to the Niger Delta people. Thus, to divest the people of their land is akin to killing their livelihoods, religion, culture and lastly the people themselves. As we shall see, the provisions of the Land Use Act not only did all these but also institutionalised or domesticated poverty in the Niger Delta, as such it was considered obnoxious by the people.

The Land Use Act and Property Rights in the Niger Delta

Oil activities at Oloibiri in 1956, initiated the process of massive exploitation of natural resources in the Niger Delta with resultant stress to the environment and the traditional livelihood patterns of the Niger Delta people (Bassey, 1999). Oil activities allied stress has been exacerbated by oil-related laws enacted by the state in the region. The most relevant is the Land Use Act (1978) that monopolised the state access to all land in the Niger Delta. It is not in doubt that the main intent of the Act was to curtail all traditional barriers to land acquisition under customary laws, to provide easy access to land for oil activities. For the Act makes all land in the region property of the Nigeria state, with delegated powers to State governors. Thus, in Section 28 of the Act, the governor is empowered to revoke the right of occupancy to any land for reasons of “overriding public interest”. In regard of oil activities, the most significant development following the introduction of the Land Use Act is its implication for compensation for land in the Niger Delta. For instance, the rents or transfer fees that landowners hitherto received from the oil companies for the acquisition of their land, no longer applied to post-1978 Act land acquisitions. Instead all such revenues generated now go to the state, its officials and their cohorts.

What is worthy of note is that before the promulgation of the Land Use Act, communities in the Niger Delta had direct dealings with oil companies over land acquisition and access for their operations even though mining rights was the exclusive preserve of the Nigerian state. Under section 16 of the Interpretation Act 1964, mineral oils were excluded from land. The implication of this was that while ownership of oil was vested in the state, land supporting oil remained vested in the various oil-host communities and families. Payment of compensation to the communities for the access to and any damage to land and surface rights, created a sense of fulfilment and participation and implied consent in the process of oil exploration and exploitation not in terms of sufficient compensation for land loss but simply the chance to be involved in the unfair bargain (Ogon, 2006). Therefore, what the Land Use Act of 1978 set

out to achieve was simply the unification of land and oil rights and vesting of the legal right of ownership in the Nigerian state at the expense of the various Niger Delta oil-host communities. An ouster clause in the Act precluded courts inquiry into the amount or adequacy of any compensation paid or to be paid. This position was harmonised with and reinforced by relevant provisions of the 1979, 1989 and 1999 constitutions of Nigeria. Thus, the Act monopolised all rights of access to oil-producing land in the State, establishing no legal recourse by the other claimants (original owners) to land to influence the conditions of its acquisition.

Prior to the Land Use Act, the prevalent property right in the Niger Delta is that the land belongs to the community and land tenure is based on customary laws. Individuals only have rights of usage; and only the community may give out or sell land. Customary laws regulated the traditional life of the people. As Ezejiolor, (1980:41) asserted, customary laws is “a body of customs and traditions which regulate the various kinds of relationship between members of the community in their traditional setting”. Thus, in the Niger Delta, customary laws exist to regulate the use, protection, preservation and conservation of lands and forest. The contentious nature of the Land Use Act was fuelled by the feeling that its only intent was to deprive the people of their rights³. This dove tailed initially into the Kaiama Declaration (1998)⁴ and later, violence that mired oil activities in the region. The contention over resource ownership in the Niger Delta given the doubts over the obnoxious Act enacted by the Nigerian-state on land and resources opened another vista of debate over bunkering (oil theft). Whilst the State and the oil companies view the people engaged in oil theft phenomena in the region as criminals, those involved counter that the resources are on their land, thus, their lawful right to earn a living by it. This counter argument seem to carry much weight against the thriving activities of illegal miners making fortune in other parts of the country, mining gold, diamond and other costly alluvium minerals that are not even given a glance by the State. Under these circumstances, implementation of the Land Use Act in the Niger Delta has been a veritable source of conflict. This is because by the wanton sequester of land for oil activities the Act, stultified agricultural practices, and by its denial of adequate compensation, constricted the peoples’ economic security; entrenching poverty in the region.

Oil and Land Scarcity in the Niger Delta

It was earlier mentioned that arising from its topography land is scarce in the Niger Delta and scarcer still is arable land. Arising from this limited land area oil activities are a major barrier to access to land for agricultural purposes in the region. Studies show that between 1992 and 1993 area under food crops production decreased by 41.7% and by 15% in 1995 in the region (Salau, 1993; Adeyemo, 2002). The decrease was occasioned by oil spills on farmlands and land sequestration for oil activities (Adeyemo, 2002). This implies that there has been land loss to oil spills and other oil-related activities acutely curtailing the people’s means of livelihood.

There appears to be no sign of respite for the Niger Delta people in the nearest future for so long as oil activities continue, so long as more land would be sequestered for oil activities. There is material basis for this assertion, and it is found in the volume of land held by the oil companies and the consequences for oil-host communities’ agricultural practices. For instance, a minimum of about 7.7 hectares of land is required to site an oil well and a helicopter landing pad (helipad). Additionally, land is also needed to construct access road, pipelines, borrow pits, waste disposal sites and seismic lines. Thus, since the advent of oil, most erstwhile farmlands have been lost by oil-host communities to oil activities across the

region. While the oil companies continue to act fitfully in effectively tackling the problem of oil spillage, the people of the Niger Delta have continued to groan under the burden of agricultural land decline. This has resulted in increased land fragmentation, decline in crop production and deprived most women of land for farming. The huge quantum of land required for oil activities may be gleaned from Table 1, showing land for oil well and accessories at Okrika, which typifies the situation in oil producing areas.

Table 1. Arable land area lost to oil related activities in Okrika, Rivers State (Ha)

Name of oil field	No. of wells	Area per well	Total area for wells	Area for activities around well	Area for Helipad	Area for flow station	Total land area for oil activities
Bolo	10	6.3	63.0	1.2	1.4	6.3	71.9
Iwokiri	9	6.3	53.7	1.2	1.4	6.3	65.6
Mbikiri	8	6.3	50.4	2.4	1.4	6.3	60.5
Agokien	34	6.3	214.2	2.4	2.8	6.3	225.7
Ele	11	6.3	69.3	2.4	2.8	6.3	80.8
Oraberekiri	21	6.3	132.3	1.2	1.4	6.3	141.2
Wakama	26	6.3	163.8	1.2	1.4	6.3	172.7

Source: Salau, 1993; Adeyemo, 2002;

Agricultural activities, account for about 90% of all forms of activities in the region; about 68% of the active labour force engage in one form of farming and fishing activity for economic purpose (Worgu, 2000). As we can see over 818.04 hectares of land was lost by the community to oil activities and this deprived over 900 women of farming land in the community (Adeyemo, 2002). There is no doubt that as new oil fields are discovered, more new wells would be drilled and so would the land lost to oil activities increase. The picture of arable land lost to oil activities would be clearer, when we put into perspective the fact that the Niger Delta today harbours a massive oil infrastructure consisting of 606 oil fields 360 on-shore and 246 off-shore, 6,284 wells, over 7,000 kilometres of pipelines traversing a land area of about 31,000 square kilometres, 10 export terminals, 275 flow stations, 10 gas plants, 3 refineries and a massive liquefied natural gas (LNG) (NDRDMP, 2006; Watts, 2007). These huge numbers of oil wells and other infrastructures entails land acquisition, which in real terms involve the loss of lands for the people. In addition to the above there is also land for oil companies' staff housing, waste pits, roads, canals, and pipelines from production sites to export terminals. These have put over-bearing stress on available lands for agricultural practices in the region. The heavy oil-related land use in the Niger Delta derives from the fact that unlike the Persian Gulf, oil occurs in small fragmented pools across the region. Thus, oil production practically entails littering every community with oil installations.

In addition, data available suggest that large amount of land in the region is controlled by the oil companies. As at 2001, Shell held over 400 kilometres square of land for its operations, most of it reserved for future use. The above land holding it must be noted, is exclusive of land acquired for "short-term" purposes; seismic projects and temporary staff housing and land not acquired for petroleum development but, nonetheless, rendered useless as part of ecological collateral damage from oil activities. Also, Chevron's operations in the Niger Delta spanned over 5,000 kilometres offshore and 2,600 kilometres of onshore lands as of 1998. When effects of oil spillages are added, to the above situation, highly limits available land for women who are the most farmers in the region. For instance, the Bomu II oil spill of July 1970 impacted on over 607 hectares of farm lands. This denied women from farming in the impacted areas for years (Odogwu, 1981). Pollution from oil spills impact on both crops

and the soil (Odu, 1981). Oil deposits on leaves of plants, penetrated the leaves reducing transpiration and photosynthesis that result in defoliation. Oil pollution also makes soil nutrients such as nitrogen (for plant growth) unavailable, while increasing the toxic elements (Odu, 1981). Thus, oil-related land loss and environmental degradation negatively impacted agricultural activities in the region. This was further exacerbated by denial of compensation to the people from oil-related damages by the Land Use Acts. All these led to the collapse of local economies and the attendant pervasive poverty in the Niger Delta.

The Land Use Act and Pervasive Impoverishment in the Niger Delta

The Land Use Act (1978), as, earlier mentioned, divested the Niger Delta people of their ancestral lands and vested same in the state. Besides land sequestration, one of the key ways by the Land Use Act has also manifestly impacted on the Niger Delta is the compensation for oil-related damages to crops. The motive behind the compensation regime used for such purpose, it would seem was to preclude the oil companies from paying for crops damaged by oil activities in the region. The Act made a distinction between land and developments on land and by its provision, the oil companies are barred from payment of compensation for any land but only for development on it. Thus, oil companies are expected to pay compensation only for buildings on sequestered land and for crops, fish ponds and economic trees impacted by oil spills. However, in cases of oil spills, the compensation regime is but a mockery. There is no definition of what is fair and adequate compensation for damages from oil activities. The compensation regime; a scale of rates used by the oil companies, was never negotiated but simply imposed. Thus, the rates (Table 2) are not only extremely low they failed to take into cognisance market prices of crops and inflationary trends.

Table 2: Compensation rates in oil exploration areas

Common crops	Rate/ha	Common trees	Rate/tree
Rice	1,375	Mango	25
Beans	290	Banana	2.50
Yams	835	Plantain	2.50
Cocoyam	625	Oil palm	12.50
Cassava	000	Bush mango (Ogbono)	18.75
Most vegetables	625	Timber hardwood	50
Bitter leaf	63	Mangrove	62/ha

Source: Compiled based on data from World Bank (1995), *Defining an Environ Strategy for Niger Delta*

The rates as seen in Table 2 are for one harvest payment only for these commodities. The rates not only fall short of market prices for these commodities, they are also incommensurate with realisable revenues had they not been impacted by oil spills. Furthermore, the compensation regime does not also include long-term, non-market goods, or off-site effects, as only the yield of a single year is considered for the purpose of compensation. It seems that the oil companies operates from a basic template that since the state “own” both land and oil resources, compensation should be a non-issue. For example, a single ogbono (bush mango) tree could produce fruit worth over ₦10,000.00 annually, as a milk cup of ogbono sells for over ₦300.00. An ogbono tree produces over 500 cups annually; therefore, by implication what is paid for a tree (N18.50) is very far much below the price that a cup of its fruit sells. Furthermore, the tree would continue to produce for five decades. Also, yams grown in the region yield between 1500–3000 kg/ha that may be valued at over N30,000.00 annually,

however, the oil companies pay only the sum of ₦2,831.00 as compensation per hectare. Also, the claims process does not take into account immediate, short-term and long-term damage of oil spills, while the oil companies alone determine the amount paid to individuals or communities as compensation. It is therefore, not surprising that this compensation regime has been a source of numerous problems in the Niger Delta. This is further exacerbated by the fact that most oil company assessment officers use various tricks to line their pockets at the people's expense. According to a community leader, Often, assessment officers will not visit farms except induced, thus cases of incomplete damage assessment and non-payment of compensation are common occurrences in most communities.

An interesting dimension to the attitude of the oil companies regarding the payment of compensation for damages as a result of oil spillage is that the companies regard oil spills as the equivalent of a "fire disaster". It would appear that their feeling is that an oil spillage is not an issue over which the oil companies should be bothered for compensation. This notion appears dominant in the oil industry and was indeed rationalised to a group of senior energy correspondents in Nigeria in 1996, by Haastrup, community relations manager of Chevron. He was quoted as saying; "Let us imagine that one of your organisations suffered a fire incident in which some offices were totally burnt and equipment worth millions of Naira destroyed. I believe it would be your fair expectation that some sympathisers will call on you offering their commiseration and praying that such incidents never happen again" (Haastrup, 1996). What this implies is that in cases of damages from the incessant oil spills, instead demanding compensation the people should rather empathise with the oil companies. In other words, the oil companies should not pay compensation for oil spills-related damages. This may explain the meagre and ruinous extant compensation regime that has increasingly pushed the people into penury and violent actions. These actions are due to angst and resentment against the oil companies arising from the people's feelings of their lack of concern about the pitiable plights they are suffering from oil activities.

CONCLUDING REMARKS

The Niger Delta has been the epicentre of hydrocarbon resources exploitation from which Nigeria, has earned huge revenues since 1958. However, despite its abundant hydrocarbon resources, the Niger Delta remains bisected by pervasive poverty. This has been blamed on the oil companies' impunity of operations, as oil activities have been characterised by massive gas flaring and incessant oil spillages. This has caused massive pollution that has significantly impacted the environment; constricted traditional means of livelihoods with detrimental adverse human health effects, and socio-economic problems in oil-host communities in the Niger Delta. However, whilst it is true that oil activities have adversely impacted the environment; the region's impoverishment has been calamitously exacerbated by the stultifying impacts of the Land Use Act 1978. This is because the Act besides alienating the people from their ancestral lands, expressly denied the people all benefits they hitherto derived from the oil companies for use of their lands for oil activities. The Act further precluded the oil companies from payment of fair compensation to the people for crops impacted by oil activities. The preclusion of the oil companies from compensation payment for impacts of their activities gave fillip to their operational impunity and the acute degradation of the environment. As a result, the Act has had more devastating impact on the Niger Delta people. It is therefore, strongly recommended that the Land Use Act should be repealed immediately. This would expose the oil companies to payment of adequate and fair compensations for adverse impacts of their activities. Such exposure would lead to

improvement of the Niger Delta environment, as the oil companies faced with payment of huge compensations would apply best practice in their operations.

Notes

1. The Niger Delta as defined has a population of about 11,015,676, comprising of 5,616,418 men and 5,399,258 women (NPC, 2007). It is the locale of about 90% onshore oil production and for over two decades, the area of intense oil pollution, environmental degradation and military interventions (Isoun 2001; Mickwitz 2003; Omeje 2006). However, in Part 1 Subsection 2(1) of the Niger Delta Development Commission (NDDC) Act 1999, the Niger Delta is politically defined as being synonymous with the nine oil producing states; Abia, Akwa-Ibom, Bayelsa, Cross Rivers, Delta, Edo, Imo, Ondo and Rivers. The Niger Delta, as politically defined, extends over 70,000 km². This area has a population of about 31 million people, consisting of more than 40 ethnic groups, speaking some 250 dialects. Furthermore, Imo State is in the Ibo heartland inhabited by the Igbos; one of the three major ethnic groups in the country. The same applies to Ondo State that is in Yorubaland, inhabited by the Yorubas; the second largest ethnic group in Nigeria. Thus, as it were, the real intent of the NDDC is not to cater for the Niger Delta *per se*. In other words, NDDC was merely intended to deceive the world that the Nigerian state was making efforts to develop the Niger Delta.

2. Prebendalism is a political tradition in which state offices are regarded as prebends that can be appropriated by office holders, who use them to generate material benefits for themselves and their kith and kins (Joseph, 1987). In the post-colonial setting, the entrenched politics of neo-patrimonialism is a reinvention of the traditional patrimonial forms of governance in which the differentiation of public and private spheres is institutionally obscured by the primordial considerations, interests and loyalties of public office holders. By and large, the conduct of politics and public administration in a neo-patrimonial state follows such primordial clientelistic patterns as family networks, clannism, cronyism and ethnic solidarity, without the necessary rational-legal institutional restraints against corrupt enrichment and abuse of office (see Erdmann, 2003:284).

3. The control of the Niger Delta oil resources was a core issue of the Nigerian Civil war 1967 to 1970. The fledging Republic of Biafra took control of the region to cut oil revenues from the Nigerian state. It was to curtail Biafra's hold on the region that Rivers State was created.

4. The Kaiama Declaration: A Communiqué of the Conference of Youths from all Ijaw clans together with representatives of other oil-host communities in the Niger Delta held on 11 December, 1998. It demanded full control over oil resources in the Niger Delta and gave a month ultimatum to all oil companies to stop operation and quit the region or risk attacks on their facilities.

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