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THE POLITICS OF DERIVATION PRINCIPLE AND SOCIO-ECONOMIC DEVELOPMENT OF THE NIGER DELTA REGION.

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Abstract

The derivation principle is one issue that has caused agitations and struggles in Nigerian federalism. The oil producing communities in Niger Delta region have not benefited from the stupendous oil wealth generated from the region. Instead of benefiting from oil, the region is subjected to environmental degradation, abject poverty, unemployment and hardship as most indigenes of the region are displaced from their agricultural businesses, which was the main stay of their economy. In an effort to address the inequalities and injustice inherent in the revenue allocation system, the federal government of Nigeria adopted derivation principle as the bases of revenue sharing where part of oil revenue from the federation account is re-distributed to constituents' units that contributed immensely to the nation economy. The work examined the implications of politicisation of derivation principle on socioeconomic development of Niger Delta region. It adopted both historical and descriptive methodologies to comprehend the phenomenon under study. It argued that application of derivation principle will show greater success when fiscal federalism is given urgent and appropriate attention in revenue allocation. The work recommended among others the adoption of a true federalism that reflects fiscal autonomy and independence of the constituent tiers of government, while the federal government concentrates more on its tax functions.

Keywords: Derivation principle, revenue allocation, development, federalism, Niger Delta.

Introduction

Economic Development of any nation depends on the availability of resources and the efficient use of available resources and the integrity of people entrusted with the management of those resources. Resource wealth and how it is managed makes a crucial difference in the lives of the poor who live in countries where it is extracted. In Nigeria, for instance oil was discovered in 1956 and began to be exported in 1958 (Nigerian Oil Directory, 1958). By the mid-1960s the economic significance of oil had become obvious with petroleum exports rising to well over 90 percent of the total exports, and constituting four fifth of the total government revenue (Bienen, 1988). The oil boom in Nigeria has been driven by oil extracted from the Niger Delta region. Oil wealth, from the Niger Delta region, is largely responsible for sustaining the Nigerian Federation. This rise in oil wealth has, however, not translated into significant increases in socio-economic development of Niger Delta region. Instead the rise in poverty and inequality in the region coincides with the discovery and export of oil in Nigeria. Incidence of Poverty, insecurity, unemployment and underemployment as UNDP (2006) reports is increasing while life expectancy is falling sometimes below national average.

The inability to use wealth accruing from oil exploitation for the benefit of the masses is also evidenced in lack of access to basic necessities of life like water, shelter, health facilities, food, clothing and discriminatory policies that have combined to deny the masses access to positions of authority and influence in shaping the rules by which they are governed. The corruption and extravagance lifestyle by those in charge of governance amid mass poverty and their inability to use wealth accruing from oil exploitation for the benefit of the masses deepens their feeling of disillusionment. It was on this ground that federal government applied the derivation principles to assuage oil producing areas of Niger Delta region.

It is instructive to note that the derivation principle has been in use in all the revenue allocation formula in the country but with varying degree of emphasis. Since the introduction of the derivation principle by the colonial administration, the sharing formula has undergone numerous alterations and changes, following the various reviews of revenues allocation formula and principle by the central (federal) government. It has been observed that there has been progressive decline in the emphasis given to derivation in revenue allocation formula with ascendency of oil as a main stay of Nigerian economy (Onwiodukit, 2001). For political reasons, the derivation principle, suffered a bastardisation, thus leading to a sharp decline from 100 percent in 1953 to 50 percent in 1960, 45 percent in 1969, 20 percent in 1975, 1.5 percent in 1982, 1.0 percent in 1990, 3.0 percent in 1992 and the current 13 percent which was fixed by section 162 (2) of the 1999 Constitution (Rapu, 2006:13).

It is against this background, that this study examined the impact of derivation on the developmental stride in the Niger Delta region of Nigeria. The Niger Delta region consists of nine states namely Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo and Rivers and 185 local governments. The estimated regional population is more than 30 million people. The region is abundantly blessed with natural resources, especially oil, which was expected to constitute a foundation for the region's development and prosperity (National Bureau of Statistic, 2016).

Conceptual Clarification

The principle of derivation as one of the constitutionally prescribed criteria for distributing federally-collected revenue between the federal and state governments prescribes that a pre-determined percentage of federally-collected revenue derived from a state of the federation shall be returned to the state as a form of compensation for its contribution to federal finance. In addition to other provisions, section 162 (2) of 1999 constitution provides that at least 13% revenue should be allocated on derivation principle that is to say that the weight attached to the principle of derivation is at least 13%. It should be noted that this provision is not in respect of oil mineral alone but it applies to all other minerals and natural resources which contribute directly to the federation account. In other words, the derivation principle seeks to strike a balance between the contributions made by the respective states of the federation to federally-collected revenue and their share of revenue from the total federal receipts. As the 1994-1995 Constitutional Conference stated it: Derivation is a factor of fiscal federalism which ensures that each unit of government contributes to the national coffers and receives equitably in return through revenue allocation. Each unit is, therefore, encouraged to work hard in baking a larger national cake from which it receives in proportion to its contribution.

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 it geographical boundary or area of jurisdiction. This is what Obi in (Onuoha & Nwanegbo 2007) called taking care of the goose that lays the golden egg and Metz (1992) refers to it as aberration of the practice of the national cake sharing towards the thought of National cake baking. Nwokedi (2005) opines that at the time of amalgamation of the two regions, the principle of derivation was in vogue. Each of the regions collected revenue of its internal resources mainly from agricultural cash or export crops, taxable import and excise duties (Chijioke, Innocent and Emeh, 2012). Edevbie (2000) confirms that the principle of derivation has always been applied in various revenue allocation formulae with the regional governments (later states) receiving the proceeds and utilizing it for the development of the regions or states.

Derivation as Attah (2018) opines means that if any mineral in any state is exploited and it yields revenue, then a certain percentage of that revenue shall be retained (given back) to the state on the principle of derivation, while the rest will accrue to the federation Account to be enjoyed by all federating units. The 1999 constitution for instance, provides that at least 13 per cent of such revenue will go to the derived source while the balance 87 per cent will accrue to the Federation Account. This is regardless of how, or by whom, the mineral is mined. The equitability proposed by the derivation principle in its original sense is of great importance because it is an instrument that can promote diversification of revenue generation streams for the country and support economic development as well as reduce the hostility in the Niger Delta and any other resource rich region in the future. States and regions with natural resource endowments other than oil and gas will now be compelled to develop these natural resource(s) and hence, benefit from the principle.

Derivation is, therefore, basically a reward for noble efforts of revenue generation. However, that is not all; derivation can also be seen as compensation for the loss in revenue or other economic activities through the utilisation of the land of any unit of governments [or communities] for national resource generation. Still derivation can be utilised for upgrading and reclaiming land degraded in the process of mineral exploitation and exploration. Derivation can also be put in place as payment usually in rent for the use of land and/or payment for exploring mineral from the land.

Interestingly, Onwioduokit (2001) has outlined the advantages of derivation as follows: First, derivation principle promotes efficiency since the states know that their fair share of the revenue depends on their ability to generate revenue. To this end, they strive to maximize the yields from available tax sources; second, it promotes the production of export crops as was in the 1950s and 1960s, when the principle was applied and it encouraged the regional governments to promote the cultivation of export crops such as cocoa, palm oil trees, cotton, etc.; third, the principle advocates equity because it is equitable for states from which the bulk of the revenue is obtained to obtain an extra share beyond what other states receive; fourth, it promotes efficiency in resource allocation. States that produce the products that are in high demand should be encouraged to produce more by allocating more revenue to such states. The principle allows states to rigorously exploit the various resources within their jurisdiction. At the same time, the principle produces the necessary sanction on states that would want to "reap where they did not sow"; fifth, one of the arguments given by Sir Phillipson for advocating the principle of derivation was that it will "train the regions in the art of cutting their coats according to their cloths and inculcate in them a sense of financial responsibility".

In a similar vein, Onwioduokit (2001) has also noted the disadvantages that derivation poses as follows: First, the principle aggravates disparity in revenue and income. When derivation was introduced in the 1950s, it benefited the Western Region more than the other regions because of the fact that it controlled the bulk of the export crops and also had the highest record of tobacco consumption; second, derivation works well in a loose federation. It has been found to be unsuitable for a closely-knit federation. It tends to emphasize state differences and makes the poor states suspicious of the rich and creates a general feeling of disharmony and acrimony; third, the workability of the principle requires a good and reliable statistical data. The contribution of each state to total revenue and output and the tax yields from the different tax sources must be clearly known; the arbitrary assignment of weights is bound to produce an unfair pattern of income distribution; fourth, the principle introduces element of instability into the revenue position of states. In years where the yields from agricultural exports were low, the tax revenue of the region, producing crops dropped.

Development on other hand is a multidimensional process (Ibaba, 2008) which is measured based on improved quality of standards of living such as the realization of higher levels of civilization, (Ake, 1996) control over productive forces (Anikpo, 1983) reduction in the rates of poverty, unemployment and inequality (Dudley, 1970); access to basic social amenities such as electricity, potable water, etc. and institutionalization of democracy (the South Commission Report, 1993:), advanced infrastructural development, enhanced education and improved productivity (Onuoha, 1999). Deducing from here, socio-economic development connotes activities which result in the improved standard of living due to improved incomes, skills development, employment, increase in life expectancy, GDP and literacy. Causes of socio-economic impacts are, for example, new technologies, changes in laws, changes in the physical environment and discovery of natural resources.

Theoretical Exploration

Derivation principle believes that revenue in the federation account should be allocated on the basis of each state's contribution to total revenue (Ohiomu & Oluyemi, 2018). That is, all revenue which can be identified as having come from, or can be attributed to, a particular region or state should be allocated to it (Phillips, 1971). The derivation principle which is anchored on rank order equality model formulated by Homans (1958). The of rank order equality model maintains that if the costs of the members of one group are higher than those of another, distributive justice requires that their rewards should be higher too. Clearly, Homans (1958) principle of rank order equality recognizes inequalities in distributional situations based on the comparative costs of each group. This recognition drives his argument that distributive justice is one of the crucial conditions of group equilibrium because it involves a situation of 'felt justice (Adangor, 2015) This principle is, however, criticized because it makes rich states (or naturally endowed states) richer since the more endowed or developed states will contribute more to the federation account, starving the less endowed or less developed states of developmental funds. It can, therefore, leads to greater disparity among the States and subsequently lead to instability within the country. Notwithstanding the criticisms the work found it a useful tool of analysis in explaining the importance of derivation principle in a federal system like Nigeria.

Historical Setting of Derivation Principle in Nigeria

Nwokedi (2005:28) opined that at the time of amalgamation of the two regions, the principle of derivation was in vogue. Each of the regions collected revenue of its internal resources mainly from agricultural cash or export crops, taxable import and excise duties (Chijioke, Innocent and Emeh, 2012). Again as earlier stated the principle of derivation has always been applied in various revenue allocation formulae with the regional governments (later states) receiving the proceeds and utilizing it for the development of the regions or states. It was first introduced as official policy in 1946 by the Phillipson's commission who regarded it as a way of making regions with natural resources benefit from their natural resource endowment based on their contribution to the central revenue pot **(**Adebayo, 1988**).**

It is, however, instructive as Adangor (2015) argues, to note that though the application of the derivation principle dates back to the recommendation of the Sydney Phillipson Commission of 1946, its use as a specific fiscal tool for redistributing revenue derived from natural resources to the mineral-producing regions can be traced to the recommendations made by Sir Louis Chick who was appointed Fiscal Commissioner by the London Constitutional Conference to advise the government on the financial implications of the p roposed new constitutional arrangements for Nigeria. Sir Louis Chick according to Adangor (2015) recommended that the whole of the net proceeds of mining royalties derived from minerals (extracted from the Northern region) should be allocated to the region from which the taxed minerals were extracted in accordance with the principle of derivation, that is allocating revenue to a region in proportion to the region's contribution to central revenue. The principle of derivation only became a major basis of revenue allocation between 1954 and 1957 due to the dominance of Nigerian's export market by the three main ethnic groups of Hausa, Yoruba and Igbos especially with cocoa from the West **(**Anugwom, 2001**).**

It is pertinent to note that it was during the Lagos Constitutional Conference, that a decision was taken that the derivation principle which then applied only to solid minerals exploited in Northern Nigeria, should be extended to royalties and rents derived from petroleum resources. In effect the principle of derivation as originally conceived, was not intended for the benefit of the oil-producing states or communities of the Niger delta, but rather the Northern region of Nigeria which was the mineral-producing region. Thus, Northern Nigeria had enjoyed enhanced revenue allocation from the centre based on the principle of derivation long before oil and gas exploitation commenced in the Niger delta. Therefore, the derivation principle as originally conceived was not meant for the development of the Niger Delta region (Adangor, 2015).

However, it is observed that with ascendancy of oil as a major source of revenue in Nigeria, the principle has been highly compromised by various political and ethnocentric factors, leaving the producing states (minority) with very low percentage derivation. From the period of oil discovery in 1958, the percentage of derivation due for mineral producing states began to decline. The politics behind derivation was glaring when recommendations made by the Binns commission of 1964 rejected the principle as part of the revenue allocation formula. When the military took over power in 1966, it set up an interim committee (Dina committee) that again recommended the derivation principle due to its relevance. The committee argued that the rent from the onshore oil exploration be fully given to the state from

which the extraction was made, while 10% of the royalties should be shared on derivation **(**Ekpo, 2004**).**

The military government, however, rejected the committee's recommendations and then enacted Decree 13 of 1970, which adopted a revenue allocation formula on the basis of 50% on equality of states and 50% on population, retaining derivation only on onshore exploration. This favoured the non-oil producing states (majority) than the producing minority. By this time oil contributed about 70% of the total revenue accruing to the federation's account. The principle as an integral part of a federal system has continued to undergo retrogressive changes as different administrations took over power. Some of these Commissions/Committees include; the Phillipson Commission (1946), the Hicks-Phillipson Commission (1951), The Chicks Commission (1968, The Raisman Commission (1958), The Binns Commission (1964), The Dina Interim Committee (1968), the Aboyade Technical Committee (1977), the Okigbo Commission (1980), the Revenue Mobilization Allocation and Fiscal Commission (1989) and various military decrees and memos (revisions) particularly 1970, 1971, 1992 and 2004. The Commissions/Committees listed above were Ad-hoc in nature except for the Revenue Mobilization Allocation and Fiscal Commission which was established as a legal and permanent entity to deal with fiscal matters on a more regular basis as the need arises.

It is worthy to note that by 1971, with the promulgation of Decree No. 9, rents and royalties of off-shore petroleum mining were transferred from states of derivation to the federal government (Akpan & Umobong, 2004). The authors argue that this decree deprived people of the South –Eastern State became later Cross River and Akwa Ibom States and whose major oil deposits are off-shore as political subversion of their fiscal right and interests. The obnoxious Decree No. 9 of 1971 was only abrogated in 1993, thus restoring the benefits of off-shore oil mining to the states of derivation.

The derivation as Akpan & Umobong (2004) opine, was again politicized when decrees No 6 and No 7 were introduced which resulted in further erosion of weight accorded to the derivation principle that gave the federal government ascendancy over states were promulgated. The following changes were remarkable in the decrees:

(i) Reduction of the 45 percent share of mining rents and royalties paid to state of origin in 20 percent, and the appropriation of the balance of the DPA;

(ii) The federal government retained 65 percent of all import duties except those on motor spirits, diesel oil, tobacco wines, potable spirits and beer. The remaining 35 percent of the import duties and the full duties on motor spirits, diesel oil, tobacco, wines, potable spirits and beer were paid into DPA;

(iii) The federal government retained 50 percent of all the excise duties while the balance went into the DPA;

(iv) State government's power to vary the rates of income tax charged was relinquished and a uniform income tax rate introduced throughout the federation; and

(v) The DPA was appropriated on the basis of 50 percent population and 50 percent on equality of states.

Oyediran and Olagunju (1984) observe that the driving force behind all these actions by the federal government was the growth in petroleum profit tax revenue accruing to the federal government. Akpan and Umobong (2004), however, argued that there is more to the federal government action in the use of decrees to manipulate the revenue allocation. First, the manipulations reflect the downturn in the export over time from agricultural sector in which majority groups were the appropriators of the gains. As the oil fortune improved the military governments that were controlled by the majority ethnic groups (especially of the north and west) contrived out decrees to ensure maximum control of land resources and fiscal revenue by the federal government. Second, since the formulation of revenue commissions would have led to stiff oppositions against some of the new sharing criteria, it was more convenient for the Supreme Military Council (composing of equality – and landmass – biased officers from the ethnic majority regions) to decide on the amount that the federal government should control and what proportion should be shared to states and by what criteria. This point can be buttressed by the rejections of Dina and Abioyade Commissions' reports by the military governments.

To further consolidate and intensify its grip on the oil sector, federal government under the Olusegun Obansanjo military regime enacted the Land Use Decree in 1978. Under this decree, as Owugah (2006) opines, the federal government claims ownership of all land and minerals in it. Indeed, under the cover of this decree, the oil companies could confiscate any land in the oil producing areas without any challenge or opposition from the real owners. This decree simply further widened the already existing antagonistic gap between the state and the people.

Curiously, this decree does not apply to other minerals. To ensure its exclusive application to oil, specific reference was made to oil minerals in section 28 of the decree (Frynas, 2001). It, therefore, does not apply to other minerals mined in the areas inhabited by the ethnic majors. For instance, the Igebti Marble deposit in Oyo State which is inhabited by the Yoruba ethnic majors, in the South West, royalties are not completely appropriated by the Nigerian state as in the case of oil revenue from the Niger Delta, inhabited by ethnic minors. Rather, it is fairly distributed into 30 per cent to the Oyo State government, 20 per cent to the federal government, 10 percent to the local government, 15 per cent to the Igbeti community and 25 per cent to the Igbeti Marble Industry. In Birnin in Kebbi state in the North West, inhabited by the Hausa/Fulani ethnic majors Mamman Shatu's farm where diamond is mined, Mmamman Shatu gets 50 per cent of the revenue from the diamond (Adeoye, 1998). Similarly, it is the Zamfara state government that control gold mining in that state without interference by the federal government.

Again to show that the principle of derivation is shrouded in politic, as Umanaette (2004 argues, in 1994, the value added tax (VAT) was introduced to replace the sales tax that was formerly assigned to states. The tax is centrally collected by a federal government agency and paid into the VAT pool account. At inception, the federal government was to retain 20 percent of the VAT proceeds while the states were to share the remaining 80 percent. The local governments were not to benefit directly from the tax as sales tax, which VAT replaced, was previously assigned to the states only. In January 1995, however, the sharing formula was changed into the ratio of 50:25:25 for federal, state and local governments, before it was revised in 1996 to 35:40:25 percent for federal, state and local governments, respectively. The latest formula, which was introduced in the 1999 budget, is 15:50:35 percent for federal, state and local governments, respectively.

It is instructive to note that the application of derivation to the sharing of revenue accruing from VAT since 1995 is very consistent and accurate due to the fact that it does not bring much benefit to oil producing areas of the Niger Delta region. As Umanaette (2004) argues, use of the 20% derivation percentage for VAT, for instance, explains why one state, which produces on the average 52% of VAT revenue, received in six (6) months (December 1998 – May 1999) a total sum of N2.82 billion from a total VAT revenue of N19.18 billion shared to all the states and local governments area, during the period. But all the oil-producing states, account for 100% of oil mineral revenue received a total sum of N651.83 million from the 1% derivation on total oil revenues of N156.63 billion. All the oil-producing states, therefore, received under derivation only 23.1% of what only one state received from value added tax.

Table 1: The breakdown of derivation principles since 1953 till date

Year	% of Derivation	Committee/Commission
1953 – 1959	100%	Chick Commission
1960 – 1964	50%	The Binn Commission
1970 – 1976	30%	FG Decree No. 13 of 1970
1977 – 1980	25%	Aboyade Technical Committee
1981 – 1983	5%	The Okigbo Commission
1984 – 1991	1.5%	The Danjuma Commission
1992 – 1999	3%	OMPADEC Commision
1999 – till date	13%	FG 1999 constitution sec. 162(2)

Source (Umoh, 2012; Onuigbo, 2015).

Derivation Principle: Application and Implications

There is, however, general perception in the Niger delta that the distortion of the derivation principle forms part of the systematic marginalization and domination of the oil-producing minorities by the majority ethnic groups (Rubley, 1981). The manipulation and feeling of marginalization as well as the politics and the controversy generated by derivation principle among the delta minorities is well captured by Okilo (1980) when he declares:

> Derivation as a revenue allocation criterion is not new in this country. It featured prominently when cocoa, groundnuts, etc., were the main sources of revenue for Nigeria. But it has continued to be deliberately suppressed since crude oil became the mainstay of the country's wealth … simply because the main contributions of the oil wealth are the minorities.

The situation in Adangor's (2015) opinion is made worst by the refusal of the federal government to take any steps towards implementing past reports on the Niger delta which had recommended upward review of the derivation principle. He maintains that the manipulation of the principle of derivation by the dominant ethnic groups in response to their changing economic interests and the lack of political will on the part of the federal government to negotiate any upward review of the thirteen