

# **NATIONAL POLITICAL REFORM**

## **CONFERENCE**

### **THE REAL ISSUES IN THE DEMANDS FOR**

#### **RESOURCE CONTROL**

1. **Introduction: Survival and Striving for a future**

In my statement of position to the Committee on Revenue Allocation and Fiscal Federalism, I endeavoured to explain why the people of the Niger Delta are demanding unequivocally for resource control.

“It is vital to stress that Resource Control is not about obscene enrichment of the Niger Delta States at the expense of impoverished Sister States in Nigeria. No the issue is far more profound and fundamental to the survival of the people of the Niger Delta. Whilst resource control should naturally result in increased revenue from the proceeds of the resource for the owners or producers of the resource, i.e., the States and Communities, that is the less significant aspect of resource control. The really vital aspect of the concept, is involvement in the actual control and management of the resource. Central to the struggle for resource control is the right of the States and Communities most directly concerned (that is the producing States and Communities) to have a direct and decisive role in the exploration for, the exploitation and

disposal of, including sales of the 'harvested' resources. It is those who live with the devastating consequences of greedy, cheap, crude, reckless and irresponsible exploitation practices and procedures, who must control the mode and management of commercial production in order to ensure an environmentally friendly production, process, elimination of pollution, protection of the lands, forests, rivers and atmosphere. It is they who will insist on planned and controlled production to ensure the progressive replacement of the non-renewable resource, by a renewable product that is free of pollution and other environmental hazards. The main objective of resource control therefore, is (i) restoration of the environment, (Lands, Waters, Forests, Air, etc) to a clean, natural and productive state and condition and (2) to establish an economy based on renewable resources and industries that will sustain the peoples of the Niger Delta, after the exhaustion of petroleum resources.

Mere increase in revenue without control and management, and the progressive substitution of renewable resources is short sighted and deadly and it condemns the peoples of the Niger-Delta to a present without a future”.

The consequences of the disregard of Resource Control is well illustrated by the fate of Oloibiri where petroleum was first discovered in commercial quantities in the Niger Delta. It has become a community which has been described by Mr. David Serena-Dokubo in the following graphic terms.

“A Virgin community in 1956, rich in oil deposits, trusting and believing its compatriots in the euphoria of the prospects of independence, but, sapped, sucked dry, subdued; despoiled, desecrated and deserted.

A community having the misfortune of being part of the only one of the 36 States and Abuja NOT CONNECTED to the national electricity grid, having no school, no hospital, no portable water, in fact, *no nothing*, (pardon the 'Nigerian English').

A community, though in shock with toxic effluent and gaseous discharges from oil and gas producing activities, is facing the threat of extinction ostensibly for that reason, by the proposal of compatriots who publicly speak of schemes to evacuate and relocate its already-fragile population to the Nigerian hinterland.

A community whose resources have been siphoned dry and squandered to build palatial edifices in other parts of the county; to build bridges even where there is no river; to sustain lavish life styles of opulent compatriots, leaving it to wallow in abject poverty and utter hopelessness”.

If Resource Control is denied the people of the Niger Delta now, in the nearest future we shall all suffer the fate of Oloibiri.

## 2. Absentee Landlordism and Environmental Devastation

### (i) Mindless and Destructive Production

There is one and only one cause of the devastation of Niger Delta Communities by petroleum industry: Absentee Landlordism. The supposed owner of the resource is in Abuja, 700 miles away from the resource it claims to own. Its sole interest is in the proceeds of the resource. This coincides with the interest of the petroleum companies. The name of the game is maximum production at the lowest cost to the pocket of the company. This means cheap,

crude, reckless and irresponsible extraction process which denies the producing communities the rights to life, livelihood and a future.

Surely this cannot be the intendment of fellow Nigerian communities from the North, East and West.

(ii) **Production by Real or National Owners**

If the real owners were in control of production, their first priority would be a slower, deliberate and initially more expensive mode of extraction which gives equal attention to the preservation and protection of the environment, as well as the earnings from the resource.

If the real owners of the resource were in control, they would place great emphasis not only on a clean, harmless and environmentally friendly mode of production, they would also institute a programme of cultivating and establishing renewable resources and sustainable development. In short they would be investing today for survival and continued development tomorrow.

The Federal Absentee Landlord is indifferent to the fate of the oil producing communities. But it is impossible for the communities to turn their back on their own future and survival as the Federal Government has done. There is a story in the Bible about an incident in the reign of King Solomon. Two women had just given birth to a baby each, in the same environment. One slept badly and crushed her child to death. The other one slept deeply but kept her child at a safe distance. The careless woman woke up first and discovered that she had crushed her child to death. Seeing that the second woman was still asleep she first grabbed the living child and transferred her dead baby to the sleeping woman's mat. When the

latter woke up, she saw the dead child near her and immediately knew that the dead child belonged to the other woman and that the latter had snatched her child. She raised an alarm and tried to claim her child back, but the wicked woman resisted this claim. The parties approached King Solomon for a solution to the problem. Solomon applied his legendary wisdom by proposing to split the living child into two halves so that each claimant could have one half. The wicked mother of the dead child jumped at this proposal. The real mother rejected it outrightly and agreed that the other woman could have the child, instead. She could not contemplate the possibility of her child being killed. She would rather face the pain and trauma of the child going to the wicked woman.

And so it is with the Niger Delta. The Federal Government, the Absentee Landlord is only interested in the dollars coming in from the Niger Delta. It is not interested in the peoples of the Niger Delta and their, lands, waters, forests, air, atmosphere, ecosystems and their future survival. It is prepared to let the Niger Delta die in the process of extorting money and dollars from the Niger Delta's Resource IN THE SHORT TERM. When in less than 30 years, the oil of the Niger Delta has been completely exhausted, the Federal Government and its Oil company partners will pull out lock, stock and barrel, leaving the people of the Niger Delta to wallow in the toxic and polluted environment in their death throes.

By contrast it is the true mother of the child, the people of Niger Delta that are interested in the survival and development of their lands and peoples, rather than in dollars. SO LET THOSE WHOSE INTEREST COINCIDES WITH THE SURVIVAL OF THE ENVIRONMENT TAKE CHARGE OF THE RESOURCE WHOSE PRODUCTION COULD CAUSE SO MUCH DEVASTATION AND

DESTRUCTION. THE FEDERAL GOVERNMENT AND THE OIL COMPANIES MUST NOT BE ALLOWED TO KILL THE GOOSE THAT LAYS THE GOLDEN EGGS.

We need not be reminded of the fact that the Ogoni People kicked out Shell from their territory 12 years ago and are happier for it. Do not compel the other Niger Delta Communities to resort to this desperate measure to save themselves from a horrendous fate.

3. **What Resource Control Means**

- (i) Resource Control simply means that ownership of the resource will return to the natural owners who live with the resource and precludes the death sentence of Absentee Landlordism.
- (ii) It means that the producing states and communities will have a decisive say in the granting of licences for exploration and exploitation.
- (iii) It means that they will monitor the extraction process and ensure that damage to the environment is reduced to the barest minimum and that the best oil fields practices are practiced.
- (iv) It means that along with present production of the wasting toxic asset, a programme of substitution will be put in place to ensure that life, livelihood, productivity and sustainable development do not come to an end with the exhaustion of oil and gas.
- (v) It means that the present must not eliminate the future.
- (vi) If the people of the Niger Delta and the Petroleum Industry were not under the yoke of absentee landlordism, the Oil Company would

not have been allowed to lift an unknown quantity of oil without any monitoring and control, compelling the Federal Government to accept a fictitiously and fraudulently low production figure, to the monumental loss. (See the startling account of Chief Ayemi Ayeni, a traditional ruler, in an oil producing area at page 37 of the Vanguard on Sunday 17<sup>th</sup> April 2005.

### **Funding of Oil Producing Activities**

At this stage, there is need to correct some misinformation about the funding of the oil industry. The first oil prospecting in Nigeria, was a German Company known as the Nigerian Bitumen Company. It commence operation in 1908 and wound up its activities in Nigeria at the commencement of the first World War in 1914. The second attempt at oil prospecting in Nigeria was in 1937 by a company known as Shell D'Arcy.

Shell D'Arcy also start operations in 1940 because of the second World War. In 1946 Shell Company was joined by British Petroleum (BP) to establish the Shell BP Company which finally discovered oil at Oloibiri in 1956.

The companies were later joint by Elf, Texaco, Agip, Gulf Oil, Mobil producing and other oil prospecting and producing companies.

From this early beginnings in 1908 to the present moment that is 2005, the Nigerian State have never spent one kobo in oil prospecting and oil producing.

The Nigerian Federal Government at all relevant times being a beneficiary of the petroleum proceeds from the investments and activities of the oil

multinationals. The so called NNPC investments in oil prospecting has only occurred in Northern part of Nigeria, namely, the Benue trough, the Chad basin and in Bauchi State.

The funds utilized by the NNPC in these Northern areas were obtained from proceeds of the Niger Delta Oil operations.

Therefore, rather than the Nigerian Federal Government investing money in Niger Delta oil operations, it is the proceeds of the Niger Delta petroleum that is fueling State power and activities in Nigeria and supplying all the funds for the NNPC's prospecting of petroleum in Northern State.

Therefore by and large all initial expenses for oil prospecting and producing are borne exclusively by the foreign multinationals.

The Nigerian Federal Government spends nothing of its own funds in the Industry, except for cash calls which are paid for by the proceeds of Niger Delta petroleum.

### **Pre-Petroleum Economy of Nigeria.**

Another misinformation that needs to be exorcised is the assertion that the Nigerian State survives solely on groundnut and cotton from the North before oil was produced in commercial quantities. This is patently false. The West produce cocoa, the Mid west produce rubber, palm oil, palm kernel and timber, and the East produce palm oil and timber. In each case, the producers of these natural resources sells their products and pocketed their proceeds for the personal use. By contracts the oil and gas of Niger Delta is taken away 100% by the Federal Government leaving the



producing communities and the owners of that resources nothing but environmental degradation and pollution. In the pre-oil economy of Nigeria, it was only the export duty of the Agricultural products already refer to that was shared on the following basis: 50% derivation and 30% into the distributable funds that was shared by all the Nigerians. The Federal Government got 20%.

It could thus be seen that every part of Nigeria contributed to the pre-petroleum economy of the country. Most importantly individual producing farmers sold the products and pocketed the proceeds for the benefit of themselves and their families alone. This is not applicable to the people of the Niger Delta whose oil and gas has been appropriated completely by the Federal Government without any consideration of the right and interest of the people on whose land the oil and gas are found.

#### 4. **What Resource Control Does Not Mean**

- (i) It does not mean the appropriation of all the proceeds of the petroleum resources by the producing states and communities.
- (ii) It does not mean the deprivation of our non-producing sister communities of Nigeria of a share of the proceeds. It is good to share and the Niger Delta is glad to share the proceeds of its resources with the whole country. But it must be a system based on Justice, which recognises the dilemma of the Niger Delta Peoples and their right to a future.

5. **Mode of Implementation of Resource.**

The mode of implementation of resource control proposed illustrates the good faith of the Niger Delta Peoples.

The Petroleum Act must be repealed, and a new Act and laws made to accommodate the proposals which follow. Also, section 44(3) and item 39 in the Exclusive Legislative List of the present Constitution giving the Federal Government ownership of all minerals should be deleted. The States and Communities from whose territory and land the oil and gas are produced should be acknowledged the owners of these resources, in all relevant legislation. However, given the role the Federal Government and its agencies have played in the oil industry, Delta State proposes the following arrangements for the future management and control of the industry. A Petroleum Affairs Commission should be established, to manage and control the industry and to takeover the functions of the 'Minister of Petroleum Affairs'.

The Commission will be composed of two representatives from the Federal Government, three representatives each from Delta, Rivers, Akwa Ibom and Bayelsa States, and one each from the other six oil producing States. The chairmanship will be rotational amongst its members and a chairman shall serve in that position for only one year at a time. This body will be charged with all the present functions of the Minister of Petroleum Affairs, including the issuance of permits, licenses, and the conclusion of agreements with oil companies. It will generally supervise all areas of the industry, particularly environmental impact of the industry, enforce environmental regulations and guidelines for petroleum production and promote sustained development in the Niger Delta. Agencies like the Nigerian National Petroleum Corporation and the Department of Petroleum Resources (the Supervisory arm of the industry) will be under

the direct control of the Commission. In this manner, true ownership and control of mineral resources will converge.

Payments by the Oil Companies will be made directly in dollars to bank accounts specifically opened by the oil producing states for such payments. The states will then pay an agreed tax to the Federation Account for the Federal Government and the 36 States which will be allocated on the basis of the formula that is current at any point in time.

Hopefully, with petroleum strikes being expected very soon in the Benue trough, the Chad Basin, Bauchi State and deep off-shore in Lagos and Ogun States, our sister Communities will not have to go through the pain, devastation, trauma and destruction that has been inflicted on the Peoples of the Niger Delta.

For by the time their own production starts in the nearest future, the concept of Resource control would have come into place in the Niger Delta.

6. **Resource Control and Solid Minerals**

It is significant that under the (Solid) Minerals and Mining Act, No 34 of 1999, there is a limited recognition of the concept of Resource Control. Thus after the usual blanket Federal assertion of ownership of all minerals found anywhere in Nigeria in section 1(1) namely:

Control of and property in minerals, in water, etc. vested in the State.

“The entire property in and control of all minerals, in, under or upon any land in Nigeria, its contiguous continental shelf and of all rivers, streams and watercourses throughout Nigeria, any area covered by territorial waters or constituency, the Exclusive Economic Zone is and shall be vested in the Government of the Federation for and on behalf of the people of Nigeria”, the Act goes on to concede that the

States have powers and rights over minerals in their territory thus in section 1(2).

Cap.202 LFN.

“All lands in which minerals have been found in commercial quantities shall, from the commencement of this Decree, be acquired by the Government of the Federation in accordance with the provision of the Land Use Act and the Minister may, from time to time, with the approval of the Federal Executive Council, designate such lands as security lands”.

Thus the recognition of the Land Use Act which vests all Land in the State in the Governor of the State, clearly gives the State a role in ownership and Control of Solid Minerals.

Of particular significance in this respect is section 3 which establishes a body known as the Mineral Resources Committee for each state. This body whose Chairman is to be appointed from amongst persons in the State who have considerable knowledge of mineral resources in the State concerned, also includes the following persons;

- (i) The Commissioner for Lands or Minerals in the State.
- (ii) The Federal mines officer in the State.
- (iii) The Permanent Secretary of the Ministry of Agriculture in the State.
- (iv) The Surveyor-General of the State.
- (v) One Person to represent the Local Governments in the State nominated by the Commissioner responsible for Local Governments in the State and
- (vi) Two other Persons appointed by the Minister.

This is a clear recognition of the legal, economic, social and cultural interests and rights of states, Local Governments and Communities in the minerals in their lands, which is patently absent in on Legislations concerning Petroleum Resources. Why is this so? Is it because Petroleum Resources are currently found only in powerless minority areas of Nigeria whilst solid minerals are found in the powerful majority areas?

The functions of the Mineral Resources Committees are also considerable and significant.

- (3) The functions of the Committee are to –
  - (a) consider and advise the Minister on issues affecting returns of necessary reports affecting grants of mining titles;
  - (b) consider issues affecting compensation and make necessary recommendations to the Minister;
  - (c) discuss, consider and advise the Minister on matters affecting pollution and degradation of any land on which any mineral was or is being extracted;
  - (d) consider and discuss such other matters relating to mineral resources development within the State as the Minister may, from time to time, refer to the Committee.
  
- (4) The Committee shall -
  - (a) meet at least once every three months and at such times as the Minister may deem necessary;
  - (b) regulate its own procedure.

There are numerous other provisions of the Act which not only recognise the rights of the State in or on whose territory the mineral is located or found, but also the rights of Local Governments, Communities and Individuals whose lands contain minerals. For example, a person on whose land minerals are found is entitled to annual payments of rents by the grantee of the Mining Licence.

The Following Sections are but a sample of the provisions of the minerals and mining Act which grant significant recognition of State, Local Government, Community and Individual rights in Minerals found in the Lands.

### Mineral and Mining Act 1998

Saving as to winning of certain minerals.

7(1) Nothing in this Decree shall be construed as preventing any citizen of Nigeria from winning, subject to such conditions as may be prescribed by the Minister, salt, soda, potash or galena from any land (other than land within the area of a mining lease or land designated by the Minister as security land pursuant to subsection (2) of section 1 of this Decree) from which it had been the custom of the members of the community to which he belongs to win before the coming into force of this Decree.

Thus the ownership and mining rights of communities are protected.

(3) Where before the commencement of this Decree, it was the custom of the members of any community to win any of the minerals to which subsections (1) and (2) of this section apply from any lands over which a mining lease is granted, the lessee shall, during the continuance of the lease, pay to the members of that community compensation as prescribed by the Minister under this Decree.

This clearly compensation for the minerals in the ground, not merely for surface rights.

- 8(1) No person shall, in the course of prospecting or mining, carry out operations on, in or under any area held to be sacred or permit injury or destruction of any tree or other thing which is the object of veneration.

Thus places of veneration of the communities are protected.

- 14(1) (g) No prospecting right, exclusive prospecting licence or mining lease granted under this decree shall authorize prospecting or mining on or the erection of beacons on or the occupation of any land actually under cultivation, except with the prior consent of occupier;

Here an individual owner of mineral land is recognized and given legal rights.

- (h) Within the site of, or within fifty metres of any building, without prior notice to the owner or occupier of the building;

This is similar to 14(1)(g).

- 14(2) No prospecting licence or mining lease shall be granted within areas demarcated as developmental areas by the Federal Government, a State Government or a Local Government Council except with the express consent in writing of the Minister after consultation with the State Government or the Local Government Council concerned.

Again state and local Governements are given a decisive say in the exploitation of their resources.

- 33(1) The holder of a prospecting right may –

- (a) enter upon and prospect on any land within any Local Government Area specified in the prospecting right (not being land closed to prospecting) including any of the lands referred to in section 14 of this Decree, if he has first obtained the consent of the Local

Rights and obligations under a prospecting right.

Government Council stated to be entitled to give the consent but not otherwise;

Here minerals and the Land containing them are put under Local Government control.

46(1) The Minister, in his discretion, may by order require the grantee of a mining lease reasonably to restore any area in respect of which mining operations having been, is being, or is to be carried out, on or after the date on which this Decree comes into operation.

In other words the mining company is bound to restore the land to its previous condition during and after mining operations.

56(3) Subject to the provisions of section 1(2) of this Decree, the lawful occupier of any land within an area subject to a mining lease shall retain the right to gaze livestock upon or to cultivate the surface of the land in so far as the gazing or cultivation does not interfere with the mining operations in the area.

This allows the owner to use and occupy his land simultaneously with mining operations.

Surface rent

59(1) The lessee of a mining lease shall pay surface rent, in advance without demand being made of it, at such rate *per annum* as shall be determined by the Minister for all lands occupied or used by it for any of the purposes mentioned in section 58 of this Decree, or otherwise for or in connection with his mining operations.

(2) The Minister shall, before granting a mining lease on any private or State land -



- (a) cause the owner or occupier of the land to be informed of the intention of the Minister to grant the lease; and
- (b) require the owner or occupier of the land to state in writing within the period specified by the Minister, the rate of the annual surface rent which the owner desires should be paid to him by the lessee for the land occupied or used by it for or in connection with its mining operations.

Thus by section 59(i) and (ii), the individual owner or occupier of land acquired for mining purposes, is permanently entitled to rent to be paid by the grantee of the mining lease.

- (3) If within the time specified by the Minister pursuant to subsection (2) of this section, the owner or occupier of the land states the rate of the rent which he desires should be paid, and the Minister is satisfied that the rent is fair and reasonable, the surface rent payable in respect of the land of the owner or occupier shall be at the rate stated by that owner or occupier.
- (4) Subject to the provisions of subsection (2) of this section, the Minister shall fix the rate of the surface rent payable under section and cause the lessee to be notified of the rate fixed before or as soon as may be convenient after the grant of the mining lease.
- (5) The rate of surface rent, whether fixed by the owner, occupier or by the Minister, shall be subject to revision by the Minister at intervals of five years.

Thus the rent can be increased every five years.

- (6) In fixing the surface rent payable, the Minister shall not take into consideration the damage which may be done to the surface of the land by the mining or other operations of the lessee, for which compensation is payable under section 95(1) of this Decree.

In other words the owner/occupier of the land is entitled additionally to compensation for damage done to his land.

- (7) The lessee shall pay all expenses incurred by the Government in surveying, measuring or otherwise ascertaining the extent of the land in respect of which surface rent is payable under this section.
- (8) If in the opinion of the Minister it is impracticable or undesirable to determine the extent of the land occupied or used by a mining lessee, the Minister may permit the lessee to pay surface rent at such rate as the Minister may determine over the whole area of the lease and the provision of section 95 (2) of this Decree shall not apply in that case.
- (9) Where under the provisions of subsection (8) of this section, the Minister permits a surface rent to be paid over the whole area of a lease, the holder of the mining lease shall not disturb the owners or occupiers of any part of the land included within the lease during the course of mining operations, until the land is actually required for any purposes set out in section 58 of this Decree,

- (60) Any question arising as to -
- (a) the extent of the land occupied or used by the lessee; or
  - (b) the date on which the lessee commenced or ceased to occupy or use any land; or

Land Use  
Allocation  
Committee to  
report on  
certain  
matters.

(c) the proportion of the surface rent payable to the persons entitled to receive any portion of the surface rent, shall be referred to the Land Use and Allocation Committee of the relevant State for determination, and the report of the Land Use Allocation Committee shall be taken in to consideration by the Minister in making a decision and the decision of the Minister shall be final.

Here again, the right, power and authority of state bodies, are given express recognition.

61(2) The owner of any protected tree cut or taken is entitled to any royalty payable in respect of the tree, and in the case of any other tree cut or taken, the compensation as may be agreed on between the owner and lessee, or in default of agreement, as may be determined in the manner prescribed in section 96 of this Decree.

(3) A lessee is not liable to pay compensation in respect of any tree, other than a protected or an economic tree, taken from the land in respect of which he is paying surface rent under section 59 of this Decree.

Compensation to be paid by lessee on a certificate of occupancy or on resumption of possession of land leased by the State.

62(1) Where, by reason of the grant or existence of a mining lease, the Head of State, Commander-in-Chief of the Armed Forces, in the case of Federal land or the Governor of a State, in any other case, revokes a right of occupancy over land, the subject of a certificate of occupancy or resumes possession of any land occupied under State lease, the mining lessee shall pay to the Government the amount of the compensation paid by the Government to the holder of the certificate of occupancy or to the State lessee by reason of the revocation or resumption of possession, as the case may be.

Here again State authority is given express recognition.

Licenses or lessee to pay compensation to owner occupier for damages and pollution.

- 67(1) A licensee or lessee shall pay compensation to the owner or occupier –
- (a) whose land or interest in the land is injuriously affected by the exercise of the rights conferred by the licence or lease, for any such injurious effects not otherwise made good; and
  - (b) who suffers damages as a result of pollution of any source of water, used for domestic and other purposes, as a consequence of the prospecting or operations or in any work connected with the property, for any such damage not otherwise made good.

Once again the rights of an individual owner is not only recognized, but provision is made for him to be compensation for mineral operations on his land.

Minister may require security.

- 94 (1) The Minister may, if he so desires or when so requested by an interested party, before granting a prospecting right, exclusive prospecting licence or mining lease to any person, direct that person to –
- (a) give security by depositing with the Government such sum as may be prescribed; or
  - (b) reimburse the Federal Government for any compensation, the Federal Government paid to any State or occupier in respect of land on which the lease or licence for the minerals is given.
- (2) An interested party under subsection (1) may be the Governor of a State or the owner or occupier of any private

land or of any land held under a State lease or the subject of a right of occupancy.

Thus the following are listed as interested parties in the minerals on or under their land and territory to whom compensation is payable: a State Government, or an individual owner or occupier.

Compensation to be paid.

- 95(1) A holder of a mining title shall, on the direction of the Minister, in addition to any other amounts payable under the provisions of this Decree, pay to the owner or the occupier of land held under a State lease or the subject of a right of occupancy –
- (a) reasonable compensation for any disturbance of the surface rights of the owner or occupier and for any damage done to the surface of the land on which the prospecting or mining, is being, or has been carried on; and
  - (b) in addition pay to the owner of any crop, economic tree, buildings or work damaged, removed or destroyed by the holder of the mining title or by any of its agents or servants, compensation for the damage, removal or destruction of the crop, economic tree, building or work.
- (2) The holder of a mining title who is paying surface rent in respect of any land within the area of the mining title shall not pay compensation in respect of any building erected, economic tree or crops planted or work constructed on the land after the date on which the holder began to pay surface rent.

The holder of a mining lease is obliged to pay to the individual owner of land, not only for surface rights, but also for disturbance or damage to the land.

Payment of compensation an implied condition.

98. It is an implied condition in this Part of this Chapter that the holder of an exclusive prospecting licence or a mining lease shall pay the compensation prescribed in this part of this Chapter to the person entitled to it on the directive of the Minister.

This means that all these compensations, rents etc payable to the owner of mineral bearing land, constitute a condition precedent to all mining lease agreements.

Construction of roads.

104. No person shall, in the course of prospecting or carrying out mining operations under this Decree, construct a road, tramway or railway over, on or under -
- (a) any State land, other than that comprised within the area of the mining lease, without the directive of the Minister after consultation with the officer in charge of lands in the Federal Capital Territory, Abuja, or in the State, as the case may be;

Here again State authority and power over state land is confirmed.

- (b) any customary lands, other than those comprised within the area of the mining lease, without the approval of the Minister, after consultation with the Chairman of the Local Government Council or Area Council, as the case may be;

The authority and power of a Local Government Council is given similar recognition here.

“Owner” in relation to –

- (a) land, means the holder of a right of occupancy whether deemed or expressly granted, and includes a lessee; and
- (b) land or other property governed by customary law, means the individual, family or community in possession of the land;

Thus under the Minerals and Mining Act, individuals, families and communities are declared owners of the lands and minerals, who have legal and property rights in their resources.

The limited recognition of Resource Control in the above provisions of the Minerals and Mining Act, need to be fully applied to recognise the full ownership of States, Local Governments, Communities in the minerals on or in their territories and lands, and equally to Petroleum Resources both on Land and also on the Continental Shelves (off-shore) of Coastal States.