NIGERIAN CONSTITUTIONS, OPERATION OF FEDERALISM AND THE SOUTH SOUTH ZONE

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1. Introduction: The Niger Delta – A region in Acute Distress

In order to put the subject matter of this address in the proper context, I have lifted commentaries and statistics on the Niger Delta from various Authors published in different issues of the Niger Delta News. I shall quote them here as a befitting background to a discussion of the plight of the Niger Delta and its peoples.

> "Nigeria regards the Niger Delta as an appendage. So, successive administrations, both civilian and military, have treated the area since independence. An appendage, by definition, is "anything appended, suspended, attached, affixed, or added as a supplement or an appendix". In biology, the dictionary goes on to say, "It is any subordinate or external organs or part as the branch of a tree or the tail of a dog". There it is, a tail good for wagging, perhaps. An appendage in law, Webster continues: is a 'subsidiary right attached to and passing with a major one". That is how Nigeria has seen the Niger Delta, specifically its Ijaw people, all these years; and now the matter has come to a head with the body aching from blows, all self-inflicted.
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> Indeed, if it were possible, the Nigerian state would carry out on the Ijaw people of the Niger Delta an appendectomy, that is, a surgical removal of the region in the inflamed condition that it is today. As an alternative measure, influential voices from the main body are now proposing that all dwellers of the Niger Delta should be left alone to burn in the gas flare that the Federal Government has allowed the oil companies to flay the Ijaw

and their neighbours all these years, or faster still, that the Ijaw should be removed en masse from the area for the nation to get on with the business of expropriating its oil and gas in partnership with the multinationals from Europe and the United States of America, not counting the new Asian giants and tigers at the gate. Where the poor people will be transported to and transplanted away from all that they hold dear in life these latter-day superior beings have not so far decided. Whichever way, it really would be the perfect solution." (Professor J.P. Clark, Niger Delta News, July – September 2006, vol. 2 Issue 3, p. 28).

"One question begging for answer is why a region that is generating so much wealth for the country is left neglected and allowed to suffer the way it is now. The money we spend on education, health, power and other good things of life come from the black gold, yet the land that gives us the wealth, though now shared by few, is desecrated, defiled and abused.

Why is this so? Why has it been difficult for the whole country to see the injustices done to these people? Why do we play the problems of this most important region in Nigeria down? Why do we keep insulting these people's sensibility? These and many questions are begging for answers."
(Seyi Odubela, Niger Delta News, January – March 2006, Vol. 2 Issue 1, p. 29)

"The report – by World Bank environment specialist David Moffat and Professor Olof Linden of Stockholm University says that even official statistics suggest that every year the delta is polluted by 2.3 billion cubic metres of oil from some 300 separate spills, almost one a day, but that the true figure may be 10 times higher. It confirms a report that gas flaring from oil production in the area emits some 35 million tons of carbon dioxide and 12 million tones of methane a year, making it the world's largest single contributor to global warming

The report adds that income in the area is below the national average, while health is substantially worse" than in the rest of south-east Nigeria. Tests have found 85 per cent of drinking water samples polluted by sewage, and largely as a result water-related diseases account for four-fifths of all the illness.

Although oil provides more than 80 per cent of Nigeria's foreign exchange the report says nearly three-quarters of the people of the Delta live in rural communities characterized by a lack of development, stagnant agricultural productivity negligible opportunities in urban areas, rapid population growth and tenuous property rights"
(Geoffrey Lean "Oil Bringing Untold Damage To Niger Delta" July – September 2006, vol. 2 Issue 3, p. 15)

2. The Niger-Delta, Location, Description

The Niger Delta, the main oil (and gas) producing area of Nigeria has been described as one of the worlds largest wetlands, and is certainly the largest in Africa. It covers an area of about 70,000 square kilometres and consists of distinct ecological zones which are characteristic of 'a large river delta in a tropical region; coastal ridge barriers, mangroves, fresh water swamp forests'[1]

The mangrove forest of Nigeria is the third largest in the world and the largest in Africa. Over 60% of these mangroves, or 6,000 square kilometres, is found in the Niger Delta. The fresh water swamps are 11,700 kilometres in area.

[1] See Niger Delta Environmental Survey: Briefing Note 2, September 1997 P.4..

The area is generally inhospitable, and difficult to develop[2]. It costs 10 times more to construct a one kilometer Road in the swampy Niger Delta, than to build one in the firmer and dryer terrains of the North. The statistics of the cost of road construction in table 1 below, speak for itself. The Communities which inhabit this area are made of mainly of fishermen and women in the purely riverain areas and farmers, in the drier upper areas. They also had some local industries based on the mangrove and the surrounding swamp waters, e.g. local salt industry, mat making etc.

The main Niger Delta Communities are to be found in Akwa-Ibom, Bayelsa, Cross River, Delta States, Rivers and Edo and Ondo States to a lesser extent.

Petroleum was first discovered in commercial quanties in Oloibiri, in the present Bayelsa State in 1956. Today it is produced across all the six South South States and also in Abia, Imo and Anambra States in the South East Zone. It is responsible for about 80% of Nigeria's total revenue and 95% of export earnings. Oil has been vital in financing the country's economic growth and development in the last 25 years. Oil fuels state power and activity in Nigeria. Government activity will grind to a halt, if oil money is not available to it. Nigeria's external debt of about 36 billion US dollars was paid off in 2006 by the payment of 12 billion dollars from the proceeds of Niger Delta Oil and a write-off of the balance of 24 billion dollars.

3. Prelude to Nigerian Constitutions and Federalism

Nigeria, is a conglomeration of distinct Nations and peoples who were brought within the same political territory and state by the force of arms of the colonial power and for its own convenience, rather than for reasons based on merit or the benefit of the colonised. Thus in the beginning there was no Nigeria. There were Yorubas, Hausas, Fulanis, Nupes, Kanuris, Ogonis, Gwaris, Katafs, Jukars, Edos, Ibibios, Efiks, Idomas, Tives, Junkuns, Biroms, Angas, Ogojas Itsekiris, Urhobos, Ijaws and so on. There were

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[2] See Generally The Price of Oil, a publication of Human Rights Watch, New York, (1999), PP.53 - et seq

Kingdoms like, Oyo, Lagos, Calabar, Brass, Itsekiri, Benin, Tiv, Borno, Sokoto Caliphate (with loose control over Kano, Ilorin, Zaria etc.) Bonny, Opobo etc. Prior to the British conquest of the different Nations making up the present day Nigeria, these Nations were independent Nation States - Independent of each other and of Britain.

The Process of colonisation was started by a private British Company, Royal Niger Company, followed by the creation of the Oil Rivers Protectorate, (1891-93) and the Niger Delta Protectorate (1895), all based on the Commercial convenience of the British Traders. The British Government established these Protectorates, for its own political and economic interests (namely to stop the French and Germans from extending their sphere of influence and authority to those areas and to promote British trade).

The establishment of the Protectorate of Southern Nigeria and the Colony of Lagos and the Protectorate of Northern Nigeria, were based on British administrative and economic convenience, and not in the interests of the colonised peoples, who were not even consulted.

Most ridiculous and humiliating of all was the true reason for the amalgamation of the Southern and Northern Protectorates. The British were not out to create a big black state as a testimony of their crusading genius. NO. They were spending British tax payers' money in administering the North, which was not economically viable. So they decided that the only way for them to cut their losses, was to amalgamate the North with the South and transfer money from the economically buoyant South, to run the North. That was the sole reason for the amalgamation of the two incompatible parts of Nigeria. Ralf Nwokedi made the following interesting revelation in his book Revenue Allocation and Resource Control in Nigerian and Federation[3]

> "Of special interest also are facts relating to the financial positions of the North and the South on the eve of amalgamation being to some extent reversed in the source of the preceding thirty-two years. As a matter of

[3] See pages 20 - 21

fact, the Phillipson Report disclosed that from 1906, when Southern Nigeria and Lagos became one Administration, the financial resources of the South had increased "with astonishing rapidity" whereas the North "largely dependent on the annual grant of the imperial government was barely able to balance its budget with the most parsimonious economy of native administration and revenue resulting from direct taxation."

The Report further revealed that the North had received grants from His Majesty's Government of Great Britain (the colonial masters) averaging 314, 500 Pounds for the eleven years ending March, 1912. The revenue accruing to the North from customs dues as compared with that accruing to the South from this source was derisory.

It was thus for the purpose of relieving the burden on the colonial government of the dependence of the North on its financial grants and to tap the abundant financial resources of the South to offset the deficit incurred in running the Northern Administration, and also defraying the cost of the central government, that the colonial government introduced the process of Amalgamation."

The implication of this arrangement was that the North had to have power over the whole country in order to continue to appropriate the resources of the South, for the benefit of the North. The British therefore ensured the political domination of the North by rigging the first census for the North in 1952, and with power in the hands of the Arewa North the census 'arrangement' has been maintained in all successive censuses since 1952, namely 1962, 1963, 1973, and 1991. This enabled the Northern Delegates to insist successfully at the 1950 National Conference that the North should have at least 50% of the seats in the central legislative chambers of Nigeria.[4]

[4] [See the publication, Blue Collar Lawman, The autobiography of Harold Smith, a retired British Colonial Officer who served in the Nigerian Colonial Government, at LIBERTAS HOMEPAGE website]

4. The Meaning of Federalism

To return to the issue of Federalism, the very nature of the country in terms of diversity of its peoples, the size of the Country, their separate histories, cultures etc. made some form of Federalism, inevitable.

> In 1947, the late sage, Chief Obafemi Awolowo, made the following observation: "Nigeria is not a nation. It is a mere geographical expression. There are no 'Nigerians' in the same sense as there are 'English', 'Welsh', or French'. The word 'Nigerian' is merely a distinctive appellation to distinguish those who live within the boundaries of Nigeria from those who do not.
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> There are various national or ethnical groups in the country. Ten such main groups were recorded during the 1931 census as follows:
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> (1) Hausa, (2) Ibo, (3) Yoruba, (4) Fulani, (5) Kanuri, (6) Ibibio, (7) Munshi or Tiv, (8) Edo, (9) Nupe, and (10) Ijaw. According to **Nigeria Handbook,** eleventh edition, 'there are also a great number of other small tribes too numerous to enumerate separately, whose combined total population amounts to 4,683,044.' It is a mistake to designate them 'tribes'. Each of them is a nation by itself with many tribes and clans. There is as much difference between them as there is between Germans, English, Russians and Turks, for instance. The fact that they have a common overlord does not destroy this fundamental difference.[5]

Not only was this statement absolutely correct, it is even more accurate about today's Nigeria than the Nigeria of the 40s. Inter-ethnic intolerance which has become chronic, confirm that we are a country of many mutually distrustful nations, as is evident from the clashes we have experienced since the return of civil democratic rule in 1999. There is clearly a need for the Nigerian nationalities as represented by states and zones to enjoy separate and autonomous existence, whilst uniting with each other through a

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[5] Path to Nigerian Freedom Faber & Faber, 1947 Reprinted by African Press, Ibadan.pp. 47-8

Federal Government exercising some basic powers, and running some common services.

Federalism is an arrangement whereby powers within a multi national country are shared between a federal or central authority, and a number of regionalised governments in such a way that each unit including this central authority exists as a government separately and independently from the others, operating directly on persons and property with its territorial area, with a will of its own and its own apparatus for the conduct of affairs and with an authority in some matters exclusive of all others. In a federation, each government enjoys autonomy, a separate existence and independence of the control of any other government. Each government exists, not as an appendage of another government (e.g. the federal or central government) but as an autonomous entity in the sense of being able to exercise its own will on the conduct of its affairs free from direction by any government. Thus, the Central government on the one hand and the State governments on the other hand are autonomous in their respective spheres.

As Wheare put it, "the fundamental and distinguishing characteristic of a federal system is that neither the central nor the regional governments are sub-ordinate to each other, but rather, the two are co-ordinate and independent".[6] In short, in a federal system, there is no hierarchy of authorities, with the central government sitting on top of the others. All governments have a horizontal relationship with each other. Thus there can be no federalism under military rule.

Nwabueze, has identified the following additional characteristics in a federal system.

i) The power sharing arrangement should not place such a preponderance of power in the hands of either the national or regional government to make it so powerful that it is able to bend the will of the others to its own.

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6 Wheare Federal Government, 4th Ed., OUP, 1963.

ii) Federalism presupposes that the national and regional governments should stand to each other in a relation of meaningful independence resting upon a balanced division of powers and resources. Each must have powers and resources sufficient to support the structure of a functioning government, able to stand on its own against the other.

iii) From the separate and autonomous existence of each government and the plenary character of its powers within the sphere assigned to it, by the constitution, flows the doctrine that the exercise of these powers is not to be impeded, obstructed or otherwise interfered with by the other government, acting within its own powers.[7]

5. The 1951 Constitution

In 1939, Southern Nigeria was broken into 2, Eastern and Western Nigeria. The 1945, Richards Constitution, which came into effect on 1st January 1946 established a Central Legislative Council, and regional ones for the North, East and West. The new central legislature was constituted by the Governor as President, 16 official and 28 non-official members.

The Regional Houses were not competent to legislate, even for their own Regions. They could only consider bills affecting their Regions and make recommendations or pass resolutions for the central Legislature in Lagos to consider. Only the latter could pass Legislation. It is thus clear that although Nigeria was split into 3 Regions with their separate Legislatures, in addition to the Central Legislature in Lagos, the Country was still effectively governed as a Unitary State, with all the powers concentrated in the hands of the Governor and the Central Legislature over which he had total dominance. The first real change since 1914 did not come until the Macpherson Constitution of 1951 took effect, although under it, the Federal Government

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[7] Nwabueze, Federalism in Nigeria, under the Presidential Constitution, Sweet & Maxwell, 1983, pp. 1m 2 and 3.

was still empowered legally to override the Regional Governments in all matters. This impediment to the Federalism was not removed until the introduction of the Lyttleton Constitution in 1954.

The 1951 Constitution however, was the one that really introduced fundamental changes into the Imperial/Native relationship and the relationship between the Native Nigerian groups themselves. The following points need to be noted.

The 1951 Constitution came into being after an unprecedented process of consultation with the peoples of Nigeria as a whole. In accordance with the directives of the Central Legislative Council, meetings and consultations were held at (a) village, (b) district, (c) divisional (d) and provincial levels before the (e) regional and finally (f) the national conference.

The reports of each region from village to the regional level were then submitted to the legislative Council. These reports and recommendations were published in October 1949 and reviewed by a drafting committee of the Legislative Council.

On 9 January 1950 a General Conference of representatives from all parts of Nigeria started meeting in Ibadan to map out the future system of Government in Nigeria with the recommendation of the Regional Conferences as the working documents.

The General conference was composed of 25 unofficial members drawn from the earlier regional conferences as representatives of the three regions, 25 unofficial members from the Nigerian Legislative Council, 3 official members and the non-voting Chairman who was the Attorney-General of Nigeria. The Conference rose on 29 January 1950 with recommendations, which were accepted and implemented by the Governor of Nigeria.

The new Constitution represented a major advance on the existing state of

legislative competence of Nigerians by (i) introducing elected majorities in the Central Legislature and (ii) in the Regional Houses of Assembly (iii) endowing the legislative Houses with independent legislative power in many areas of state activity (iv) and establishing a Federal system for Nigeria for the first time.

In his book, History and Law of the Constitution in Nigeria,[8] the late Dr. Udo Udoma in his discussion of the 1950 Conference and the 1951 Constitution that arose from it stated that;

> "In this regard, the Conference made a strong case for the devolution of increased powers, or as it put it, increased autonomy, to each of the Regions on the ground that the principle had been whole-heartedly accepted and, indeed welcomed, by the Regional Conferences. It was pointed out that under the Constitution of 1945, which the Conference was reviewing, the legislative functions of the Regional Legislatures were purely advisory and that the position was unsatisfactory; that the need for greater regional autonomy had become apparent; that in the realms of legislation, finance and initiation of policy members of the regional legislatures had in practice shown themselves anxious and capable of assuming and exercising responsibilities far beyond the limits prescribed under the 1945 Constitution."

By way of emphasis, the General Conference then noted that "we have no doubt at all that the process already given constitutional sanction, and fully justified by experience, of devolution of authority from the Centre to the Regions should be carried much further so that a federal system of government can be developed.

From the statement set out above, it is quite clear that the General Conference was obviously thinking in terms of creating a Federal structure of government for Nigeria comprising of two-tier system whereby the Central Government already vested with all the power in a unitary system of government would be made to devolve certain well defined powers to the Regional Governments set up in each of the three Regions.

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[8] Malthouse Press, 1994, pp. 103-4

It should be noted that the North made it a condition for continuing to be part of Nigeria, that at least 50% of the seats in the Central legislature should be allocated to it. Thus the political lopsidedness of the Federation was introduced by this concession.

As a result of a series of constitutional conferences held in London and Lagos in 1953, 1954, 1957 and 1959, the 1960 or independence Constitution emerged. It represented the outcome of the sustained negotiations after the 1950 National Conference, although, participants this time were the leaders of the political parties in power in the 3 Regions and at the Centre.

It can thus be said that the period 1950 to 1959 represented a 10 year period of negotiations between the major stakeholders in the Nigerian project and that what they finally arrived at in the form of 1960 Constitution was, subject to minor, non-structural modifications, the only legitimate basis of association of all the different nationalities in Nigeria.

6. The Independence and Republican Constitutions (1960 and 1963)

One important feature of the 1960 Constitution is the extensive powers granted the Regions, making them effectively autonomous entities and the revenue arrangements which ensured that the regions had the resources to carry out their immense responsibilities.

Under the 1960 and 1963 Constitutions, a true federal system made up of strong States or Regions and a Central or Federal 'state' with limited powers, was instituted. Both the 1960 (Independence) Constitution and the 1963 (Republican) Constitution were the same. The only differences were the provisions for ceremonial President (1963) in place of the Queen of England (1960) and the judicial appeals system which terminated with the Supreme Court, (1963) rather than the judicial Committee of the British Privy Council (1960).

The following Features, which emphasised the existence of a true federal system composed of powerful and autonomous Regions and a Centre with limited powers are worth noting.

i) Each Region had its own separate Constitution, in addition to the Federal Government Constitution.

ii) Each Region had its own separate coat of arms and motto, from the Federal State or Government.

iii) Each Region established its own separate semi-independent mission in the U.K. headed by 'Agents - General'

iv) The Regional Governments had Residual Powers, i.e., where any matter was not allocated to the Regions or the Federal Government, it automatically became a matter for Regional jurisdiction.

Thus apart from items like, Aviation, Borrowing of moneys outside Nigeria, Control of Capital issues, Copyright, Deportation, External Affairs, Extraction, Immigration, Maritime Shipping, Mines and Minerals, Military Affairs, Posts and Telegraphs, Railways, all other important items were in the concurrent list, thus permitting the Regions equal rights to legislate and operate in those areas. The most significant of these included; Arms and Ammunition, Bankruptcy and Insolvency, Census, Commercial and Industrial Monopolies, Combines, and Trusts, Higher Education, Industrial Development, the regulation of Professions, Maintaining and Securing of Public Safety and Public Order, Registration of Business Names, and Statistics.

It is important to observe once more that anything outside these two lists was exclusively a matter for Regional jurisdiction. Other features indicative of the autonomous status of the Regions included;

i) Separate Regional Judiciaries and the power of the Regions to establish, not only High Courts, but also Regional Courts of Appeal.

ii) The Regions had their own separate electoral commissions for Regional and Local Government elections. However the Chairman of the Federal

Electoral Commission was the statutory Chairman of the State Commission.

iii) The Revenue Allocation system under the 1963 Constitution was strictly based on derivation.

It will be observed that Mines, Minerals, including Oil fields, Oil mining, geological surveys and gas were put in the exclusive legislative list in the 1960 and 1963 Constitutions. This was a carry over from the provisions of the 1946 Minerals Act, under which the Colonial Government gave itself the exclusive ownership and control of all minerals in Nigeria. This was understandable under a Colonial Regime whose objective was the exploitation of the colonised peoples, but certainly not acceptable in an independent country constituted by autonomous Federal Government and Regions. It is therefore not surprising that what was lost by placing mines, minerals, oil fields etc. in the Exclusive Legislative List, was regained by the very strict adherence to the principle of derivation in the revenue allocation formula, particularly, the allocation of the proceeds from mineral exploitation.

7. Resource Basis of the Regions

The Regional Constitutions, in the 1960 and 1963 Constitutions described each Region as "a self-governing Region of the Federal Republic of Nigeria".[9] To buttress the self-governing status of each Region, adequate provisions were made to guarantee the economic independence of the Regions, thus avoiding the hollowness of a declaration of self-governing status totally undermined by economic dependence. Moreover, consistently with the Federal character of the country i.e. a country of many nations, the basis of revenue allocation was strictly derivative.

Section 140 which made provision for the sharing of the proceeds of minerals including mineral oil, stated that "there shall be paid by the Federal Government to a Region, a sum equal to fifty percent of the proceeds of any royalty received by the

[9] Preamble of each Constitution

Federation in respect of any minerals extracted in that Region and any mining rents derived by the Federal Government from within any Region." For the purposes of this section, the continental shelf of a Region was deemed part of that Region.

By Section 136(1) 30% of general import duties, were paid into a distributable pool for the benefit of the Regions. With regard to import duties on petrol, diesel oil and tobacco the total sum of import duty collected less administrative expenses, were fully payable to the Region for which the petrol or diesel oil or tobacco was destined. A similar provision was made for excise duty on tobacco.

With regard to produce i.e., cocoa, palm oil, groundnuts, rubber and hides and skin, the proceeds of export duty were shared on the basis of the proportion of that commodity that was derived from a particular Region.

As noted above, the derivative bases of the allocation of revenue and the proportionate share of such proceeds that went to the Region it originated from, clearly buttressed the operating base of true Federalism.

Summary of Revenue Allocation 1960/63 Constitution

Basis: Derivative Principle.

i) Minerals including mineral oil: 50% of proceeds to all Regions from which they were extracted. S. 140 (6)
ii) 30% went into the distributable pool (for all the regions including the producing region)
iii) 20% for the Federal Government.
iv) 30% of import duties went into the distributable pool.
v) Import duty on Petrol and diesel consigned to any Region was refundable to that region.
vi) This applied to excise duty on tobacco

It can thus be seen that although the 1960 Constitution did not provide for the ownership and control of mineral resources by the producing State or community, the entitlement of the producer State to 50% of the proceeds, and a share in another 30% with the Federal Government being entitled to only 20%, was a true reflection of the derivative principles which is the economic indication of true federalism.

8. The Niger - Delta and the Constitutions

It is obvious from what has been said so far, that the Niger-Delta and its resources were not featured separately or specifically in the constitutional developments, or the Constitutions up till the end of the first Republic in January 1966.

The Willink Commission of 1958 presented the only opportunity for dealing with the special condition and situation of the minorities, including that of the Niger-Delta peoples before independence in 1960. Unfortunately, the recommendation of the Commission was less than cosmetic, and even that was less than half heartedly implemented by the Federal and Regional Governments which were under the firm control of the majority ethnic nationalities.

At the Constitutional Conference of 1953, it was agreed that Nigeria should be a Federation of three Regions, the Northern, Eastern and Western Regions. In each of these Regions, there was a majority ethnic group, consisting of about two-thirds of the population and minority ethnic groups constituting about one-third of the population.

When the 1954 Conference resumed, some of these minority groups expressed fears about domination and marginalisation of their peoples by the main ethnic groups in each Region and demanded the creation of new states for themselves. These included the Midwest State movement in the West, the Calabar, Ogoja and Rivers State (COR) movement, in the East and the Middle Belt State movement in the North.

Regarding the Niger-Delta area, the indigenes, specifically the Ijaws made a strong case that their territory was swampy, hostile, difficult, and neglected and that

their difficulties were not appreciated or understood by the majority groups (Ibo in the East and Yoruba in the West) who controlled the Governments at Enugu and Ibadan.

It is common knowledge that for innumerable reasons put forward by it, the Willink Commission did not recommend the creation of a single new State but rather naively recommended the inclusion of human rights provisions in the 1960 Constitution as a solution to the fears of the minority ethnic groups.[10]

On the issue of minorities in the Niger-Delta specifically, the Commission refused to recommend the creation of a new state although it recognised the peculiar problems of that part of the country.

It recommended instead the establishment of a special Board by the Federal Government with representatives from the Eastern and Western Regional Governments to deal with the developmental problems of the area. The relevant portion of the Report states as follows:-

> "We were impressed, in both the Western and Eastern Regions, with the special position of the people, mainly Ijaw, in the swampy country along the coast between Opobo and the mouth of the Benin River. We were confronted, first, with their own almost universal view that their difficulties were not understood at headquarters in the interior, where those responsible thought of the problems in quite different physical forms from those they assumed in those riverain areas; secondly, with the widespread desire of the Ijaws on either side of the main stream of the Niger to be united. We cannot recommend political arrangements which would unite in one political unit the whole body of Ijaws; we do however consider that their belief that their problems are not understood could be largely met without the creation of a separate state which we have rejected for the reasons mentioned elsewhere.

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[10] See paragraphs 39-44 of the Report

> This is a matter which requires a special effort and the co-operation of the Federal, Eastern and Western Government; it does not concern one Region only. Not only because the area involves two Regions, but because it is poor, backward and neglected, the whole of Nigeria is concerned. We suggest that there should be a Federal Board appointed to consider the problems of the area of the Niger Delta. In this we would include the Rivers Province without Ahoada or Port Harcourt and would add the Western Ijaw Division.
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> We suggest that there should be a Chairman and Vice-Chairman appointed by the Federal Government, one representative of the Eastern Region Government and one of the Western Region Government, preferably Ijaws, together with four representatives of the people of the areas, who might conveniently be one from the Western Ijaws and three from the Eastern Ijaws, who would be chosen by local bodies. We think that the members of this Board should be appointed for, say, five years in the first place. It should be concerned to direct the development of these areas into channels which would meet their peculiar problems."[11]

Reference was made to the Ijaws alone in the Report but other Niger Delta minorities, namely the Effiks, Ibibios, Anangs, Itsekiri, Isokos, part of Urhobo land, and the Ilaje area in the present Ondo State, and the coastal areas of Akwa Ibom and Rivers States must be included in the special area.

As is well known, a Niger-Delta Development Authority with Headquarters in Port Harcourt, was subsequently set-up. The body achieved nothing because the Federal Government did not give it the funding and powers necessary to do its job, and it died ignominiously with the first Republic.

Typical of the ploy of the majority ethnic groups that control the Federal Government, when the Shagari Government come in 1979, the purpose of the Niger-Delta Development Board (NDDB) was defeated, when a River basin authority was

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[11] The Willink Commission Report 1958, paragraphs 26-28

constituted for every stream in every nook and corner of the country. These became avenues for greedy politicians to siphon of the annual allocations of these River Basins for themselves, without any attempt at disguising their action. So at the end, there was no special area anymore. Every area was special. Another dream of the peoples of the Niger-Delta had died. Indeed since the Willink Commission the following federally controlled agencies and Reports have been thrown at the "Niger Delta Problem" with deleterious consequences.

The common factor in all these agencies is that power, control and decision making vests on persons (the Prime Minister of President) at the Federal level and not with Niger Deltans – a latter day form of internal colonialism.

"1960 - Niger Delta Development Board (NDDB)

1970 - River Basin Development Authority (this was to develop the entire country's River Basins)

1993 - Oil Mineral Producing Area Development Commission (OMPADEC) following report of Belgore Commission.

1998 - Maj. Gen. Popoola Committee formed by Head of State, Gen. Abdusalam to look into the problems of the Niger Delta. Report was not implemented.

2000 - Act of the National Assembly forming the Niger Delta Development Commission (NDDC)

2002 - Lt. General Alexander Ogomudia Special Security Committee Report on Oil Producing Area – Not Implemented.

2003 - Presidential Committee on Peace and Reconciliation headed by Maj. Gen. A Mohammed (rtd.), chief of Staff to the President.

April 2004 - Standing Committee on Good Governance and Corporate Responsibility headed by Dr. Edmond Daukoru, Minister of State for Petroleum.

July 2004 - Presidential Standing Committee on the Niger Delta headed by Gov. James Ibori of Delta State.

18 of April 2006 - 50-member Consolidated Council on Social and Economic Development of Coastal States of the Niger Delta."[12]

9. Unitary Constitutions and Centripetal Developments: 1967-99

With the military take-over in January 1966, centralisation of governmental powers, followed centralisation of command. General Gowon who was military Head of State from August 1966 to July 1975 was mainly responsible for this development. It was under Gowon's government that the Regions, later States, became systematically emasculated.

Apart from various individual Decrees, the very first Decree issued by every successive military regime usually destroys the foundations of Federalism. Thus Sections 3 and 4 of Decree number 1 of 1966 state as follows:

1. The Federal Military Government shall have power to make laws for the Peace, order and good government of Nigeria or any part thereof with respect to any matter whatsoever.

2. The Military Governor of a Region:

   a) shall not have power to make laws with respect to any matter included in the Exclusive Legislative List; and

[12] See article entitled "The Niger Delta Question: A Planning Paralysis? " in Niger Delta News, July to September 2006, pp. 13 -14

b) except with prior consent of the Federal Military Government, shall not make any law with respect to any matter included in the Concurrent Legislative List.

3. Subject to subsection (2) above and to the Constitution of the Federation the Military Governor of a Region shall have power to make laws for the peace, order and good government of that Region.

Thus the first Federal Military Government, completely undermined the Federal status of Nigeria by giving itself the power to make laws for the peace, order and good government for the whole of Nigeria with respect to any matter whatsoever. It is as if the Regions or later states did not exist.

The matter reached its apogee in the Abacha era, when by Decree 12 of 1994 the Federal Military declared itself as being established "with absolute powers to make laws for the peace, order and good government of Nigeria or any part thereof (including of course all the States) with respect to any matter whatsoever"

10. 1979 and 1999 Constitutions

The 1979 and 1999 Constitutions, maintained the trend towards centralisation, even though they were made "by the people" for the operations of a democratic and federal system of government. Thus instead of the 45 items in the Exclusive Legislative list as in the 1960/63 Constitutions, there were 66 items in the 1979 Constitution and 68 in the 1999 one. Basic State matters like (i) drugs and poisons, (ii) election of State Governors and State Houses of Assembly (iii) Finger print identification and criminal records (iv) Labour and trade Union matters, (v) meteorology, (vi) Police, (vii) Prisons, (viii) Professional Occupations, (ix) Stamp duties (x) taxation of incomes, profits and capital gains, (xi) the regulation of tourist traffic, (xii) registration of business names, (xiii) incorporation of companies (xiv) Traffic on Federal Truck roads passing through

States, (xv) Trade and Commerce and census, were transferred from the concurrent to the exclusive List.

11. The Expropriation of the Natural Resources of the Niger-Delta Minorities

This unitary absolutism in the political sphere has been complemented by unitarism in the economic sphere since 1966. Thus by the Petroleum Decree (No. 51) of 1969, the Federal Military Government declared that the entire ownership and control of all petroleum resources in, under or upon any lands in Nigeria was vested in itself. Section one spells out in detail, for the avoidance of any doubt, the type of territory covered by this exclusive Federal Government ownership. These are, all lands in Nigeria. (including land covered by water) land under Nigerian territorial sea and land forming part of our continental shelf.

Ownership of Minerals by the Federal Government is thus absolute. Not only are individuals on or under whose land minerals are found denied any right to them, so too are mineral producing communities, local government areas and states. What could be the basis and justification for this wholesale expropriation of the properties of peoples, communities and stage governments?

It should be noted that it was the Colonial Government which claimed ownership of all mineral resources in Nigeria under the 1946 Minerals Act. Whilst this was understandable on the part of a predatory colonial Government, this is intolerable in a free democratic and Federal Republic. A unit of Government cannot exercise oppressive colonial authority over autonomous federating units.

It should be noted that the Federal Government's assumption of absolute ownership of all minerals in Nigeria's land and maritime territory was progressive. The claim to absolute and total ownership of all minerals, no matter where found or located only reached its climax in 1971. Thus by section 140(6) of the 1963 constitution, for the

purposes of exploitation of minerals, including mineral oil, the continental shelf of a region was deemed to be a part of that region. But by offshore oil Revenue Decree 1971 (No. 9 of 1971), the rights of the regions (states) in the minerals in their continental shelves were abrogated and ownership and title to the territorial waters, continental shelf as well as royalties, rents and other revenues derived from or relating to the exploration, prospecting, or searching for, winning or working of petroleum from these seaward appurtenances of the states became vested in the Federal Government.

This has been repeated in all subsequent constitutions. Thus in Section 40(3) of the 1979 constitution (repeated in section 44(3) of the 1999 Constitution) it is stated as follows:

> "Notwithstanding the foregoing provisions of this Section, the entire property in and control of all minerals, mineral oils and natural gas, under or upon the territorial waters and the exclusive economic zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly"

This provision is not only contained in the human rights chapter of the constitutions, but more specifically in the subsection protecting the right to property. Thus every Nigerian is entitled to own property with the exception of the people of the Niger Delta just because of their oil and gas.

The Shagari Government (1979-83) initially 'conceded' one and half percent of oil proceeds as against fifty percent in the negotiated independence and Republican constitutions, to the oil producing States. Later this was increased to three percent by the Babangida Government, which established, the Oil Mineral Producing Areas Development Commission (OMPADEC).

It is conceeded of course that section 162(2) of the 1999 Constitution makes provision for at least 13% of the proceeds derived from natural resources being paid the producing state.

However 13% cannot be compared with 50% and a proportion of another 30% provided for under the 1960/63 Constitutions. Moreover, the so-called 13% was paid with effect from January 2000 rather than from 29th May 1999, and off-shore production had been illegally excluded from the 13%, until February 2002. Even the Abrogation of the On-shore/Off-shore Dichotomy Act, only brings a tiny proportion of the continental shelf into the derivative principle.

Even a superficial political analysis of the situation, will reveal that the fate of the mineral resources of the Niger-Delta minorities, particularly the trend from derivation to Federal absolutism, is itself a function of majority control of the Federal Government apparatus. In 1960, there were no petroleum resources of any significance. The main income earning exports were cocoa (Yoruba West) Groundnuts and Hydes and Skin (Hausa/Fulani North) and Palm Oil (Ibo East), Rubber, Palm Oil and Palm Kernel in the Midwest and Timber in the Midwest and present Rivers State. Therefore it was convenient for these majority groups to emphasise derivation - hence its strong showing in the 1960/63 Constitutions.

However, by 1967 and certainly by 1969, petroleum particularly, the mineral oil, was becoming the major resource in terms of total income and foreign exchange earning in the country. It was therefore not difficult for the majority groups in government to reverse the basis of revenue allocation with regard to petroleum resources, from derivation to Federal Government exclusive ownership.

They were in control of the Federal Government and their control of the Mineral resources by virtue of that fact effectively meant that the resources of the Niger-Delta were being transferred to the majority group in control of the Federal Government at any point in time.

12. Oppressive Legal Regime of Oil Production in Nigeria since 1967

As I have already noted above when Nigeria attained independence in 1960, the formula for sharing the revenue from mineral resources, recognised the basic principle that the people from whose land the minerals were extracted, were the owners of their natural resources. Accordingly, 50% of all the proceeds of mineral resources, went to the Region (State) from which they were extracted.[13] When the Military seized power, this recognition of the rights of producing States, and their communities was progressively eliminated as the table below shows;

FEDERAL - STATE PERCENTAGE SHARE IN PETROLEUM PROCEEDS

1960 - 1999

Years	Producing State	Federal Government	Distributable Pool
1960 - 67	50	20	30
1967 - 69	50	50	-
1969 - 71	45	55	-
1971 - 75	45 less off-shore proceeds	55 plus off-shore proceeds	-
1975 - 79	20 less off-shore proceeds	80 plus off-shore proceeds	-
1979 - 81	-	100	-
1982 - 92	1 and half less off-shore proceeds	98 and half plus off-shore proceeds	-
1992 - 99	3%	97	-

[13] See S. 140 1960 and 1963 Constitutions.

	proceeds	proceeds	
1999 -	13 minus of-shore proceeds	87 plus of-shore proceeds	-

Even the so-called OMPADEC[14] was a hoax essentially; a cruel joke on the oil producing States. Figures provided by the first Chairman of OMPADEC, Chief A.K. Horsfall, during the three year period he was in office (1992 - 1995) shows that the

Commission, going by the 3% derivation formula, was supposed to have received 72 billion. In fact it only received 11 billion.[15] In the period 1995 - 96, when Professor Opia was in office, the Commission received just over 2 billion. By contrast, during the three year period of 1994 - 97, the Petroleum (Special Trust Fund) (PTF) jocularly referred to as the 'Northern OMPADEC' received N346 Billion.

The following major pieces of legislation, enacted during the period, 1969 to 1999 show how oppressive these laws made under rulership of the majority ethnic nationalities in Nigeria, deprived and marginalised the minorities who own the petroleum resources of this country.

1. Petroleum Decree (51) 1969 - Expropriated all petroleum resources from the oil producing states and placed them under total Federal Government ownership.
2. Off-shore Oil Revenues Decree (No. 9 of 1971) - all the minerals in the continental shelves of coastal States were expropriated by the Federal Government.

   In order to fully appreciate the blatantly oppressive nature of this Decree on the minority oil producing States, and the utter contempt which the majority

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14 Oil Mineral Producing Areas Development Commission.

15 See A.K. Horsfall, The OMPADEC Dream, 1997, P.5

controlled Federal Government has for them, the relevant part of the Decree may be reproduced as follows:

1. (1) Section 140 (6) of the Constitution of the Federation (which provides that the continental shelf of a State shall be deemed to be part of that State) us hereby repealed.

(2) Accordingly -

(a) the ownership of and the title to the territorial waters and the continental shelf shall vest in the Federal Military Government; and

(b) all royalties, rents and other revenues derived from or relating to the exploration, prospecting or searching for or the winning or working of petroleum (as defined in the Petroleum Decree 1969) in the territorial waters and the continental shelf shall accrue to the Federal Military Government.

3. The Land Use Act, 1978 - transferred ownership of land from communities to the State Governors, without compensation.

4. Sections 40(3), 42(3) and 44(3) of the 1979, 1989 and 1999 Constitutions respectively, re-state the exclusive Federal ownership of the mineral resources of mineral producing communities.

Although the (1) Oil Pipeline Act 1965, (2) the Petroleum Drilling and Production Regulation 1969 (3) and the Petroleum Decree 1969, make provisions, for compensation in cases of leakage, spillage, damage to surface rights or their compulsory acquisition thereof, in reality, these communities are left to bargain with the oil companies, who exploit their weak economic and legal positions to extort their consent to paltry compensation for lost land and natural resources. Such compensation payments were made once for all time whilst the land taken over continued to produce petroleum resources for decades.

13. <u>The On-shore/Off-Shore Controversy</u>

As has already been noted, the Independence and Republican Constitutions (1960/1963) respectively made it clear that that mineral resources in the continental shelf of a state, belonged to that state. Hence the provision in section 140(6) of the 1963 constitution that for the purposes of the derivation provision in that Constitution, "the continental shelf of a [State] is deemed to be part of that [State]"

Although this provision was not specifically contained in the 1999 Constitution, it was assumed that the concept was sufficiently established in our political history and arrangements and was thus not endangered. Unfortunately, President Obasanjo stoutly rejected this view and rather sought an interpretation from a Supreme Court Panel in which the Niger Delta was not represented. We all know what happened.

This judgment which totally negates established principles of international law, particularly the 1982 Convention of the Law of the Sea which states categorically that the continental shelf is the natural prolongation of the land mass of a Coastal State, also creates a problem for the Federal Government. For if the continental shelf does not belong to the Coastal States it cannot belong to Nigeria. Professor Nwabueze put the argument impeccably in his book, Constitutional Development in Africa, vol. 1.

According to Nwabueze, this judgment was devastating to both the Federal and state governments, it settled nothing, gave satisfaction to neither side and merely aggravated the controversy over the sharing of the money and may intensify the agitation for resource control among the oil producing states.

In his comprehensive and many sided comments on the case, the Nwabueze hits the nail on the head when he raises the issue that the territorial sea and other maritime territory can only be part of Nigeria, if they are first of all part of the littoral states.

> "Why, then, in the face of such decisions from other common law jurisdictions, accepted by the Nigerian Supreme Court, and which the learned Justice, Ogundare JSC who spoke for the court, said he has "read" (at p. 12), did the Court decide that the low-water mark is the

seaward boundary of Nigeria or that the territorial sea is not part of the territory of Nigeria? The reason lies in the dilemma created for the Court by the Constitution of Nigeria, which is different in this respect from those of the United States, Canada and Australia. Had the Court accepted that the territorial sea is part of Nigeria's territory, how is that to be reconciled with what the Court referred to as the "constitutional limit" of Nigeria's territory? The federal government and the Court would have had then to accept the contention of the eight littoral states that:

> Nigeria consists of the aggregate of the territories of all the 36 States of the Federation and the Federal Capital Territory and that, constitutionally, therefore, Nigeria cannot have any other territory outside this aggregate (at p. 13)

The contention is unanswerable, irrefutable. There is just no escape from it. Section 2(2) and (3(1) of the Constitution provides that Nigeria shall consist of 36 named states and a Federal Capital Territory, not that it shall consist of 36 named states, a Federal Capital Territory and the territorial sea (with its bed and subsoil).

The territorial sea can only be part of the territory of Nigeria, as it undoubtedly is according to the international conventions, local statutes and decisions from other common law jurisdictions mentioned above, if it is part of the territory of the littoral states. It is the Nigerian Constitution that governs the matter, not that of some other country. With the greatest respect, the Supreme Court should not have tried, as it did, to avoid the clear, inescapable effect of the international conventions, local statutes and decisions from the other common law jurisdictions mentioned above taken together with Sections 2(2) and 3(1) of the Constitution of Nigeria. The territorial sea is and must be part of the territory of the eight littoral states for it to be part of Nigeria's territory, as it certainly is by international law and by the statute law of Nigeria."

After a futile attempt at misleading the people of the Niger Delta by purporting to abolish the on-shore off-shore dichotomy throughout the length of the contiguous zone (24 miles) the President modified this to read 200 metre isobath which was mystifying.

To those who have some basic knowledge of the Law of the Sea, the meaning and implications of the Act were clear enough. An Isobath is a line representing the horizontal contour of the sea bed at a given depth. So a 200 metres Isobath, means a line representing the horizontal contour of the sea bed at 200 metres depth. In other words the 200 metres Isobath off the Nigerian Coast is a line joining all points off the coast of Nigeria (from Lagos to the boundary with Cameroon) where the sea is 200 metres deep.

The implication of this new Act is that the derivation principle only applies to those areas between this 200 metre depth line and the Nigerian coast or low water mark. Any part of the Nigerian Continental Shelf, deeper than 200 metres, is outside the derivation zone and proceeds of resources in this area of the sea will go straight to the Federation account. Coastal States derive nothing from this vast area. The area concerned could be as narrow as 5 miles in the Lagos and Western coastal areas, reaching a maximum belt of about 40 miles in the Akwa Ibom area in the East.

This is a far cry from the 200 miles of the continental shelf of the Niger Delta States as stipulated in the founding Constitutions of Nigeria and Article 76 of the 1982 Convention on the Law of the Sea.

By far the most disturbing consequence of the Coastal States' limitation to a 200 metre depth belt for derivation purposes, is that all the major off-shore oil and gas finds are now in the deep off-shore zone between 1000 and 2500 metres as against the 200 metre limitation for coastal states. There are currently about sixty deep sea blocks available for allocation to oil companies. Moreover, some gigantic oil and gas fields have been discovered in the deep sea bed since 1996. These include Bonga, 1996; Bosi, 1996/7; Abo, 1997; Agbami, 1998; Erha, 1999; Akpo, 1999 and Bonga-SW 2001.

Many others are in the process of discovery or test drilling. Available information indicates that at the end of 2003, one hundred and ten (110) wells had been drilled in the deep off-shore; the shallowest, Okpok-1, being 1,260 metres deep and the deepest Aje-1, had a depth of 5,800 metres. It was drilled by Yinka Folawiyo and Co. These drilling operations have resulted in 4 billion barrels of recoverable oil reserves whilst gas reserves are estimated at 25 trillion cubic feet. The Nigerian Coastal States off whose shores these tremendous findings are being made, will not enjoy ANY derivative rights in these deep sea areas, since derivation is limited to 200 metres.

It is therefore clear that the deep Off-shore will progressively bring an increasing proportion of Nigerian oil and gas. As the land and shallow Off-shore (200 metres) reserves are getting exhausted, the deep off-shore reserves beyond 200 metres will keep on increasing. In short, the future of the Nigerian oil and gas exploration and exploitation lies in the deep off-shore outside the derivation zone granted to the coastal states, under the 200 metres Isobath Act.

In the light of all the above, the 200 metre Isobath Act has not brought Uhuru to the Niger Delta States: I believe we should continue the struggle for the restoration of our rights over the whole of the Continental Shelf, in accordance with our pre-independence covenant with Nigeria.

14. The Just Demands of the South South

All that the South South demands is the re-institution of real or true political and fiscal federalism. That is the basis on which we agreed to be part of an independent Nigeria.

We demand for a federation whose constitution shall provide for a decentralization of powers to the federating units and states, each of which must be co-ordinate with the others. We expect that the Nigerian Federation shall consist of a Federal Government, Zonal Authority, State Governments and Local Governments.

Each level of government shall have powers to legislate as the new Constitution may provide.

Powers and responsibilities should be assigned to various tiers and units of government as follows:

SCHEDULE OF LEGISLATIVE POWERS

EXCLUSIVE LEGISLATIVE LIST	LEGISLATIVE LIST (ZONES)	CONCURRENT LEGISLATIVE LIST
1. Defence 2. Foreign Affairs 3. Immigration 4. Customs 5. Banking Currency, mint, and Promissory notes. 6. Nuclear Energy 7. Extradition 8. Citizenship 9. Aviation 10. Maritime, shipping and Navigation. 11. Passports and Visa 12. Treaties 13. Federal Courts, including the Supreme Court. 14. Meteorology. 15. Marriages other than Moslem and customary marriages 16. Copyrights, Patients, designs, Trade marks. 17. Incorporation of regulation winding, etc. of corporate bodies. 18. Posts, telegraph, Telephone. 19. Weights and measures.	1. Environment (erosion, pollution, wildlife, forestry, flora and fauna, land mass, water mass and beaches). 2. Judiciary (Zonal Court of Appeal). 3. Infrastructure (roads, electric, power, water, refuse disposal, etc). 4. Coordination and Liaison with the Federal and other Parties, etc. 5. Zonal Police 6. Creation of States and review/ amendment of State boundaries. [States will also have jurisdiction to make laws on 1, 2, 3 and 5 above]	1. Arms and Ammunition 2. Community Banking. 3. Census. 4. Commercial and Industrial Monopolies Combines and trusts. 5. Control of Capital issues. 6. Drugs and Poisons. 7. Fingerprints, identification and criminal records. 8. Incorporation, regulation and winding up of cooperative societies and local government councils. 9. Insurance 11. Labour, including trade unions, industrial relations; conditions, safety and welfare of labour; industrial disputes and industrial arbitrations 11. Evidence. 12. Pensions, gratuities paid out of the Consolidated

		Revenue Fund of a State. 13. Police and other Government security Services. 14. Prisons. 15. Public holidays 16. Railways, Roads and other infrastructures. 17. Regulation of political parties. 18. Stamp Duties. 19(i) Taxation of incomes, profits and capital gains, except Value Added Tax. (States) 20. Wireless, broadcasting and television; 21. Allocation of wave-lengths for wireless, broadcasting and television transmission by joint Federal/ State Commission 22. Antiquities and monuments. 23. Establishment, Regulation and coordination of research Institutions. 24. Higher Education. 25. Tertiary Health Institutions.

Notes: The foregoing Schedule of Legislative Powers depicts the functions of the National Assembly, of the Zones and of the States. The Lists are not exhaustive. Any functions of Government that are not covered by any of the Lists in the Schedule shall fall under the "Residual List", which shall be the exclusive province of the States.

For example, under this scheme, Value Added Tax, Agriculture, Primary and Secondary Health, Educational Institutions, Water Resources, Forestry.

Advantages Of The Zones As Federating Units

The advantages are as follows:

- Achieving a psychological point of harmony and of coming together for the States.
- Reduction in the number of Federal Legislative members at the Senate/House of Representatives while still representing all the states.
- Creation of a Zonal administration with its Zonal legislature closer to the people.
- Ability to restructure units within the zones without recourse to other zones.
- Reduction of frequent travels to the centre over matters of common interests.
- The short tenure of the primary actors at the zones will result in greater participation in governance by the by the constituent states.

Zonal Administration

A Zonal federating unit shall be headed by a Zonal Coordinator, elected for one year only b y members of the constituent State Houses of Assembly. This position shall rotate among the constituent States in alphabetical order. There shall be a deputy Zonal coordinator from the next state in the alphabetical order who shall be a Zonal coordinator-elect. The powers of the Zonal Authority will be limited to the six subjects under zones in the schedule of legislative powers above.

Creation Of States And Local Governments

The creation of States is the exclusive responsibility of the zones. In the same rein, the creation of local government is the responsibility of the States.

Tenure Of Executive And Legislative Officers

The tenure of elected executive officers at both the Federal and State Government levels, shall be five (5) years, without, the option of a second term. In the case of elected legislative officers, their tenure shall be four (4) years, renewable for another four (4) years only. At the Zonal level, the tenure for

legislative officers shall be two years, renewable for another term of two (2) years only.

Tenure Of Local Councillors

The determination of the tenure of elected local government officials shall be the responsibilities of State Governments.

Fiscal Federalism

We must insist on resource control and ownership as a fundamental element in fiscal federalism. Each of the federating units has sufficient natural resources to sustain its government and people[16]. We recommend that each federating unit should identify, collect and be directly responsible for all the revenues from its resources. An appropriate tax of 20% shall be paid to the Federation Account, 15% to a distributable pool and 5% shall be paid to the zones.

As one Writer has accurately noted:

"The entrenchment of true federalism in the Nigerian system would see to an effortless resolution of the resource control question; it would expose and exorcise the demon of the Land Use decree which has dispossessed people of their land and left them refuges in their own country; it would

[16] See Annexure 1, containing a list of the Mineral Resources of each of the 36 States and the Abuja Federal Capital Territory.

eradicate the Petroleum Act which makes it easier for oil companies to flare gas and pay penalty than bother about the environmental implications of their economic wickedness; it would take care of the derivation question that aborted the National Political Reforms conference.

Indeed, true Federalism would take care of the Master Plan and the Nine Point Agenda, and there would be no need for the NDDC or the newly consolidated council on the Social and Economic Development of the Coastal States of the Niger Delta, and of course any other such body in future."

15. Conclusion

From what has been demonstrated so far in this paper, it is clear that true federalism has not existed in Nigeria since the first Republic ended on 15th January 1966. In any case, the Niger-Delta has never been recognised as a special political area, entitled to its own political and economic autonomy. The only opportunity for this arose during the Willink Commission proceedings, but as we have seen, Willink, failed to make the appropriate recommendation.

However, arising from the politically recognised 6 - zone arrangement in Nigeria, a Niger-Delta zone, made up of the South South States of Edo, Delta, Bayelsa, Rivers, Akwa-Ibom and Cross-River States, have come into true political existence. Although there is no law backing such an arrangement, the states are territorially contiguous, and united by culture, history and common exploitation and marginalisation by the Federal Government and the majority ethnic groups in Nigeria. It is therefore absolutely necessary for the peoples of the 6 Southern minority States to establish some common political, economic and social structures on the ground, through which to plan for the political future of their area, within Nigeria. One paramount condition for continued willing participation in the on-going project Nigeria, must be the total ownership and control by the peoples of the South South of their natural resources.

As an instrument for the peaceful realisation of these legitimate objectives, and the recovery of ownership of the resources seized from them by the powerful majority groups, the South South should sieze the opportunity made available by the on-going Conference on Political Reform for the achievement of its goal. However, as an indispensable condition, we must create
an environment for the unity of the fractious and quarrelling ethnic groups of the Niger-Delta.

We cannot struggle successfully for our rights in an aggressively exploitative country, without the strength derivable from unity and mutual solidarity. We must STOP carrying on tragically like Professor Ayandele's proclaimed "atomistic society perpetually at war with itself."[17]

[17] A term Ayandele used in describing the peoples of the old Cross River State, but which seems more appropriate to the South South as a whole, particularly, Delta State.

STATES AND THEIR MINERAL RESOURCES

STATES AND THEIR MINERAL RESOURCES	
ABIA Gold Salt Limestone Lead/Zinc Oil and Gas **ADAMAWA** Kaolin Bentonie Gypsum Magnesite Barytes Bauxite **AKWA IBOM** Clay Limestone Lead/Zinc Uranium (traces) Salt Lignite (traces) Oil and Gas **ANAMBRA** Lead/Zinc Clay Limestone Iron-Ore Lignite (partially investigated) Salt Glass-sand Phosphate Gypsum **BAYELSA** Clay Gypsum (partially investigated) Limestone Uranium (partially investigated) Manganese (partially investigated) Lignite (partially investigated) Lead/Zinc (traces) Oil and Gas	**BAUCHI** Amethyst (violet) Gypsum Lead/Zinc Uranium (partially investigated) **BENUE** Lead/Zinc Limestone Iron-Ore Coal Clay Marble Bauxite Salt Barytes (traces) Gemstone Gypsum Oil and Gas **BORNO** Diatomite Clay Limestone Oil and Gas (partially investigated) Gypsum Kaolin Bentonite **CROSS RIVER** Limestone Uranium Manganese Lignite Lead/Zinc Salt Oil and Gas **DELTA** Marble Glass-sand Clay Gypsum Lignite Iron-Ore

Delta contd.
Kaolin
Oil and Gas

EBONYI
Lead/Zinc
Gold
Salt

EDO
Marble
Clay
Limestone
Iron-Ore
Gypsum
Glass-sand
Gold
Dolomite
Phosphate
Bitumen
Oil and Gas

EKITI
Kaolin
Feldspar
Tatium
Granite
Syenites

ENUGU
Coal
Limestone
Lead/Zinc

GOMBE
Gemstone
Gypsum

IMO
Lead/Zinc
Limestone
Lignite
Phosphate
Marcasite
Gypsum
Salt
Oil and Gas

JIGAWA
Barytes

KADUNA
Sapphire
Kaolin
Gold
Clay
Serpentinite
Asbestos
Amethyst
Kyanite
Graphite (partially investigated)
Sillimanite (partially investigated)
Mica (traces)
Aquamarine
Ruby
Rock Crystal
Topaz
Flouspar
Tourmaline
Gemstone
Tantalite

KANO
Pyrochlore
Cassiterite
Copper
Glass-sand
Gemstone
Lead/Zinc
Tantalite

KATSINA
Kaolin
Marble
Salt

KEBBI
Gold

KOGI
Iron-Ore
Kaolin
Gypsum
Feldspar
Coal
Marble

Kogi contd.
Dolomite
Talc
Tantalite

KWARA
Gold
Marble
Iron-Ore
Cassiterite
Columbite
Tantalite
Feldspar (traces)
Mica (Traces)

LAGOS
Glass-sand
Clay
Bitumen
Sand tar
Oil and Gas

NASARAWA
Beryl (Emerald, Acquamarine & Hellodor)
Dolomite/ Marble
Sapphire
Tourmaline
Quartz
Amethyst (Garnet, Topaz)
Zircon
Tantalite
Cassiterite
Columbite
Ilmenite
Galena
Iron-Ore
Barytes
Feldspar
Limestone
Mica
Cooking coal
Talc
Clay
Salt
Chalcopyrite

NIGER
Gold
Talc
Lead/Zinc
Iron-Ore

OGUN
Phosphate
Clay
Feldspar (traces)
Kaolin
Limestone
Gemstone
Bitumen

ONDO
Bitumen
Kaolin
Gemstone
Gypsum
Feldspar
Granite
Clay
Glass-sand
Dimension stones
Coal
Bauxite
Oil and Gas

OSUN
Gold
Talc
Tantalite
Tourmaline
Columbite
Granite

OYO
Kaolin
Marble
Clay
Sillimanite
Talc
Gold
Cassiterite
Aquamarine
Dolomite
Gemstone
Tantalite

PLATEAU
Emerald
Tin
Marble
Granite
Tantalite/Columbite
Lead/Zinc
Barytes
Iron-Ore
Kaolin
Bentonite
Cassiterite
Phrochlore
Clay
Coal
Wolram
Salt
Bismuth
Fluoride
Molybdenite
Gemstone
Bauxite

RIVERS
Glass-sand
Clay
Marble
Lignite (traces)
Oil and Gas

SOKOTO
Kaolin
Gold
Limestone
Phosphate
Gypsum
Silica-sand
Clay
Laterite
Potash
Flakes
Granite
Gold
Salt

TARABA
Kaolin
Lead/Zinc

YOBE
Diatomite
Soda ash (partially investigated)

ZAMFARA
Gold

ABUJA
Marble
Clay
Tantalite

CONSOLIDATED COUNCIL ON SOCIAL AND ECONOMIC DEVELOPMENT OF THE COASTAL STATES – INAUGURATED ON 18 APRIL 2006

"**THE NINE POINT AGENDA**

- Employment generation
- Transportation
- Education
- Health
- Telecommunications
- Environment
- Agriculture
- Power
- Water

EMPLOYMENT GENERATION

- 1,000 youths to be recruited in May for training at the Army depot
- 500 youths to be enlisted in the Army
- 250 youths to be enlisted into the Airforce
- 250 youths to be enlisted into the Navy
- 10,000 recruits to be enlisted into the Police
- 200 indigenes to be employed by the NNPC
- 1,460 NCE and University graduates teachers to be employed before the end of the year.

TRANSPORT AND WATER RESOURCES

- Federal government to soon commence the dredging o the River Niger as part of the measures to facilitates easy transportation of people and goods in the area.
- Flagging off of the N230 billion East-West Road.
- NNDC and state governments in the area are to collaborate on the opening of creeks and channels to create more routes for inland water transportation.

- Government is also planning to mechanically seaweeds in addition to a regional programme that will lead to co-operation with neighbouring countries that Nigeria shares water borders with.

EDUCATION

- Petroleum Training Institute (PTI), Effurun, Warri to be upgraded to a degree awarding institution.
- Education Tax Fund (ETF) to access what needs to be done at a Community School in Okerenku, Delta State.

HEALTH

- Rivers State government to complete the abandoned Auto Destruct syringes factory to create more jobs and boost healthcare delivery.
- Plan to establish primary healthcare center in each local council in the area.

TELECOMMUNICATIONS

- Government would meet with the Global System of Mobil (GSM) telecommunications providers to extend coverage to major towns and communities.

ENVIRONMENT

- Empowerment of the National Oil Spill Detection and Response Agency to eliminate water pollution

POWER

- Rural electrification of 369 communities

AGRICULTURE

- Shell Petroleum Company to spend N1 billion under its cassava development programme in order to create 30,000 jobs.

FUNDING

- The Group Managing Director of the NNPC Dr. Funsho Kupolokun said the corporation and its joint venture partners (oil companies), have agreed to upgrade its budget for community development by 30 per cent. That would bring its budget in the short to medium term, from now till 2010, to N20 trillion!"[18]

[18] See Chidi Ozarulike in "Obasanjo, NIGER DELTA and the 20 Trillion Question" published in Niger Delta News April – June 2006, pp. 7 - 9

UNIT COST OF BUILDING ROADS

Road	Amount	Length	Cost per Km
1) Mararaba-Bali Rd. Taraba Contract No. 5105, Federal Ministry of Works	5.733bn	110km	N52.120m
2) Sokoto-Goroyo Dan Rd. Sokoto State Contract No. 4082 Federal Ministry of Works	2.846bn	95km	N29.960m
3) Ogoni-Andoni-Opobo Rd, Rivers State. (Swamp Niger Delta) Project	13. 800bn	33.5km	N411.940m
4) Tombia-Amassome Rd. Bayelsa State.	7.5bn	22km	N340.909m
5) Sagbama-Bolou-Orua-Angalabiri Rd. Bayelsa State.	2.3bn	7km	N328.571m
6) Bodo-Boni Rd. Federal Ministry of Works. Contract No. 5662	24.045bn	39km	N616.45m