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Oil and the Politics of Revenue Allocation in Nigeria

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Information

Ogbonnaya C Uche died before the completion of this work. The excellent research assistance of Abel Ezeoha is gratefully acknowledged.

Abstract

This paper delves into one of the most controversial debates in the political economy of Nigeria: the way revenue is shared amongst the component tiers of government in the country. It shows how the discovery of oil and the enormous revenues derived from it led to the de-emphasis of derivation as the basis for revenue allocation. This paper calls for a rethink of the current policy and reversion to a derivation based revenue allocation system. Apart from helping douse the current tensions and feelings of injustice, which is currently widespread in the oil producing states, it will also help engender non oil producing states to develop other human and natural resources which they have long abandoned in the struggle for their share of the oil money. There is thus the need to give more powers for revenue creation and control back to the states. Such states will therefore be in a position to take into consideration their peculiar circumstances before determining their tax and revenue laws.

Introduction

One of the most protracted and controversial debates in the Nigerian economy is the way Government revenue is shared amongst the component tiers of Government in the country.[1] This debate has its foundations in the history and evolution of the Nigerian Federation.[2] The amalgamation story of what constitutes present day Nigeria started in 1861 when the territory of Lagos was formally ceded to the British Government and it became the Lagos Colony. In 1885, the British Government proclaimed the Oil Rivers protectorate over some parts of present day Southern Nigeria. In 1896, the Royal Niger Company, which constituted some British companies operating in the Niger, obtained a royal charter, which gave it powers to "administer, make treaties, levy custom duties and trade in all territories in the basin of the Niger and its affluents."[3] This brought the northern territories of Nigeria under the influence of British traders. In 1906, Southern Nigeria and the Lagos colony were merged to become one administrative entity. Northern Nigeria and Southern Nigeria were subsequently merged, in 1914, to form what constitutes the present day Nigeria. In 1939, Southern Nigeria was divided into two with the Niger as the dividing line. This split the country into three components: the East where the Ibos dominated, the West where the Yorubas dominated and the North where

[1] "Revenue allocation or the statutory distribution of revenue from the Federation Account among the different levels of government has been one of the most contentious and controversial issues in the nation's political life. So contentious has the matter been that none of the formulae evolved at various times by a commission or by decree under different regimes since 1964 has gained general acceptability among the component units of the country. Indeed, the issue, like a recurring decimal, has painfully remained the first problem that nearly every incoming regime has had to grapple with since independence. In the process, as many as thirteen different attempts have been made at devising an acceptable revenue allocation formula, each of which is more remembered for the controversies it generated than issues settled (Report of the Political Bureau, 1987, p.169). See also Obinna (1985, p.109), Danjuma (1994, p.45), Mbanefoh and Anyanwu (1990, p.199), Ndongko (1981, p.151) and Ola and Adeyemo (1998, p.25).

[2] "Federalism is essentially about government structure in the multilevel sense, rather than within a particular level of government, in the performance of government functions… Fiscal federalism is essentially about the allocation of government spending and resources to the various tiers of government" (Taiwo, 1999, p. 4). See also, Teriba (1966, p. 361), Mbanefoh (1989, p.190) and Jinadu (1979, p.15; 1985, p.73).

[3] Ekundare (1973, p.12).

the Hausas /Fulanis dominated. This regional division subsequently became the basis for administration and political tensions in the country.

The struggle for the control of the nation's resources have also, to some extent been based on the above regional division. This, entwined with political conflict, has sometimes led to political manipulations and delineations with the aim of influencing wealth allocation. This has been especially so since revenue from oil gained prominence as the major source of revenue in the country. Along these lines, it has been suggested that:

> The setting up of three commissions on revenue allocation within a short period of twelve years is a manifestation of the instability that characterized the Nigerian polity. Between 1968 and 1980, income from petroleum constituted over 80 percent of federal revenue. The importance of the federal center therefore increased proportionately. As a consequence of this major shift in revenue generation, a desperate struggle to win control of state power ensued since this control meant for all practical purposes, being all powerful and owning everything.[4]

The most recent development in the struggle for the control of oil resources in Nigeria is the recent Supreme Court action instituted by the Federal Government against the oil producing states with respect to the offshore/ onshore oil dichotomy.[5] The April 2002 decision of the Supreme Court to exclude the revenue derived from offshore drilling in the calculation of the revenue attributable to the oil producing states based on the derivation principle, has failed to resolve the controversy.

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[4] Adesina, 1998, p.235.

[5] "There arose a dispute between the Federal Government on the one hand and the eight littoral States of Akwa Ibom, Bayelsa, Cross-River, Delta, Lagos, Ogun, Ondo and Rivers States on the other hand as to the Southern (or seaward) boundary of each of these States. The Federal Government contends that the southern (or seaward) boundary of each of these States is the low water mark of the land surface of such State… [or] the seaward limit of inland waters within the State, as the State so requires. The Federal Government, therefore, maintains that natural resources located within the Continental Shelf of Nigeria are not derivable from any State of the Federation. The eight littoral States do not agree with the Federal Governments' contentions. Each claim that its territory extend beyond the low-water mark onto the territorial water and even unto the continental shelf and the exclusive economic zone. They maintain that natural resources derived from both onshore and offshore are derivable from their respective territory and in respect thereof each is entitled to the "not less than 13 percent" allocation as provided in the proviso to subsection (2) of section 162 of the Constitution" (Judgment by the Supreme Court, 5 April 2002).

This persistent struggle for revenue has however wide-ranging effect on the entire Nigerian economy. This paper argues that the focus on revenue sharing, as opposed to revenue generation, is the primary cause of economic, social and political decay in the country. It has, for instance, led to the proliferation of unviable local and state governments, neglect of other productive sectors of the economy and widespread corruption. This paper therefore calls for a rethink of the current revenue allocation formulae. Specifically, it advocates for the reversion to a system based mainly on derivation. Apart from helping douse the current tensions and feelings of injustice, which is currently widespread in the oil producing states, it will also help engender non oil producing states to develop other human and natural resources which they have long abandoned in the struggle for their share of the oil money. To achieve its aim, this paper is divided into four parts. Part One traces the origins of revenue allocation in Nigeria while Part Two examines the impact of the discovery of oil and oil revenue on the revenue allocation arrangements in the country. Part Three, shows the various ways the struggle for oil revenue has distorted our social and economic development while Part Four concludes the paper.

The Evolution of Revenue Allocation in Nigeria

The controversy over revenue allocation dates back to the origins of Nigeria. One of the main reasons for the amalgamation of Northern and Southern Nigeria in 1914 by the Colonial Government was in order to enable the Colonial Government reduce its subsidy of the Colony of Northern Nigeria by using up the surpluses from Southern Nigeria. When in 1906, Southern Nigeria and Lagos became one administrative entity, the financial resources of the south increased rapidly. This however was not the case with Northern Nigeria. The region, with its meager resources mainly from direct taxation, found it difficult to balance its budget. It therefore relied heavily on grants from the Imperial Government to function.[6] Amalgamation therefore became a ploy by the

[6] "Throughout the whole of this period [1901-1914] Northern Nigeria was dependent on outside assistance in order to balance its budgets. Each year it received a large grant from the Imperial Government; without

Colonial Government to reduce the dependence of Northern Nigeria on British taxpayers. Along these lines, it has been argued that:

> The decision… to create a unified Nigeria on 1 January 1914 did not result from the pressure of local political groups; it derived from considerations of administrative convenience as interpreted by a colonial power. Lugard considered it unnecessary to carve up a territory undivided by natural boundaries, more so since one portion (the South) was wealthy enough to commit resources to even "unimportant" programmes while the other portion (the North), could not balance its budget necessitating the British taxpayer being called upon to bear the larger share of even the cost of its administration. This partly explains the amalgamation, an act which provoked bitter controversy at the time, arousing the resentment of educated elites and of some British administrators. It, nevertheless, saddled the country with an issue- the relationship between North and South- that has dominated its politics to this day.[7]

With amalgamation of Northern and Southern Nigeria, the colonial authorities established a legislative council for the colony of Lagos only. The legislative powers for the Protectorate of Northern and Southern Nigeria was vested in the Governor General of Nigeria. In 1923, an enlarged and partly elected legislative council was established for the Lagos Colony and the Southern Provinces of the Protectorate. The Council however did not have powers over the Northern parts of the Protectorate and the legislative powers for that part of the protectorate was vested in the Governor General. Nigeria essentially became a unitary state. The reason for and implications of this arrangement has been explained thus:

> It may be taken for granted that this position was not the result of any desire to exclude the north; it was rather a reflection of the fact that the North showed no desire at the time to join with the South in the working of institutions uncongenial to their mode of thought and general outlook. … Had the Northern Provinces joined earlier in the framing of national legislation and in particular in the consideration and passing of the annual budgets, it is probable that more of the available public revenues would have flowed Northwards than was in fact the case. The leaders, official and unofficial, of

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these grants it would not have been able to pay its way. It also received contributions from Southern Nigeria, but these were contributions in lieu of customs revenue, not grants or gifts of any kind. This apportionment of customs revenue was the only link between the Budgets of the South and of the North" (Hicks-Phillipson Report, 1951, p.68).

[7] Osadolor (1998, p.35). See also Nwokedi (2001, p.20) and Report of the Political Bureau (1987, p.169).

> the North were, however, during the inter-war period… content to stand in comparative isolation and to concentrate their main energies on building up their strong system of Native Administration supported by the Native Administration share of the relatively high Northern rate of Direct Tax.[8]

It was based on the diversities of the various sections of the protectorate that the colonial authorities, after World War 2, decided to move the country from a unitary state towards a federal state. The Richards Constitution of 1946, despite its criticisms, marked the beginning of this shift. Essentially, it recognized the three regions that already existed in Nigeria since 1939: North, East and West. Each of the Regions had a legislative council (House of Assembly) dominated by British officials.[9] The role of these Councils were purely advisory. The 1946 Constitution also established, for the first time, an all Nigeria Legislative Council which was inclusive of representatives from the Northern provinces. Like its regional counterparts, its role was purely advisory and it had no powers over budget.[10]

The above developments raised the controversial question of how revenue was to be shared between the federal government, regional governments and the native authorities. This led the colonial authorities to appoint Sir Sydney Phillipson, the then Financial Secretary of the Nigerian Colony, to investigate the problems of the distribution of financial and administrative powers between the various tiers of government.[11] In his Report, Phillipson was of the opinion that the devolution of powers from the center to the regions was desirable. Essentially, he argued that:

> The natural and… desirable development of the new constitution will be towards progressive devolution, and the time may well come when the Regions will exercise, within their areas, powers akin to those normally exercised by Colonial Governments, the general government retaining direct authority in practice only over services not transferred to the Regions.[12]

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[8] Hicks-Phillipson Report, 1951, p.12.

[9] The Northern Region had an additional House of Chiefs.

[10] Adebayo, 1993, p.22.

[11] Phillips, 1971, p.393.

Based on the above, the Phillipson Report argued that the apportionment of revenues to the various arms of government should be correlated with the apportionment of duties to the various arms of government. It therefore recommended the gradual evolution to a revenue sharing system mainly based on the derivation principle. It envisaged a situation where each regional government would be credited with the full amount of the tax collected under the Direct Taxation Ordinance of 1940 (as amended). All regions would also receive grants from the other non direct tax revenues of Nigeria and from other public funds of Nigeria in strict proportion to the contribution that the region makes to those other revenues.[13] The report then went on to prescribe the horizontal table for the distribution of the said revenues amongst the various regions as follows: Northern Region: 46 percent; Western Region: 30 percent and; Eastern Region: 24 percent. This was based on the estimated relative contribution of the various regions to the Nigerian revenues not declared regional.[14]

The Phillipson Report can therefore rightly be described as the foundation of the derivation principle as the basis for revenue sharing among the various tiers of Government in Nigeria. The derivation principle has also become one of the most controversial features of revenue allocation in Nigeria. At the time, for instance, the Northern region especially argued that it was difficult to determine the origins of goods especially for the purposes of determining which regions should pay for the customs duty

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[12] Quoted in Adebayo, 1993, p.35.

[13] The preference of Phillipson for the derivation principle was based on his belief that there was need to inculcate in each region, a sense of "financial responsibility" so that they will all learn to "cut their coat according to their cloth" (Dina Committee Report, 1969, p.7).

[14] The unreliability of the data, from which the above figures were arrived at, became a rallying point for critics of the Phillipson Report and indeed all subsequent revenue allocation reports. It has, for instance, been noted that: "Each Commission has been plagued with statistical problems. From Phillipson (1946) to Aboyade (1977), problems of measurement have seemed insuperable and have wrought havoc to each successive effort at devising a workable formula for allocation. In some cases, for example, Phillipson, they led to the abandonment of particular principles; in other, for example, Aboyade, they led to the abandonment of the recommendations. Data on regional consumption of imports became the center of controversy in the 1950's while data on population took on an additional explosive political significance in the 1960's. Only the data on rents and royalties and export duties were politically neutral: but the allocation of revenue even from these sources created political controversy" (Okigbo Committee Report, Volume 1, 1978, pp. 15-16).

of imported goods. The same argument could also be extended to the revenues derived from the export of goods and services.[15]

This was so because of the importance and materiality of trade related revenues in the entire budget of Nigeria. Between 1946 and 1950, for instance, customs duties alone contributed over 50 percent of the total revenue of the Nigerian Government. It was therefore at the time rightly stated that:

> It is a truism of Nigerian finance that the revenues of Nigeria are excessively dependent on external trade… By far the greater part of Customs and Excise is derived from Import Duties and the major part of Direct Taxes come from income Tax on Companies which tax is paid mainly by important Companies either registered in the United Kingdom or operating under directions from the United Kingdom and dealing in both imports and exports throughout Nigeria. … Nigeria is not of course unique in being dependent for a large part of its revenue on its trade with the outside world, but the fact that its dependence in this respect is so extreme not only makes the problem of revenue division in Nigeria one of special difficulty (since the transfer of revenues derived from tariffs, progressive Income Tax and Companies Tax to regional control is open to great practical and constitutional objections) but also point to the need (a) for the development of such new internal sources of revenue as may be possible and (b) for some stabilizing safeguard against those extreme fluctuations in overseas produce prices which made the inter-War history of Nigeria a succession of brief periods of relative prosperity followed by longer periods of acute depression and slow and partial recovery.[16]

These structural imbalances which has subsequently reared its head in various forms, as will be seen later, continues, till date, to be a major characteristic of the Nigerian economy. It has also continued to influence the debate on revenue allocation in the country.

[15] It has for instance been argued that the "effect of the derivation arrangement was to intensify interregional controversy about the real volume of interregional trade. It led to the demand….that the free movement of trade and commerce between one region and the other be controlled so as to prevent customs duties on goods consumed in one region being attributed to the revenue of the other where the original importers or producers were based" (Quoted in Oyediran and Olagunju, 1979, p.194).

[16] Hicks Phillipson Report, 1951, pp. 26-27.

In 1947, a year after the adoption of the Phillipson Report, Sir John Macpherson replaced Arthur Richards as Governor of Nigeria. He soon initiated constitutional reforms which culminated in the Macpherson Constitution of 1951. This process, in turn culminated in the need to review the revenue sharing formulae of the colony.[17] This led to the appointment of a committee consisting of Dr. John Hicks, Mr. D A Skelton and Sir Sydney Phillipson to undertake the above review.[18] Their Report criticized the extensive reliance on the derivation principle adopted by the Phillipson Report. According to the Report:

> The application of the single principle of derivation to the division of the entire non-declared revenues represented an over-emphasis of the principle of regional self-dependence and tended to obscure the equally valid and perhaps more important principle of the needs of the people viewed as citizens of a united Nigeria.…[T]he unlimited application of the principle of derivation would be more appropriate in a loose confederation of almost independent states than in a federal constitution of the kind which Nigeria is about to achieve. It is not only, however, the principle of national unity, of the whole being greater than the part in more than a physical sense and of the well being of one part being dependent to a real extent on the well-being of other parts, that was obscured; the actual fact of mutual dependence tended to be forgotten. To measure what one Region owes to the efforts of its people, past and present, and what it owes to the efforts, past and present, of the peoples of other Regions, is an impossible task, but it is clear that the second debt exists, a fact which derivation as the sole principle of revenue division in some measures hides.[19]

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[17] "Dissatisfaction with the Phillipson Scheme and the changes envisaged by the Macpherson Constitution of 1951, which introduced a quasi-federal system of government, led to the appointment of Professor John Hicks and Sir Sydney Phillipson to develop a new system of revenue sharing for Nigeria." (Ashwe, 1986, p.28). Please note that Mr. D A Skelton drowned shortly after arriving Lagos. He therefore did not partake fully in this work.

[18] According to their terms of reference: "[1]. An expert and independent enquiry should be undertaken in consultation with all concerned, to submit proposals to the Governor-in-Council for division of revenue over a period of five years between the three Regions and the central Nigerian services, in order to achieve in that time a progressively more equitable division of revenue as between the three separate Regions and the Centre…. [2]. If investigation by the expert commission proves that one Region has been unfairly treated during past years, the Region should be allowed a block grant to make up for part of what it has lost" (Hicks-Phillipson Report, 1951, p.5).

[19] Hicks-Phillipson Report (1951, p.22).

Despite this, the Hicks-Phillipson Report did not altogether jettison the derivation principle. Rather, it retained it for the allocation of such taxes as could be allocated with simplicity and certainty to the regions. An example was taxes on tobacco. Here, for instance, it was recommended that 50 percent of the revenue from it was to be allocated to the regions on the basis of derivation. Non regional revenues, which constituted the majority of the Nigerian budget was however to be shared based on the principle of 'need' and 'national interest.'[20] Based on its second terms of reference, the Committee also recommended the payment of a one off grant of two million Pounds to the Northern Region. This was to make up for what it considered to be its relative deprivation in the past years.[21] Essentially, the Hicks-Phillipson Report materially altered the derivation focus of the 1948 Phillipson Report. This new arrangement was received with mixed feelings. The West, for instance, which was rich, thanks to the cocoa boom clamored for a reversion to the regime mainly based on derivation, the East took an opposite stand.[22]

By 1953, two years after the Hicks-Phillipson Report, there arose the need to again review the revenue allocation system of Nigeria. This was as a consequence of the Constitutional developments of the time. Events at the time sensitized the Colonial Government to the need to change the Constitutional arrangement from that of 'democratic centralism' to 'federalism.'[23] This culminated in the replacement of the

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[20] "The principles, which are appropriate for the distribution of revenue in a unitary state are therefore two. On the one hand, it is quite proper for the Central Government to make grants in such a way as to encourage expenditure of national importance [like education], though this principle should not be carried so far as to open the gates to excessively unequal treatment. On the other hand, the money should be distributed in such a way as to be fair among individuals. The simplest application of this second principle is to make grants to local authorities in proportion to the size of the populations for which they are responsible; and whatever qualifications may be introduced into this rule, it does look as if population ought to be the basis of allocation from this point of view" (Hicks-Phillipson, 1951, p.55). Because of the unreliable population records at the time, the Report used the number of male adult taxpayers in the regions as a basis for the above allocations (Ashwe, 1986, p.29).

[21] Hicks Phillipson Report (1951, p.84).

[22] Phillips (1971, p.395).

[23] "After only two years of operating under the system of revenue sharing recommended by the Hicks-Phillipson Commission, it was realized that 'democratic centralism' or 'quasi federalism' must give way to federalism in the country's constitutional arrangements if the various parts of Nigeria were to remain together. The breakdown of the Hicks-Phillipson arrangements was due mainly to the limited federal

Macpherson Constitution with the Littleton Constitution (named after Sir Oliver Littleton who was then the British Colonial Secretary responsible for the Colonies). The revised Constitution provided the Regions greater autonomy to make laws for themselves on residual matters not specifically included in the exclusive legislative list. The Regions were also granted the powers to legislate, again for itself, on matters contained in the concurrent legislative lists, which it shared with the Federal Government.[24] It was however made explicit that in the event of conflict, the Federal legislation was to be considered superior.

The move towards federalism had become imperative with the developments in 1953. That was when Anthony Enahoro, a Southerner, moved a motion on the floor of the House of Representatives calling for the independence of Nigeria by 1956. The Northern members of the House opposed this. Sir Ahmadu Bello, the Sarduana of Sokoto explained the position of the North in the floor of the House as follows:

> The North does not intend to accept the invitation to commit suicide…. As representatives of the people, we from the North feel that in all major issues such as this one, we are duty bound to consult those we represent… If the Honorable members from the West and the East speak to this motion un-amended, for their people I must say here and now, Sir, that we from the North have been given no such mandate by our people…. We were late in assimilating western education yet within a short time we will catch up with [other] Regions, and share their lot…. We want to be realistic and consolidate our gains. It is our resolute intention to build our development on sound and lasting foundations so that they would be lasting.[25]

At the time the above changes were being proposed to the Macpherson Constitution, it was realized that the changes would also impact on revenue allocation in the Nigerian Colony. There was therefore need to also review the financial relationships between the

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structure of the Macpherson Constitution rather than to the failure of the scheme itself. The size and diversity of Nigeria coupled with the intense regional loyalty and rivalry of the people rendered the 1951 Constitution unworkable" (Ashwe, 1986, p.30).

[24] Nwokedi (2001, p.22).

[25] Quoted in Albert (1998, p.54). Partly because of such views and differences, the Eastern and Western Regions achieved self-rule in 1956 while the Northern Regions got its own in 1959.

regions and the federal government and amongst themselves. This led to the appointment of Sir Louis Chick Commission of Inquiry. The Commission's terms of reference, which stressed the importance of derivation as the basis for revenue sharing, reflected the Colonial thinking of moving towards federalism at the time. The Commission was explicitly mandated to:

> …enquire how the revenues available, or to be made available, to the Regions and to the Centre can best be collected and distributed, having regard on the one hand to the need to provide to the Regions and to the Centre an adequate measure of fiscal autonomy within their own sphere government and, on the other hand, to the importance of ensuring that the total revenues available to Nigeria are allocated in such a way that the principle of derivation is followed to the fullest degree compatible with meeting the reasonable needs of the Centre and each of the Regions.[26]

From the above terms of reference it is clear that the colonial authorities chose not to give the Chick Commission much room for maneuver. Given the differences especially between the North and the other regions, it believed that there was need for the establishment of true federalism that would give each region room to develop at its own pace. Granting the regions greater fiscal autonomy was therefore necessary if the above objectives were to be achieved.

Based on the above, it was therefore not surprising that the Chick Commission recommended that less emphasis be placed on 'need' and 'national interest' as determinants of revenue allocation in the colony. The Report also showed strong preference for fiscal autonomy and materially increased the weight allocated to derivation as a basis for revenue sharing. In detail, the Report recommended that: the federal government should keep 50% of the general import duty while 50% should go to the regions on derivation basis; the federal government should keep 50% of the import and excise duty on tobacco, the rest going to the regions based on derivation; 100% of the import duty on motor spirit should go to the regions; 100% of the mining rent and royalty should go to the regions, and; both levels should share the export duty on hides and skins on a 50-50 basis. The Report however enjoined the Federal Government to maintain a discretionary power to make grants to needy

[26] Chick Report (1953, p.1).

regions in serious difficulties.[27] The above revenue allocation formulae, was however fundamentally altered in 1958 when a new revenue allocation commission was set up. This also coincided with the discovery of oil in Nigeria.

Oil and Revenue Allocation in Nigeria

The discovery of oil in some parts of Eastern Nigeria and the potential it had for growth altered the thinking about the place of minerals in the revenue allocation formulae. As already mentioned, up till then, royalties from minerals fully belonged to the region of origin. In 1958, however, the discovery of oil in Nigeria coincided with the need to review the existing revenue allocation scheme, which was a fallout of the 1957/58 Constitutional Conference and the imminence of political independence. The Colonial Government subsequently appointed Sir Jeremy Raisman and Professor Ronald Tress to review the federal fiscal structure.[28] The Committee, in the main, recommended that the regions should have authority over produce sales tax and sales tax on motor vehicle fuel. It also recommended the establishment of a Distributable Pools Account (DPA) for the purposes of sharing federally collectible revenues.

Perhaps the most significant proposal of the Commission was the recommendation that the then practice of returning mining rents and royalties to the regions should be discontinued. Such revenues was now to be shared through the DPA with the region of origins getting 50 percent, Federal Government, 20 percent and all the other regions, 30

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[27] Chick Report (1953, pp.25-27). See also Ewa (1976, p. 70).

[28] Among others, the Committee was mandated to: "examine the present division of powers to levy taxation in the Federation of Nigeria and the present system of allocation of the revenue thereby derived in the light of: (i) experience of the system to date; (ii) the allocation of functions between the Governments in the Federation… (iii) the desirability of ensuring that the maximum possible proportion of the income of the Regional Governments should be within the exclusive power of those Governments to levy and collect, taking into account, considerations of national and inter Regional policy;…. (v) insofar as the independent revenues that can be secured for the various Governments are insufficient to provide not only for their immediate needs but also for a reasonable degree of expansion, and bearing in mind the Federal Government's own further needs, the desirability of allocating further Federal revenue in accordance with such arrangements as will best serve the overall interests of the Federation as a whole" (Raisman Report, 1958, p.1).

percent. Although oil was a new discovery in the colony, and the revenue from it at the time (1958/59) was estimated to be only 65,000 Pounds, it had great prospects. According to the Report:

> The allocation of the proceeds of mining royalties has presented us with a most perplexing problem. Although the revenues from columbite royalties rose rapidly at the time of the American stockpiling in 1953-55, royalties on tin, columbite and coal, normally yield a fairly constant annual sum. If these were the only minerals concerned, there might be no difficulty in our recommending the continuation of the present system… The problem is oil. Test production of oil has already started in the Eastern Region and exploration is being undertaken in both the North and the West. While the yield from oil royalties is at present comparatively small, … we cannot ignore the possibility that the figure may rise very markedly within the next few years…. There is therefore a double obstacle in our recommending the simple continuation of the existing method of allocating mineral royalties. First, it would involve us, in our revenue assessment for the next few years, in crediting the Eastern Region with a source of income which is at once too uncertain to build upon, and too sizeable to ignore. Secondly, it would rob our recommendations of any confident claim to stability for the future since oil development might take place in any one of the Regions on a scale, which would quite upset the balance of national development, which is part of our task to promote… Our considered conclusion therefore is that the time for change is now, while there is still uncertainty as to which of the Regions may be the lucky beneficiary or which may benefit the most.[29]

Based on the above, the Raisman Report significantly reduced the use of derivation as a principle for sharing the DPA. In its place, it introduced four variables: continuity, minimum responsibility, population and balanced development of the federation.[30]

As stated above, oil was not the first natural resource to be exploited in Nigeria. Prior to its discovery, tin and bauxite were being exploited in the Northern region solely for the benefit of the North.[31] The West could not be bothered because it was the wealthiest of the three regions, thanks to the cocoa boom.[32] The East had very little natural or

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[29] Raisman Report, 1958, p.24.

[30] Raisman Report, 1958, pp.31-32.

[31] Nwokedi, 2001, p.56.

agricultural resources. Although it was unhappy with the concept of derivation, it was forced to develop other sources of income in its bid to survive. In 1956, for instance, the then Finance Minister of the Eastern Region, Dr S E Imoke, proposed a Finance Bill to the Regional House of Assembly. One of the propositions of the bill was to replace the old income tax with a regional income tax based on the Pay as You Earn (PAYE) system. Essentially, the old tax system at the time was a direct tax based on a flat rate, and collected by the local authorities. On these, the Regional Government charged only a small capitation levy.

The PAYE system however marked a major departure from the system that existed then. Under it, taxes were now levied and collected by the Regional Government. The local governments, which previously collected such revenues, now received grants from the Regional Government. The PAYE tax was however not the only new tax introduced by the Finance Bill. It has, for instance, rightly been pointed out that:

> Apart from the PAYE Tax, the Finance Bill also introduced an entertainment tax. The rate of this tax varied from 1 penny per ticket costing less than 7 pence to 1 shilling per ticket costing more than 5 shillings…. Other taxes contained in the Finance Bill included the purchase tax on petrol (6 pence per gallon), beer and stout (3 pence per normal bottle), whisky (1 shilling per normal bottle), and other spirits (9 pence per normal bottle), In addition, a purchase tax was imposed on produce bought in the Region at the rate of … 4 [Pounds] per ton (palm oil or cocoa), … 2 [Pounds] per ton (palm kernel), and 10 shillings per ton (benniseed)… A tax was also imposed on cattle entering the Region. The rate was fixed at 10 shillings per head. To increase its revenue further, the Region approached the Federal Government and requested that it be paid a royalty on coal mined in the region and used by the Nigerian Railway Corporation. With effect from 1956, a royalty of 10 shillings per ton was paid to the regional Government on coal… Thus while the Western Regional Government was more concerned with how to spend its revenue, the main concern of the Eastern Regional Government was how to raise the revenue for its minimum needs.[33]

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[32] According to Chief Obafemi Awolowo, a one time Premier of the Western Region: "It is dishonest to the extreme for a relatively poorer state to expect to have a share from the revenue derived from a relatively richer state" (quoted in Obinna, 1985, p.113).

[33] Adebayo, 1993, p.84).

Despite its revenue from tin and bauxite, the Northern Region also was still concerned with the generation of additional revenues to help it meet its minimum needs. In 1954, for instance, the Regional Executive Council, at the recommendation of the Financial Secretary approved the following measures in order to help boost the finances of the Region: increase in the toll of trade cattle moving both by foot and rail; the introduction of a tax on kola nut; increase in the rates for the licensing of cars and lorries; the imposition of bicycle licensing; the doubling of licensing fees for arms; and the re-imposition of produce sales tax.[34]

From the above, it is clear that at the time that the derivation principle reigned supreme in the distribution of revenue in Nigeria, the less endowed regions tended to be more innovative in their bid to improve their finances. Essentially, each of these regions tried to take advantage of its own endowments and peculiar circumstances in their quest to generate additional revenues. All these however changed with the discovery of oil in Eastern Nigeria. The de-emphasis of derivation as a basis for sharing revenue and the adoption of factors like even development led the Raisman Commission to recommend the unification of some aspects of the Nigerian tax system.[35] The implication of this was that the flexibility of regions with respect to adapting to their unique circumstances for generating revenues was greatly reduced. This marked a fundamental shift of focus from revenue generation to revenue allocation. As will be seen later, most regions subsequently used various overt and convert ways in their attempt to increase the revenues derived from the DP A.

In 1964, in accordance with Section 164 of the new Republican Constitution of 1963, the Federal Government appointed Mr. K J Binns as Fiscal Commissioner with the mandate to review the appropriateness of: the existing formulae for the allocation of the proceeds of mining rents and royalties; the proportion of the proceeds of duties payable in respect of import into Nigeria of any commodity other than motor spirit, diesel oil, tobacco,

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[34] Adebayo, 1993, pp. 86-87.

[35] Raisman Report, 1958, pp. 21-22.

wine, portable spirits or beer payable to the DPA; and, the existing formulae for the distribution of funds in the DPA.[36] The Binns Commission, in general, did not recommend any fundamental changes in the existing revenue sharing formulae of the country. One of the main recommendations of the Report was that when excise duty is imposed on locally produced motor spirit and diesel oil, the federation shall pay to the regions, proceeds of the duty based on the consumption in the various regions.[37]

The above report formed the basis of the revenue allocation practice in Nigeria until the Military Coup of January 1966 brought General Aguiyi Ironsi, to power. Perhaps because of the command structure of the military, the new government quickly moved to consolidate its hold on the entire country. In May 1966, via Decree Number 34, the new ruler abolished the federal structure of government and the regions thereby converting Nigeria into a unitary state. This however proved to be a costly mistake for him as he was overthrown and killed in July 1966. The new Leader, Lieutenant Colonel (later General) Gowon, immediately restored the regions and abolished the unitary system.[38]

Political tensions arising from the coup and counter coup, both of 1966, led Lieutenant Colonel Ojukwu, the Governor of the Eastern Region, which was custodian to majority of Nigerian oil reserves, to threaten secession. Partly because of the revenue implications of such a secession for the entire federation, the federal government was unwilling to allow it. As tension rose, the Federal Government moved to reduce the powers of the regions by creating twelve states out of the existing four regions.[39] Of these twelve states, the Eastern Region had three. Essentially, the Government skillfully carved out two states (Rivers State and South Eastern State) from the main oil producing areas, which incidentally belonged to the minority tribes in the former Eastern Region. The third State, dominated by the Ibos, instantly became an impoverished, landlocked State. It was therefore not surprising that it was on the same day that Gowon created the 12 states that

[36] Binns Commission Report, 1964, p.5.

[37] Binns Commission Report, pp.35-37.

[38] Ehwarieme, 1999, p.57.

[39] Mid Western Region was carved out of the Western Region in 1963.

Ojukwu proclaimed the entire Eastern Region as an independent Republic of Biafra.[40] This culminated in the 30 months Nigerian Civil War (1967-1970).

With the creation of new states, a revision of the revenue sharing arrangement became imminent. The Federal Government subsequently promulgated the Constitution (Financial Provisions) Decree Number 15 of 1967. Essentially, this Decree divided the share of the Northern Region from the DPA equally amongst the six states created from it. Those of the East and the West were shared among their emergent states on the basis of population.[41] This marked the origins of population into the revenue sharing formulae of Nigeria.[42]

Criticisms of the modified Binns revenue allocation formulae, led to the appointment of another revenue allocation commission headed by Chief I O Dina, in 1968.[43] Essentially, the Commission was asked to: examine and suggest changes to the existing system of revenue allocation in the country. Its mandate extended to all forms of revenue going to each Government besides and including the DPA. The Committee was also mandated to suggest new sources of revenue for both for the federal and state governments.[44] The Committee, which based its recommendations on the need to maintain national unity, expanded both the role and revenue base of the Federal Government to the detriment of the State Governments. According to its Report:

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[40] Uche, 2002, p. 33.

[41] See Section 1 of Decree number 15 of 1967. See also Osemwota (1983/84, p.12).

[42] Ashwe (1986, p.33) and Nyong (1998, pp.35-36).

[43] Some of the criticisms leveled against the 1967 Decree were: (i) that it contained arbitrary provisions being the result of hurried decisions taken in the exigency of creating new states under conditions of a national emergency; (ii) That it dealt only with the Distributable Pool Account and therefore failed: (a) to take cognizance of the additional administrative costs involved in the creation of states, (b) to realize that the status quo can no longer be assumed in deciding the revenue allocation arrangement, (c) to take account of the basic elements which formed the basis of the original allocation of revenue between the constituent units of the Federation. These were, population, financial need, derivation and even development (Dina, 1969, p.17).

[44] Dina Committee Report, 1969, p.1.

> The existence of a multiplicity of taxing and spending authorities with regard to the same revenue source or expenditure function not only generates major administrative problems, but also reduces the effectiveness of any fiscal co-ordination effort. This weakness is particularly manifest under planning conditions which require a positive integration of development planning and fiscal administration. The logic of planning renders invalid the dichotomy between public finance and development finance, and demands that revenue allocation be seen as an integral part of the later. Once it is accepted that the overwhelming social urge is for accelerated economic development as a major prerequisite for expansion of welfare services, then the point must be sustained that financial relations become only meaningful in the context of integrated development planning.[45]

It was based on the above background that the Committee recommended, among others, that the DPA should be renamed States Joint Account (SJA) and that a Special Grants Account (SGA) be established. Funds here were to be administered by the Planning and Fiscal Commission, which was also to be established. Allocation of funds from this account should be based on the following principles: tax effort, balanced development and national interest. The Report, for the first time, also introduced the onshore/ offshore dichotomy in the sharing of oil revenue in Nigeria. All revenues accruing from offshore operations should be shared along the following lines: Federal Government, 60 percent; SJA, 30 percent; and SGA, 10 percent. Royalties from onshore operations was to be assigned on the following basis: Federal Government, 15 percent; State of derivation, 10 percent; States Joint Account, 70 percent and SGA, 5 percent. Revenue from Excise Duty was to be allocated on the following basis: Federal Government, 60 percent; SJA, 30 percent; and SGA, 10 percent while that from Import Duty was to be shared on the following basis: Federal Government, 50 percent and SJA, 50 percent. Finally, revenue from Export Duty was to be shared as follows: Federal Government, 15 percent; State of Derivation, 10 percent; SJA, 70 percent; and SGA, 5 percent.[46]

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[45] Dina Committee Report, 1969, p.29. The Report further stated: "We believe that the fiscal arrangements in this country should reflect the new spirit of unity to which the nation is dedicated. No more evidence of this is necessary than the present war to preserve this unity at the cost of human lives, material resources and the radical change in this country's structure. It is in the spirit of this new-found unity that we have viewed all the sources of revenue of this country as the common funds of the country to be used for executing the kind of programmes which can maintain this unity" (p.27).

[46] Dina Committee Report, 1969, pp.103-107.

In line with its increased revenues, the Federal Government was also inundated with additional responsibilities. These, among others, included: taking full responsibility for the financing of higher education, prisons, public safety and scientific and industrial research. The Committee, like the Raisman Commission, also recommended the introduction of uniform tax legislation for the entire country.[47]

While the Report favored the Federal Government, it was vehemently opposed by most of the States. In fact, the Report was, in April 1969, rejected by the meeting of commissioners of finance of the federation. This was possible because of the peculiar circumstances of the time. It has, for instance, been argued that:

> In 1969 the commissioners of finance at the federation were mostly seasoned politicians led at the federal level by Chief Obafemi Awolowo, who chaired the meeting at which the report was rejected in April 1969. In the early years of Gowon rule, the regime needed the politicians more than the politicians needed the regime. This was more true of the period of civil war when it was most difficult to release army officers to hold political offices. In other words, in 1969, unlike in the years after the civil war when civil commissioners were relegated to the corridors of power by super permanent secretaries, the politicians played a critical role in government decision making. It should be added here that some of these civil commissioners expected a return to civil rule soon after the civil war and because of the opportunity of staying in the limelight during the period they expected to be in a stronger position to determine the nature and pattern of revenue allocation through a commission chosen by them.[48]

Despite the above rejection, the Federal Government later implemented most of the recommendations of the Dina Committee Report. This was done with the promulgation of Decree Number 9 of 1971. Essentially, this transferred rents and royalties of offshore petroleum mines from the states to the federal government.[49] This was tantamount to

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[47] Dina Committee Report, 1969, pp.103-107.

[48] Oyediran and Olagunju (1979, p.200).

[49] The oil producing states were most unhappy about this development. According to one of them: "This State Government is unable to appreciate the rationale behind this distinction drawn between oil mined from its mainland and the oil extracted from the adjoining continental shelf which is an integral part of the total economic resources which the people of this State have tapped from ancient times to sustain

adopting the recommendations of the Dina Report, which was rejected in 1969, through the back door.[50] In 1975, the Government promulgated the Constitution (Financial Provisions etc) Decree Number 6. This decreed that all revenues shared by the states, with the exception of the 20 percent of onshore mining rents and royalties belonging to the states of origin, based on the derivation principle, should pass through the DPA. In other words, 80 percent of mining rents and royalties, 35 percent of import duties, 100 percent of duties on motor spirits, tobacco and hides and skin and 50 percent of excise duties, all now had to pass through the DPA. The Decree further stipulated that the DPA be divided among the states on the following basis: fifty percent based on equality of states and the remaining fifty percent based on population.[51]

Shortly after the promulgation of the above decree, General Gowon was overthrown and replaced by Brigadier (later General) Murtala Mohammed. The new Government, via Decree Number 12 of 1976 increased the number of states in the country from 12 to 19. Although the revenue sharing scheme was not affected, this development further weakened the powers of the states relative to the federal government. Some of the states became increasingly dependent on grants from the federal government for such basic needs as administration.[52]

The new military administration also made explicit its intention to hand over power to civilians. It subsequently, appointed a Constitution Drafting Committee (CDC) to prepare a draft constitution that would aid the transition. A technical Committee on Revenue

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themselves. Until the arrival of oil industry, which imposed some restrictions on fishery in the Niger delta area, the continental shelf of this State offered ideal fishing grounds for the local inhabitants. To the consternation of many, Decree Number 9 of 1971 was passed and this repealed section 141 (b) of the 1963 Constitution which provided that "the continental shelf of a Region shall be deemed to be part of that Region". Thus a littoral State could no longer derive any benefit from the oil extracted from the continental shelf" (See Okigbo Commission Report, Volume 3, pp.117-8).

[50] According to the Official Biography of the then Head of State, General Yakubu Gowon: "The Dina Report was rejected by the states essentially because of its political assumptions…. Gowon did not raise dust over the issue, but quietly implemented most aspects of this report through the back door" (Eliagwu, 1986, p.177).

[51] See sections 1-6.

[52] Ashwe, 1986, p.34.

allocation was then appointed, under the chairmanship of Professor Aboyade. Its propositions were to be submitted to the CDC and if adopted, made part of the new Constitution. In summary, the Committee recommended that all federally collectible revenues, without distinction, should be paid into the federation account. It also, for the first time, took into account, local governments in the vertical distribution of the federation account. It, for instance, recommended that the proceeds of the Federation Account should be shared between the federal government, state governments and local governments in the following proportions: 60 percent, 30 percent and ten percent respectively. From its share, the federal government was required to set aside 3 percent for the benefit of mineral producing areas and areas in need of rehabilitation from emergencies and disasters.[53] On the horizontal allocation of revenue amongst the States, the Committee jettisoned the existing principles of revenue sharing arguing that:

> Population has been characterized by illogicality, inconsistency and inequity; derivation had done much to "poison intergovernmental relations and hamper a sense of national unity" ; need had "little if any operational relevance" ; even development was analytically ambiguous… (and was) not technically feasible to measure in any meaningful way"; equality of status of states was a "consolation prize to states not favored by the population and derivation principles"; geographical peculiarities defied any "concise definition… (and had) little or no merit"; national interest was "capable of many interpretations (and) circumstances."[54].

It then recommended the adoption of five new principles. These were: Equality of Access to Development Opportunities, National Minimum Standards for National Integration, Absorptive Capacity, Independent Revenue and Tax Effort and Fiscal Efficiency.[55] The Aboyade Report was however extensively criticized. The economic background of its prescriptions was especially attacked. Sylvester Ugoh, a member of the Constituent Assembly, for instance, questioned the wisdom behind the Reports reliance

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[53] Okigbo Committee Report, Volume 1, 1980, p.21.

[54] Quoted in Adesina, 1998, p.234.

[55] See Aliyu, (1977) and Daily Times (June 24, 1978, p.20) for a critique of these principles.

on the data based on the 1975-1980 National Development Plan. According to him, some sections of the report was based on the:

> Implicit assumption that the 1975-80 Plan would be fully or largely implemented. As such, the projects which are represented by these allocations would be realized. In such a situation, what the measure would show would be the socio-economic gaps that will arise from the full implementation of the Plan. But the fact is that our National Plans, and especially that of 1975-80, are usually expressions of pious hopes and wide expectations. In fact, the 1975-80 Plan has proved to be mostly a national dream. And if that is the situation, how can we use such dream-like allocations, which are unrealistic and unrealizable to measure socio-economic gaps in our development.[56]

Another member of the Constituent Assembly, Dr. Pius Okigbo, criticized the vertical distribution of revenue amongst the various tiers of Government arguing that the Aboyade Report unduly favored the federal government.[57] Based on such criticisms, the Constituent Assembly rejected the Aboyade Report. In 1979, the newly elected government of President Shehu Shagari appointed a new Committee headed by Dr. Pius Okigbo to review the "formulae for revenue allocation having regard to such factors as the national interest, derivation, population, even development, equitable distribution and the equality of states."[58]

On the sharing of revenue, among the various tiers of government (vertical allocation), the Okigbo Committee recommended the following formulae: Federal Government (53 percent) state governments (30 percent), local governments (10 percent). 7 percent was to be set aside as special funds for the following purposes: development of the Federal Capital Territory, 2.5 percent; special problems of mineral producing areas, 2 percent; ecological problems, 1 percent; and Revenue equalization Fund, 1.5 percent.[59] For the

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[56] See Daily Times, June 23, 1978.

[57] "I think that the shares of the joint account going to the federation can be reduced to much less than 60 percent, without emasculating the Federal Government. I would have been quite happy with a share of 45 percent for the federation and 55 percent for the states combined with 10 percent being reserved for the local government out of the 55 percent" (Quoted in New Nigeria, 6th June, 1978, p.9).

[58] Okigbo Report, 1980, Volume 1, p.5.

[59] Okigbo Report, 1980, Volume 1, p.86.

horizontal allocation of revenue among the states, the Report adopted four criteria. These were: minimum responsibilities of government (40 percent), population (40 percent), Social development factor/ primary school enrolment (15 percent) and internal revenue effort (5 percent).[60]

The Government White Paper adopted the Okigbo recommendations only with slight modifications.[61] This culminated in the promulgation of the Revenue Allocation Act Number 1 of 1981. In summary, the Act provided that the federation account shall be shared amongst the various tiers of Government as follows: Federal Government, 58.5 percent; State Governments, 31.5 percent; Local Governments, 10 percent. 26.5 percent of the state allocation shall be allocated to all states, while the remaining 5 percent shall be allocated on the basis of derivation. Two-fifths of the 5 percent of this derivation fund shall be paid out to the states in direct proportion to the value of minerals extracted from their areas while the remaining three-fifths shall be paid into a special fund to be administered by the federal government for the development of the mineral producing areas. The 26.5 percent outstanding to the credit of all states shall be distributed amongst them using the following criteria: equality of states (50 percent), population (40 percent) and land area (10 percent). Finally, the 58.5 percent allocated to the federal government shall be subdivided as follows: responsibilities and duties of the federal government (55 percent), development of the Federal Capital Territory (2.5 percent) and ecological problems (1 percent).[62]

This Act was however widely criticized mainly on the grounds that it allocated too much revenue to the Federal Government to the detriment of the states and local governments. The result was that the Federal Government could afford to waste valuable resources in

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[60] Okigbo Report, 1980, Volume 1, p.101.

[61] On the vertical distribution of revenue amongst the various tiers of Government, for instance, the Federal Government modified the Okigbo recommendations as follows: Federal Government, 55 percent; State Government, 30 percent; Local Government, 8 percent; and Special Funds, 7 percent (Government Views on Okigbo Report, 1980, p.13).

[62] See Sections 1-4 of the Allocation of Revenue (Federation Accounts) Act of 1981.

the financing of unprofitable white elephant projects while the states and local governments were starved of funds. According to an Editorial by the Daily Sketch at the time:

> To expect an allocation which gives the Federal Government 55 % and the 19 states only 30 percent to achieve the contrary will be like living in a world of fantasy. There is sufficient evidence to prove that the ugly phenomenon of growth without development arises from the spending of too much money on a few growth industries to the neglect of people-development oriented projects. … Yet do we have to build giant industries and make our people sub-human? Tens of millions of our people are wallowing in abject poverty. States and local governments whose pre-eminent job is to see to their welfare are helpless. They are starved of funds while the federal government soaked in billions of Naira, fritter away much needed money on fruitless and worthless grandiose projects. How human is it to give Abuja 2.5 % while even the most populous state cannot get 2 %? The average is less than 1.6 % for millions of people.[63]

This 1981 Act was however, technically declared null and void by the Supreme Court of Nigeria. It was subsequently replaced with the Allocation of Revenue (Federation Account) Act Number 1 of 1982. Essentially, this increased the share of the states in the vertical revenue allocation from 31.5 to 35 percent. The FCT was however now classified as a state. Furthermore, the funding for the 1 percent ecological funds was also transferred from the federal government to the states. Finally, the fund for the development of mineral producing areas was reduced from 3 percent to 1.5 percent.[64] The net effect of this was that the federal government's share of the federation account remained unaltered. On the horizontal sharing of revenue amongst the States, the Decree adopted the following criteria: minimum responsibility of government, 40 percent; population, 40 percent; social development factor, 15 percent; and internal revenue effort, 5 percent.[65]

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[63] Daily Sketch (November 11, 1980, p.2). See also Rimi (1980, p.2) for a similar criticism.

[64] See Sections 1-3 of the Allocation of Revenue (Federation Accounts) Act Number 1 of 1982.

[65] See Section 2 of the Allocation of Revenue Act 1982.

Shortly after the promulgation of this Act, the military, in December 1983, overthrew the government of Alhaji Shehu Shagari and Major General Mohammadu Buhari became the new Head of State. His Government, subsequently, promulgated the Allocation of Revenue (Federation Account) Amendment Decree Number 36 of 1984. This, in the main, only altered the existing formulae for revenue allocation marginally. It reserved 55 percent of the Federation Account exclusively for the federal government and maintained the local governments' share at 10 percent. The 1 percent and 1.5 percent for the development of mineral producing areas were also retained. The share of the state governments' in the Federation Account was 32.5 percent. Out of this, 2 percent was to be paid directly to the mineral producing states in direct proportion to the value of minerals extracted from such states. Finally, the Decree retained the Shagari regime basis for the horizontal sharing of revenue amongst the states.[66]

In 1989, the military government, then headed by General Ibrahim Babangida, appointed a permanent revenue allocation committee: National Revenue Mobilization and Fiscal Commission (NRMAFC). The Committee prescribed the following formulae for the horizontal allocation of revenue amongst the states: equality of states, 40 percent; population, 30 percent; internal revenue effort, 20 percent; and, social development factor, 10 percent.[67] The Committee also vested the powers to determine the vertical allocation formulae on the national assembly. The second part of the Committee's recommendations was later adopted and inculcated in the 1989 Constitution.[68] Although some partial democracy took place at the time, it did not last as full military government was restored in 1994 under the leadership of General Sani Abacha. The new government immediately set up a constitutional conference. Expectedly, the issue of revenue allocation was one of the contentious issues. It has, for instance, been asserted that:

> In 1994, the mineral producing states at the so called Constitutional Conference, convened by the Federal Military Government requested that the

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[66] See section 1-6 of the Allocation of Revenue (Federation Account) Amendment Decree of 1984.

[67] Nyong, 1998, p.42.

[68] See Section 160 (3).

> allocation of revenues derived from their areas be restored to what it was in 1957, namely, 65 percent thereof. Despite numerous discussions at several committee meetings and at plenary sessions, no agreement was reached. Eventually, it transpired that the powers that be had agreed to allocate 13 percent of the revenues derived from mineral producing areas to the affected state governments. But this was not to be until the proposed new constitution was promulgated in May 1999.[69]

Despite this constitutional provision, the elected civilian government of Chief Olusegun Obasanjo refused to implement it. Instead it appointed a Committee to review the 1999 Constitution. On the issue of revenue allocation, the Committee recommended that the derivation formulae be increased substantially beyond the 13 percent minimum recommended in the 1999 Constitution.[70] The Government again refused to accept this recommendation. Rather, the Government asked the Supreme Court to declare that the derivation principle does not apply to offshore oil. The Supreme Court, in its landmark judgment in April 2002 agreed with the position of the Federal Government.[71] The uproar, especially from some of the affected oil producing states, and the imminence of the April 2003 general elections however made the Federal Government to cede some grounds to the states on the issue.[72] The legitimacy of such concessions however remains

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[69] Vincent (2001, p.18). The 1999 Constitution explicitly stated that: "The President, upon the receipt of advice from the National Revenue Mobilization Allocation and Fiscal Commission, shall table before the National Assembly proposals for Revenue Allocation from the Federation Account. In determining the formulae, the National Assembly shall take into account, allocation principles especially those of Population, Equality of States, Internal Revenue Generation, Land Mass, Terrain as well as Population Density provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than 13 percent of the revenue accruing to the Federation Account directly from any natural resources, so however, that the figure of the allocation from derivation shall be deemed to include any amount that must be set aside for funding any special authority or agency for the development of the State or States of derivation" (Section 163 (2) of the 1999 Constitution).

[70] 1999 Constitution Review Report, p.44.

[71] According to the Supreme Court: "the seaward boundary of the littoral State within the Federal Republic of Nigeria for the purpose of calculating the amount of revenue accruing to the Federation Account directly from any natural resources derived from that State… is the low water mark of the land surface thereof or (if the case so requires as in the Cross River State with an archipelago of islands) the seaward limits of inland waters within the State" (Supreme Court Judgment, 5th April 2002).

[72] "THISDAY has exclusively reported last week that the details of the new agreement between President Olusegun Obasanjo and the governors of the littoral states over the controversial on shore/ off shore dichotomy indicates that the Federal Government may have agreed to grant the states a concession of 200 meter water depth Isobaths into the high sea. Also, part of the agreement reveals that the 200 meters will operate from coast to coast while the major oil companies like shell, Elf, Mobil; and Agip among others

in doubt. This is especially so given the fact that the Supreme Court has already interpreted the constitutional provisions on the matter. It could therefore be argued that only a constitutional amendment can effect a change to the existing position. The revenue allocation debate is therefore likely to continue unless a new system is enthroned which will change the nation's focus from revenue sharing to revenue generation.

The Future of Revenue Allocation

The idea and practice of revenue allocation in Nigeria has been dominated by two fundamental issues: the proportion of revenue that goes to the federal government vis a vis the states and local governments and the basis for sharing the Federation Account amongst the states. Although Nigeria is supposed to be operating a federal system of Government, in practice it seems to be moving towards a unitary system of government. This, in part, stemmed from the historical confusion over the concept of federalism and the constant military interventions in our governance system. According to a former Chief Justice of Nigeria, Atanda Fatayi Williams:

> Unlike most of the older federations, what we did in Nigeria was like unscrambling scrambled eggs. We started as a unitary state and then opted for a federation afterwards. The problem of Nigeria originally in 1951-52 was one of devolution of powers, but when the constitution which was given us by Macpherson broke down, we opted for a federal constitution. Very little was known by most of us about the theory of federation at the time… It may well be that if we knew more about the theory at the time we would have emerged in our effort to provide our people with a federal constitution that took account of all the peculiar circumstance of our country and our peoples. When things began to fall apart, those of us in the know quickly realized that ours was the tragedy of assumptions. We assumed everybody, both Federal and Regional Governments, the opposition, the electorates, the courts, the civil servants, the generality of the people and even the boy academician would play the game according to generally accepted rules. Well, because of the interplay of political forces, which were beyond their control, they did not; the result was the emergency (sic) of military rule. It became clear to us

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will be allowed to concentrate on what is termed "Ultra Deep Exploration". A Presidency source has told THISDAY that the affected littoral states could only derive revenue from the "coast up to 200 meter depth Isobaths into the high sea, while the demarcation into ultra deep exploration will be left for the Federal Government for the purposes of calculating the federal revenue" (THISDAY, 17th February 2003).

> all thereafter, that all the time there was no total commitment to the concept of federalism.[73]

It is this confusion and the impact of the nature of military regimes that has been fundamentally responsible for the skewing of the revenue allocation formulae in Nigeria in favor of the federal government.[74] This, which is the main cause of controversy surrounding the vertical allocation of revenue amongst the various tiers of government, has had disastrous consequences on the finances and well being of the other tiers of Government. Along these lines, it has been argued that:

> Over the years, however, there have been consistent attempts by the Federal Government to browbeat the States and Local Governments into believing that whatever was allocated to them from the federally collected revenue was out of the benevolence of the Federal Government. This has resulted in the orchestration of the so-called dependence on State and Local Governments on the Federal Govt. Thus, in sharing the Federation Account with the other levels of government, the Federal Government should stop seeing itself as a `Father Christmas' and benefactor of the states and local governments.[75]

Apart from the share of revenue allocated to the federal government via various decrees, the military have, in the past, used all sorts of methods to further increase the federal governments' share of the nations resources. Under the Babangida administration, for instance, the infamous 'first charges' was introduced by the federal government. This enabled them to fund some of their responsibilities directly from the Federation Account to the detriment of the other tiers of Government. Along these lines, it has been asserted that:

> A major phenomenon in revenue distribution in Nigeria since 1989 is the deduction made for "first charges". These charges included external debt service, dedicated accounts, such as joint venture companies' (JVC's), cash calls, NNPC priority projects, and excess crude oil earnings. This dictatorial practice of "first charges" illustrates quite clearly that the military were not interested in Nigeria operating federalism and its corollary, fiscal federalism.

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[73] Quoted in Tamuno, 1998, p.14.

[74] Onimode, 1999, p.7.

[75] Mbanefo (1997, p. 13)

> The military believed and operated on the basis that the Federal Military Government owned the country, her resources and all that dwelt in the land.[76]

As the Government increased its share of revenues, so also have its responsibilities. Over the years, for instance, the Government has gone into areas arguably better managed by the states and local governments. This, has, in most cases, led to unnecessary duplication of efforts and wastage of scarce government resources. Such areas include, among others: Agriculture, education and healthcare. The result has been colossal failure in several instances.[77] Excessive government revenues have even led it to participate in areas that should have been left to the private sector. These include industries like insurance, banking, hotels amongst others. The result has been poor performance and failure, which is the main reason behind the current privatization programme of government.[78]

Furthermore, the unjustified level of funding received by the Federal Government has contributed immensely to the high level of corruption in the country. Admittedly, the military, in the past, contributed in no small measure in institutionalizing corruption in the country. Essentially, the military dissipated and diverted into private pockets, the revenue concentrated in the hands of the federal government. The consequence of this has been: poor infrastructure, wrecked refineries, crippling education, mass unemployment and mass poverty.[79] Although we now have a Civilian government in place, the federal government has been most reluctant to allow more funds to be given to the other tiers of government. It is therefore no surprise that Nigeria is still known as one of the most corrupt countries in the world. It is currently ranked as the second most corrupt country in

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[76] Vincent (2001, pp. 14-15). Please note that the Supreme Court, in its April 2002 judgment, have now nullified the practice of "first charges".

[77] According to Chief Bisi Onabanjo, the second republic Governor of Ogun State: "because of the neglect of the Federal Government both in the past and now, we are responsible for taking electricity to our rural areas. Our roads, particularly the feeder roads necessary for the evacuation of our farm produce are the responsibilities of our State Governments. Food production, with all the goodwill of the Federal Government remains particularly the responsibilities of the state governments who are nearer the people. The OFN ended up in an Armada of Fertilizers invading our shores; and the present Green Revolution is fast turning into an Armada of rice with the Flagship of the Federal Government steaming full ahead" (Daily Sketch, 20th February 1981, p.7).

[78] Uche, 1999 (pp.221-225)

[79] Vincent (2001, p.15).

the world. Furthermore, it is estimated that 60 percent of the corruption in the country emanates from the Presidency alone.[80]

The way the federal government locates projects in constituent states has also proved to be very unjust, favoring mainly the regions that dominate the center. Take, for instance, the case of Rivers State. Although it is a major oil producing State, it has negligible federal presence. In its memorandum to the Okigbo Commission, it asserted that:

> In the early 1970s, when oil revenue became very dominant, constituting about 90 percent of the Federal Financial resources, a dangerous system of as-hoc federal grants to the States was introduced. From revenues, the Federal Government retained for itself, which at the time was constituting about 70-80 percent of all total revenues, in the country, it introduced a system of non statutory specific grants outside the regular revenue allocation scheme in order to increase the flow of Federal Finances to the States in such areas as Agriculture, Health, Road transportation, Education, Water Supply, Sewerage and Drainage and River Basin Developments. Undoubtedly, there were several lopsided unfair allocations to some favored States of the Federation. Rivers State in particular did not receive fair allocation from the ad-hoc grant even though it was contributing immensely to the Federal Revenue. A summary of roads, proposed to be carried out by the Federal Government, in the 1970-75 Plan Period shows that out of 10,058.8 miles of roads, only 338 miles were proposed for Rivers State. [T]his again is the smallest mileage in the whole Federation.[81]

Such feeling of marginalization is widespread in the entire Southern Nigeria. Most States here believe that the Federal Government has deliberately favored the Northern States at the expense of their Southern counterparts.[82] This issue has been further complicated by

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[80] "As a big businessman a few years ago, the current Defence Minister Theophilus Danjuma, submitted that "When the fish is rotten it starts from the head," It is therefore instructive that within the last four years, Nigeria has sunk to the lowest level of the most corrupt country in the world according to Transparency International. Furthermore, both British and American intelligence report concluded that sixty percent of corruption in Nigeria is within the Presidency at Abuja" (Daily Champion, April 17, 2003, p.32).

[81] See Okigbo Commission Report, 1980, Volume 3, p.376.

[82] In a recent joint proposal submitted by the 11 states of the South-South and South-East, to the Chairman, Revenue Mobilization, Allocation and Fiscal Commission, it was asserted that: "The Federal Government has so far spent about N42.1 billion to build dams in six arid states in the North while neglecting the massive gully erosion menace and severe environmental degradation of the States of the South-East and South-South…. [Furthermore] the PTF [Petroleum Trust Fund] intervened massively in the rehabilitation of

the accordance, by most States, including Southern States, of superior rights to its indigenes. Admittedly, this policy, which had its origins in Northern Nigeria, in the 1950s, commenced at the time when derivation was the main basis of revenue allocation and before the rise in prominence of oil as a main source of revenue. The Northernization policy was simply aimed at developing Northern manpower which would take over the Southern dominated Northern Civil Service. Between 1954 and 1958, for instance, a total of 2148 Southerners lost their jobs in the Northern Public Service in the spirit of the Northernization policy.[83]

The Northernization policy hardly occasioned any protests at the time. This was particularly so given the fact that at the time, most of the resources of the Regions were derived from the regions. They therefore had the moral right to determine how to spend it. Things has however since changed. Most states are now dependent on the Federation Account, which is sustained mainly by oil revenue from the oil producing states in the South. Despite this, discriminatory policies that give preference to indigenes is still widespread. Southerners living in the North scarcely have the same rights as their Northern counterparts. For example, an indigene of Rivers State, a southern oil producing state, that resides in Kano State, a non-oil producing northern state, will have limited employment rights in the Kano State Civil Service. This is so despite the fact that oil from his state contributes immensely to the funding of Kano State. Such practice, which turns the entire concept of national unity on its head, is clearly objectionable.

Like the vertical allocation of revenue among the various tiers of government, the horizontal allocation of revenue amongst the constituent states of the federation is also mired in controversy. This has been so especially since the country formally became a federation in 1954. This controversy has however also intensified since the discovery of oil in the late 1950s.[84] The concept of derivation as the major basis for revenue allocation

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social infrastructures in many non-oil producing States but there was little or no presence of the PTF in the States of the South-East and South-South" (2001, p.19).

[83] Albert, 1998, p.57.

has since lost its prominence to other basis such as land mass, population, equality of states, revenue generation effort, among others. Derivation was, for instance, roundly condemned by the Dina Commission Report, which argued that the adoption of this concept by previous revenue allocation committees was inimical to national development:

> In the history of Nigeria's revenue allocation, it is probably true to say that no principle has evoked more rivalry and bitterness than that of derivation…. [P]revious Revenue Allocation Commissions did little more than to test the political wind of their period and bow to it in designing their formula. In the context in which they worked, this was perhaps inevitable. But the derivation principle had been in the forefront of the allocation formulae all along; and the political wind has been set by the changing position of regional pressure groups according to the fortunes of their fiscal base. In the short run, the result was the exasperation of inter-regional conflicts. In the long run, the consequence is the lost opportunity to develop a cohesive fiscal system for national, political, economic and social development.[85]

Even the current Civilian President has cast aspersions on the demands by oil producing states for more emphasis to be given for the derivation principle. According to a recent newspaper report:

> President Olusegun Obasanjo has described the fight for resource control by governors of states in the South-South zone as a war against God Almighty. According to the President… that natural resources were carefully located in the Niger Delta region by God is not an accident,.. "it is the design of God. And any one fighting against that is fighting against God… Let the resources be for everybody. If we don't put ourselves together to work together, we

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[84] "The principle of derivation has dominated revenue sharing in this country since [the 1940s]…. when we began moving from a unitary to a federal system of Government. Thus the Phillipson Commission of 1946, applied, effectively, only the principle of derivation. Hicks-Phillipson (1951) proposed derivation as one of three principles while Chick (1953), adopted derivation only; but, for the first time, extended it to cover 100 percent of mining rents and royalties to the Region of origin. Mining rents and royalties since have remained with us in varying degrees, as a derivation principle of revenue allocation… This principle, be it in the glorious days of cocoa in the West and groundnut pyramids in the North or the oil boom seventies in the Rivers and Bendel States, has always aroused envy not because it is illogical or unjust to give more to him that contributes more: but simply and solely because it gives more money to these states. The situation has been aggravated by the sudden dominance of the economy by the oil sector, resulting in much larger sums of money accruing from rents and royalties, being shared essentially between two minority states. After reducing the factors from 100 percent to a mere 20 percent (Decree Number 6. of 1975), and the residue was still sizable, we had to look for reasons why it should not exist at all" (Letton and Phillips, 1980, p.7).

[85] Dina Commission Report, 1969, p.63.

> cannot fight poverty. In unity we can fight poverty… [W]e should do nothing to cause another civil war in this country… If Biafra had won the Nigeria Biafra civil war, I would not have been alive by now. Those of us who fought the civil war should have this in mind". If the Biafrans had won the Nigerian civil war, the Niger Delta States of Bayelsa, Rivers, Akwa Ibom, Cross River, Delta and Edo would not have existed, adding that the resources found in the Niger Delta region were a divine provisions that belong to all Nigerians. President Obasanjo reiterated that many Nigerian from the Northern and Western parts who lost their lives during the Nigerian civil war made sacrifice because of resources in the area.[86]

Although such assertions may have their merits, the fact remains that no real economic growth has taken place in the country since Government started de-emphasizing derivation. Essentially, the huge revenues that have emanated from oil over the last three decades or so have made it unattractive for non-oil producing states to develop their other revenue earning potentials. Rather, they have tended to focus all their efforts on agitating for revenues from the so-called 'national cake.'[87] In other words the attention of the entire country is now focused on revenue sharing rather than revenue generation. It is this struggle for revenue sharing that has led to all sorts of economic illogicalities like the creation of unviable states and local governments.

In fact, some of the so-called new states and local government areas are simply not viable and almost wholly depend on the federation account for their existence. Under such circumstances, the additional bureaucratic costs of such establishments far outweigh their benefits. According to a former Nigerian President:

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[86] Saturday Tribune, 17th March 2001, pp.1 and 5.

[87] "The nature of oil wealth spawned a political culture in which emphasis was on how to share the providential wealth, rather than how to engage in the production of renewable and viable alternatives. As such, other sources of revenue were neglected in the rush for oil resources at the center, thus giving the federal government a lot of leverage, which unfortunately was channeled into unproductive pursuits. Although oil fed into the rapid expansion of the economy and the import dependent private sector, the economy did not undergo any real structural development. A lot of energy was dissipated on the destabilizing struggle for federal power, while the economy remained dependent on a single commodity whose fortunes were externally determined. Under oil, fiscal federalism in Nigeria and the revenue allocation system has gone through several convulsions which culminated in the tightening of the grip of federal power over the entire process, with the concomitant increase in the struggle for access to, and control over federal power" (Obi, 1998, p.265).

> It is hard to see what contribution the creation of yet more states will make to our recovery and progress… Civil servants will earn rapid promotion and businessmen and women a fresh wave of contracts for more prestigious buildings and projects. This will be it… No new resources are likely to be generated either from taxes, production or services. Dependent on federal handouts and ill equipped to perform their functions, the new states will simply be a drain on already limited resources… This is not development. It is absurdity.[88]

It has further been pointed out that only few states can provide up to 30 percent of their planned expenditures from their internally generated revenues. Between 1990 and 1994, for instance, 70 percent of the recurrent revenues of the state governments was derived from the Federation Account. Internally generated revenues accounted for only 17.8 percent while the balance of 12.2 percent was received from the federal government as special discretionary grants.[89]

The current revenue allocation formulae, which de-emphasizes derivation, has also led to outright injustice in the sharing of the so-called 'national cake.' The oil producing states have also been protesting against such discriminations for some time now. Take for instance the circumstances of the Niger Delta Community, which remains till date the main source of Nigerian oil. The high level of oil production in the area has had immense negative consequences on both the economy and environment of the territory. It has, for instance, been rightly pointed out that:

> The high activity level in the Niger Delta has exposed the area to the dangers of water, land and air pollution as well as oil fields which have endangered aquatic life as well as the entire ecosystem, topography and surface vegetation. For instance, in 1979, a storage facility at the West Niger Delta Shell operated Forcados terminal collapsed. This spilled an estimated

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[88] Quoted in Suberu (1998, p.286). It has also been argued that: "One implication of this continuous growth in the number of states and local governments is that the statutory allocations of each tier of government have dwindled and became inadequate for supporting their total expenditure. The creation of new states and local governments tend to induce high overhead costs such as increased provision of secretariats, staff emolument, rental of buildings, etc, with the consequence that outlays on maintenance and new capital expenditures are low" (CBN, Annual Report, 1997, p.79).

[89] Sunday Punch, 18th August 1986, p.23.

> 560,000 barrels into the surrounding land, mangrove swamps and the Atlantic. There was hardly any respite. In January 1980, another major blowout occurred which spewed out some 200,000 barrels of crude oil into the Atlantic and destroyed some 840 acres of Niger Delta mangrove. A more recent spillage took place in January 1998, in which a 24 inch oil pipeline linking the Idoho offshore platform with the Mobil operated Qua Iboe Terminal ruptured. An estimated 40,000 barrels of crude spilled into the Atlantic polluting the coastline from Eket to Lagos… The Jesse fire incidence of October 1998, is still very fresh in the minds of many Nigerians where over 1500 lives were lost and several hectares of farmland and plantations were razed by fire.[90]

It is therefore not surprising that such injustices have led to unending strife in the oil producing areas further dampening the prospects for economic development and growth.[91] In other words, even the production of the oil itself is now being threatened. For any meaningful development to take place, therefore, there is need to rethink the entire revenue allocation formulae in the country.

Conclusion

Prior to the discovery of oil in Nigeria, other sectors of the economy thrived. Agriculture, for instance, was a major source of revenue for the Western Region The Eastern Region that was less endowed devised other sources of revenue. All this has however changed since the discovery of oil in the country. This has led to the demise of the other productive sectors

[90] Okoh and Egbon (1999, p.411-412). In its memorandum to the Okigbo Commission of 1980, one of the oil producing states (Bendel) also argued that: "The Government of this State spends a considerable proportion of its funds in combating some of the adverse side effects arising from the oil industry. … the oil industry has disrupted the traditional occupations of the people of the Niger-delta namely, fishing, farming, salt making, weaving of mats and distillery. Peasant farmers displaced by the oil industry migrate in large numbers to the Urban centers like Warri, Sapele and Ughelli and thus accentuate the demand for the provision of more health, housing, water, sewerage and drainage facilities in these towns. Warri, for example, which is supposed to be booming with oil wealth paradoxically also presents some of the worst spectacles of squalor, slum and poor drainage in the Country as a whole. On account of the adverse inaccessibility of the oil producing Niger delta areas, the State Government is now obliged to offer inducement of 50 to 80 percent of the contract price to enable contractors accept contract awards in respect of projects sited in the area…. It could be seen therefore that the peculiar topography of the oil producing areas and the adverse effects of the oil industry impose additional strains on the financial resources of the State Government. The Bendel State Government, therefore, needs a more significant share of the mining rents and royalties derived from the State to enable it solve these problems" (reproduced in Okigbo Commission Report, Volume 3, p.117).

[91] Obi (1998, p.269).

of the economy. In fact, Nigerians are poorer today than they were in the pre-oil boom days.[92] This is mainly because of the methodology of sharing the oil revenue. The struggle for the control of the oil wealth has led to an unfortunate shift from a revenue-oriented principle to an expenditure-oriented principle of revenue allocation. According to a former Governor of one of the oil producing states:

> Derivation is the only revenue oriented principle of revenue allocation, unlike other principles (such as population and equality of state), which are expenditure oriented. As a revenue oriented criterion, it serves as a major factor for the promotion of the most desired "national interest" of the country. It creates satisfaction for the producer of the revenue by compensating him for his efforts, sufferings, deprivations and ecological damages associated with the generation of the revenue such as in the oil industry.[93]

There is thus need to revert back to a revenue generation oriented principle of revenue allocation. Admittedly, derivation if applied today will severely disadvantage most of the non-oil producing states. Although this is true, this will only be in the short run. This is so since most of them will have no choice but to develop other sources of income. We must not forget that the country is well endowed with other productive assets and resources. As already mentioned, prior to the discovery of oil, agriculture was the main stay of the economy. The struggle for control of the oil revenue has been the main reason for the decimation of the agricultural sector of the Nigerian economy. A policy shift, which places more emphasis on derivation, will therefore force the non-oil states to refocus on the areas of their comparative advantage like agriculture. Admittedly, this will not be easy as the revenue and tax laws have since been over-centralized all in the bid to justify the prominent role of the Federal Government in the Nigerian polity. There is thus the need to give more powers for revenue creation and control back to the states. Such states will therefore be in a position to take into consideration their peculiar circumstances before determining their tax and revenue laws.

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[92] Herbst (1996, p.159).

[93] Quoted in Daily Times, July 19, 1980, p.3.

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