



IMPLICATIONS OF THE PETROLEUM INDUSTRY BILL FOR NIGER DELTA HOST COMMUNITIES

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ABSTRACT: *The long-awaited Petroleum Industry Bill has been passed into law by the Buhari administration. One of the expectations of the law was the provision of 10 percent of oil resources mined in the Delta for the host communities. This has been dashed. Rather, 30 percent of the profit of NNPC Ltd. is provided for frontier exploration. This study, which is doctrinal in method, was mainly anchored by newspapers and parliamentary reports. It analyzed the circumstances that informed the delay in the passage of the bill for over 20 years and those surrounding the passage. It reviewed the opinions of focused groups and stakeholders in the region and the roles played by legislators preceding the passage of the bill. The study found that the state and the multinational oil companies have continued to act in concert to shortchange host communities. The outcome of the bill led to the expansion of the definition of host communities, the provision of the frontier exploration fund, and the restriction of import licenses to oil refineries. It concludes that the passage of the bill into law did not meet the agitations of the host communities. Rather, it has exacerbated them even when several efforts have been made in the past to assuage them but to no avail. It recommends that the Act should be reviewed to reflect the aspirations of the host communities by increasing their percentage to 10 while bringing down the percentage for the frontier exploration fund to 10.*

KEYWORDS: Petroleum Industry Act, Nigerian Petroleum Bill, Host Communities, Frontier Exploration Fund, Nigerian National Petroleum Corporation Limited.



INTRODUCTION

It has been argued that after former Governor Attah of Akwa Ibom state wrote ‘Attah on Resource Control’ and fought for a higher percentage for derivation from oil, leading to 13 percent, only former Governors Wike and Akeredolu have kept agitation in the region alive. The others have rested on their oars and were therefore caught off-guard when the passage of the Petroleum Industry Act occurred. In the main, it was the opinion of Sobowale (2021, p. 11) that the rest of the governors exhibited ‘cowardice, apparently willing to sacrifice their people to please the transient holder of power at Abuja.’ The Ijaw Professional Association believes that history will remember them as cohorts who let their people down at a point they were needed most.

The misgivings that have been expressed above are intended to be examined in this study in order to determine whether they were properly founded and supported by the factual, existential conditions of the people of the Niger Delta, who are always in focus whenever petroleum exploration and exploitation issues are discussed in Nigeria. This is rather than the frontiers that have benefited from the Act without clear economic justification for fossil fuel found in the past, present or future. A critical look at the Nigerian petro-state’s business relationship with multinationals of the seven sisters (Shell-BP, Agip, Exxon-Mobil, Gulf, Chevron, Total, and Texaco) in the face of emerging nationalist petty-bourgeois oil companies is also necessary.

These indigenous nationalist petty-bourgeois companies are the Tinubu family, which has edged out Agip through purchase (Adewale Tinubu - Oando Plc, 1.8 billion) as soon as he came to power; the Danjuma family (Sapetro, \$750 million); the Alakija family (Famfa Oil, \$1 billion); and the Dangote family (Dangote Refinery, \$20 billion). Others are the Arthur Eze family (Atlas Oranto Petroleum with 22 licenses across 12 African countries); the Orjiako and Avuru families (Seplat Oil); the Obateru family (Obat Oil Company, \$300 million); the Azudialu-Obiejesi family (Nestoil); the Mohammed Indimi family (Oriental Energy, \$500 million); the Mike Adenuga family (Conoil, \$6.7 billion); and the Femi Otedola family (Forte Oil, \$1.3 billion). Others are the Emeka Okwuosa family (Oilserv Limited); the Yinka Folawiyo family (Yinka Folawiyo Petroleum Company Limited); the Benedict Peters family (Aiteo Group); the Bola Shagaya family (Practoil Limited); and the Tunde Afolabi family (Amni International Petroleum). Some others are Elumelu family (Heirs Oil & Gas Limited); the Joe-Ezeigbo family (Falcon Corporation Limited); Alhaji Dantata family (MRS Oil Nigeria Plc); the Tope Shonubi family (Sahara Energy); the Winifred Akpani family (Northwest Petroleum & Gas Company Limited); and the Gabriel Ogbechie family (Rainoil Limited) (Chisom, 2024).

Most of these family oil blocs were handed out to cronies during the Babangida-Abacha military regimes, which were noted for massive prebendal corruption while pretending to be on national assignment for Nigerian masses called ‘fellow Nigerians’ or ‘fellow countrymen.’ The legal regime on the economy shows constitutional-paper ownership of oil by the Nigerian State, multinational ownership by operations and production sharing contracts, and national bourgeois ownership in emerging appropriation templates. The Nigerian State guarantees the conditions under which the commonwealth of the people is allegedly owned by the State under constitutional law. But in practical contractual terms, the technology is owned by the multinationals while the appropriation of the national wealth is done by the national bourgeoisie which adds little or nothing to the economic production equation but sits



atop the common wealth of the Niger Delta (as middlemen). This capitalist oil imperialism is a three-pronged exploitation of the Niger Delta by the national bourgeois petro-state, multinational oil companies and the national bourgeois oil companies.

METHODOLOGY

This study was based on argumentative and conflict methods. The conflicts were structural, interest-based, and relational in nature. Its thrust was critical of the relationships between multinational and petty-bourgeois oil companies and the Nigerian petro-state on the one part and the existential state of host oil communities on the other part and how the communities were impacted by the Act. It rested mainly on qualitative analysis of secondary data and source materials culled from periodicals on legislative reports and focused group opinions. Academic literature on the subject is scarce and sparse but developing, as can be found, for instance, in Ogwezzy (2020), 'Laws on Oil and Gas Exploration and Production in Nigeria: A Text in Honour of Austin Avuru.' Several contributors in the text presaged the Act in glowing terms, but post-passage reality has not doused tension in the region; hence, this study.

Statement of Problem

The agitation for resource control in the Niger Delta mineral oil host communities had been rife since the return of civil rule, so much so that it morphed into militancy. In order to stave it off in the region, a strong advocacy for 10 percent derivation was proposed for the host communities with amnesty for the militants. While amnesty was swiftly granted to the militants during the Shehu Yar'Adua administration, the case for 10 percent for host communities was factored into a Petroleum Industry Bill to be presented and passed into law through the National Assembly. The bill gained so much traction that all conceivable remedies were expected to emanate from it. But in the final analysis, it became a 'cure-all bill' for the oil sector that never came to be. After the passage, the region is beginning to look for another bill or an amendment of the Act.

THEORETICAL FRAMEWORK

Colonial marginalization theory

The historical foundation for the continued marginalization of the Niger Delta and its peoples of the south can find expression in the mainstream negotiation before independent Nigeria. Charles Ayeni-Botu (Amaize & Ahiuma-Young, 2021; Amaize et al., 2021) states that the 30 percent Frontier Exploration Fund provided in the Petroleum Industry Act is an unguarded daylight robbery and a secret re-annexation of the oil and gas producing communities of the Niger Delta. He believes that the British had enslaved the south to the north by handing over political power to the north through a phantom election in 1959 and that after 69 years the colonization process has persisted as demonstrated by the Act. The British colonialist had argued that the amalgamation of Southern and Northern Nigeria in 1914 was spurred by no better utilitarian value than offsetting the administrative cost of the north with the economic surplus of the south. This Osuntokunian thesis (Kumolu, 2021) that the southern bride exists



to defray the expenses of the northern groom also informs the dogmatism that advocates of one Nigeria exude when they assert that ‘to keep Nigeria one is a task that must be done.’

Self-Determination Theory

Writers like Anele (2021) argue that the use of force (of displacement) to suppress agitation for self-determination and resource control without addressing it in a civilized manner, is the root cause of discontentment in the south, particularly the east (and Niger Delta). And the approach can only engender more vicious agitation. The policy behind the passage of the Petroleum Industry Bill into law is in the nature of those that inform and drive self-determination. The Buhari years largely undermined the latent fault lines in the Nigerian polity. Each time an opportunity presented itself for a demonstrable show of even-handedness in handling divergence in legislative enterprise as presented in the Petroleum Industry Bill, the administration blew up its historic chance at the altar of incompetence, nepotism and ‘relentless pursuit of ... domination.’

For Anele (2020), only confederation or peaceful dismemberment can resolve the perennial national question on a long-term basis by providing the foundation upon which geographically contiguous and culturally related ethnic nationalities can build viable countries rather than being asphyxiated in a contraption dominated by a Fulani oligarchy. He argues that insisting on one Nigeria is flawed, as two options are open in the worst-case scenario: the completion of the Fulani conquest of Nigeria or the disintegration of the ‘Niger Area’ into smaller national units.

Anele has ilk in Danjuma, Asemota and Lekwot (cited in Vanguard, 2019, p. 7). They believe that Nigeria is a democratic state under invasion of Islamic ideology and under the burden of two contradictory ideologies pulling it in opposite directions into permanent turmoil: the 1999 Constitution and Islamism. The common law and Islam are the two antithetical forces at play. The latter was suppressed during colonialism but reinstated during the Babangida regime when the country joined the Organization of Islamic Countries. They argue that the Nigerian polity is conflict-laden due to the untiring desire to supplant the tested and accepted liberal democratic ideals of common law with Islamism and its attendant restrictive, sectional, discriminatory and subjective theocratic bias.

They believe that national development has been hampered and stultified by the institutionalization of conflict through the unilateral infusion of Islamism into the body politic of the 1999 Constitution. They argue that although Islam as a religion is personal to a Muslim, Islamism and Islamists manipulate Islam as a political ideology. Islamism is a conscious attempt to manipulate religion as a tool for political and cultural domination. While Islam is a religion, Islamism is politics. It is a set of ideologies that holds the view that Islam is not only a religion but also a political system. It insists that it dominates the environment in which it is practiced.

The foregoing framework came to play during the consideration and passage of the Petroleum Industry Bill into law by the Buhari administration. Amechi Mbazulike (cited in Okoli et al., 2020) believes that the north played the card the way it did because a northern dictator was in control of the reins of power, positing that dictators are not interested in peace, equity and balance. The Buhari regime is not a stranger to the scenario that led to the passage of the bill into law. Exercises such as the passage of the Petroleum Industry Bill into



law with three percent for the oil bearing communities and 30 percent for frontier exploration are geared towards stoking the crisis to divert attention and deny the south the chance to rule and develop on the basis of its minerals endowment.

In an '*Open Letter*' to His Excellency, Dr. Ahmad Lawan, the President of the Senate of the Federation of Nigeria, on the demand of the Niger Delta Communities for 10 percent for the Host Communities in the Petroleum Industry Bill, Chief Edwin Clark (2021, p. A2) had pointed out that in 2009 Lawan had called for the relocation of the people of Niger Delta to allow for the unhindered operations of multinational oil companies if Niger Delta militants had become an obstacle. He further pointed out Lawan's disdain for the host communities and the redefinition of the concept of a host community.

Irredentism begins to rear its ugly head when Lawan claims to speak for a whole nation but is utterly unconcerned with the rights of others, as in the Niger Delta, and is willing to deploy force and displace population whenever necessary to achieve the goal. Fascism promotes the concept of innate inequality and inescapable social hierarchies between groups. In its state, rank in society is determined by aspects of identity that are beyond a citizen's control, such as ethnicity, religion and gender. Once in power, it suppresses individual and group rights and liberties; opponents may be imprisoned without lawful or with orchestrated trials. Unlimited police power in the guise of national unity and terrorist aggression holds sway (Albright, 2019; Shane, 2021; Gillis, 2017; Paxton, 2005). Indeed, in lieu of displacement as called by Lawan, oil-bearing states are now to include any community or state that a pipeline-bearing pathway had traversed, thereby betraying the 'lofty dreams and vaunted expectations of the people over two decades' that the agitation for 10 percent had spanned.

Whilst demonstrating that the data from 1967 to date show that the rights and welfare of the Niger Delta peoples have been sacrificed at the altar of the sustenance of the Nigerian State and that international oil companies are in cahoots with the north not only to deny the south of the 10 percent host community funds, Clark claims that the north had taken full control of the activities in the oil sector and the ownership of the oil blocks with the south completely shortchanged. He believes that the south would take its destinies in its own hands and that international oil companies may be denied access to the fields. Consequently, a focused group, the Niger Delta Revolutionary Crusaders, ordered its commanders to return to the creeks awaiting further orders, believing that the three percent granted to host communities in the law was 'provocative, an instrument of expropriation, and oppression' and passed to further weaken the socio-economic lives of the people of the region (Amaize, 2021, p. 15).

LITERATURE REVIEW

Group reactions

The most noticeable reactions to the passage of the bill into law seem to come from groups. They could be classified into hawks and doves. The Ijaw Youth Congress claimed that the act was a rape of justice for the Niger Delta communities. The Itsekiri National Youths Council claimed that the law was barbaric and a slap in the face of oil communities (Akpan et al., 2021, p. 12). The Pan Niger Delta Forum, represented by Ken Robinson (cited in Amaize & Ihemnachor, 2021, p. 19), believed that the region was a set of people the Nigerian State



could exploit and neglect. Furoebi Akene, Chair, Board of Trustees, Centre for Environmental Preservation and Development, believed that the law was not only a snare to the host communities producing oil and gas but also very hazardous to their survival (Oyandongga, 2021, p. 26). Bringing to the fore an Ogoni perspective on the disapproval of the legislation, Legborsi (2021, p. 16) urged the leaders of the region to reject the law, as it was a reinforcement of the slavish treatment over the last decades.

He argued that even the three percent that was granted to the host communities would not be controlled by them, yet they were to be held responsible and accountable for third-party sabotage of oil infrastructure in the region to be paid out of the same three percent fund. He opined further that while the communities would be unable to ascertain and determine what would be three percent of the annual investment of oil companies in the region or the country, it would be easier to determine the 30 percent of the profit of NNPC Ltd that would accrue to the Frontier Exploration Fund.

In fact, it was revealed in the course of this study that the idea of the Frontier Exploration Fund was never on the cards since the Yar'Adua administration, when the agitation for 10 percent for host communities began over two decades earlier. It cropped up within 24 hours when it dawned on a woolly Northern Lobby Group that the passage of the bill had become inevitable due to the loss of direct foreign investments. The Group, on the prompting of multinational oil companies, was guided into staging a request for 'a new fraudulent jargon' called the frontier oil exploration fund in the northern basins and troughs, and the same was granted 30 percent of NNPC Ltd.'s annual profits, whereas the 24-year-old agitation got only three percent. In fact, it was conspired to be reduced to two and a half percent by the Minister of State for Petroleum Resources, Timipreye Sylva, who is a Niger Deltan (Oyandongga et al., 2021, p. 12).

Sylva's conspiracy against his people was indicted by the Ijaw Peoples Development Initiative. The group gave the Minister for State four days within which to defend the allegation leveled against him by Austin Ozobo and Senator Seriake Dickson that he misled the Senate Committee into approving a three instead of five percent equity share for host communities. Ozobo states, 'We will pass a vote of no confidence on Sylva if within four days he fails to explain his role, and thereafter he should be relieved of his national assignment' (Amaize & Ihemnacho, 2021, p. 5).

On the floor of the Senate, Dickson came under Order 43 of the Rules to state that history should note that he was not a party to the obnoxious decision against his people of the Niger Delta. His ilk argued that it was against national interest to reduce the clamor from 10 to five to three to two and a half percent, as such a disposition could engender negative implications on the management of national security in the region. Moreover, the fund being agitated for was not to come from the coffers of the state but from multinational oil companies, which were not overtly opposed to the proposition. However, the opinion that the oil companies were not against the proposal is lame because behind all the negative consequences the region had suffered since the finding of oil had been the policy handiwork of the multinationals. His ilk argue that it is 'sorrowful rather than inducing anger' because the passage of the 'petroleum intimidation bill' into law displayed the 'evidence of selfishness' of the actors behind the 'legislative holocaust' (Amaize et al., 2021, p. 5).



Leaders and stakeholders of the South-South believed that their governors and representatives ought to be berated because they did not live up to expectations. Although the legislators of the South-South would have been outnumbered in a legislative setting if the issue had been put to vote, it had been argued by Amaize et al. that if the 27 senators and 78 House of Representatives members from the Niger Delta and oil-producing states had presented a common front, the host communities would have had a better deal of five if 10 percent was not feasible. They characterized the result of the two or more decades' agitation as an 'elephant begetting a rat.'

Bringing a moral tinge to the negative reactions, Dr. Kingsley Oroh et al. (2021, p. 12) of Isoko Monitoring Group believed that the Senate in passing the Bill into law was 'wicked., evil, ungodly, unreasonable and hated justice.' They saw the action of the Senate as a call for anarchy and total unrest in the country. Dan-Princewill (cited in Oyandongha et al., 2021, p. 12) believes that Nigerian despots have always tried to deprive the region of its dues regarding rents. He argues that what happened to the region is emblematic of the type of injustice the region had been receiving since the finding of oil at Oloibiri in 1959. For the hawks, therefore, the passage of the law by the National Assembly was a ploy to further rob the south that produces oil to pay the north that does not produce a single drop (Ajayi, 2021, p. 7).

So much for the hawks; for the doves, on the other hand, the Arewa Leader in southern Nigeria, Musa Saidu (cited in Onoyume, 2021, p. 7), believes that those condemning the passage of the bill into law ought to realize that it had taken over 20 years for the bill to become law. That the Minister of State ought to have been commended while the lobbying process continues at the National Assembly and the Presidency. In other words, 'it was better to start with something than nothing; if spent judiciously, we can advocate for increment' according to Samson Ewajane, Chair, Federation of Ugbo Kingdom Youths Association (cited in Dayo, 2021, p. 6). To the doves, the question should not be posed in vacuum. It should be three percent of what? It is relative depending on the capital cost or operational cost or profit. Thus for Agbakwuru (2021, p. 8), given the estimate of what multi-national oil companies spend annually, three percent 'is a good starting point provided the funds are not looted or diverted.'

Basking in the earlier thinking that development in the sector had been stymied by the non-passage of the bill over the years, the Organization of Petroleum Exporting Countries (OPEC) hailed the passage of the long-awaited legislative reform as an instrument capable of strengthening institutions, solidifying regulatory frameworks to attract foreign investment. It is believed that it would open the sector for greater investment and guarantee transparency. It was in the light of the foregoing, Mohammed Barkindo (cited in Akpan et al., 2021, p. 12) hailed the Lawanian 9th Assembly for 'engraving itself in gold'.

DISCUSSION

Circumstances of Passage

In what circumstances was the bill passed into law? Research has shown that the bill was passed into law in the most bizarre and obscure circumstances, leaving those who had felt over the years that the bill would act as a panache of the under-development of the Niger



Delta with a bad taste in their mouths. Vanguard Comment (2021, p. 18) had argued that political, economic and sectional interests had scuppered the passage of the bill since its introduction by the Yar' Adua administration as an executive bill into the National Assembly. Controversy continued to dog the bill during the Jonathan administration to the extent that more than ten versions of the bill came into existence on the legislative template.

In fact, the Buhari administration had earlier refused to assent to a version of the bill on constitutional grounds. Although the original objective percentage was ten, five percent was approved during the clause-to-clause consideration on the floor of the National Assembly and five percent was further dropped to three despite the spirited efforts of some southern Senators in the likes of George Sekibo and James Manager. The Senators were justifiably appalled when the Minister of State from their region was nose-diving to two and half percent (Amaize et al., 2021, p. 24). Even though Pandef tried to absolve the Minister of State from blame believing that he was merely playing the scripts of the president, who doubles as the minister of petroleum resources. Senator Biobarakumo Degi-Eremionyo retold the ignoble role allegedly played by Sylva with the 13 percent derivation fund, which he had used to develop his non-oil-producing communities while he was governor of Bayelsa State; as such, he was nonchalant to the struggle for 10 percent for the host communities' fund.

Yet Senator Daniel Asuquo believes that the bill was smuggled into law. He reveals that the due process of legislative procedure was not followed. That the National Assembly exploited the opportunity of the walk-out staged by the Niger Delta representatives on e-transmission of electoral results, which was then equally raging in the House, to pass the bill into law. It was further revealed that Mohammed Tahir Monguno (Chief Whip), who led the Committee, came to the floor of the House to state that he was threatened by his governor and emir not to concede anything above three percent (Amaize et al., 2021).

A more radical constitutional circumstance in which the bill was passed into law has been raised by Adegboruwa (2021). He has argued that the constitutional provision that all mineral exploration fall within the confines of the exclusive legislative list under the 1999 Constitution of the Federal Republic of Nigeria (as amended) has been doggedly followed by the Federal Government's denigration of the rights of host communities in the oil-bearing Niger Delta. But the constitutional provision is not similarly followed with respect to the mining of gold in Zamfara State in the north. The evidence that there is ambivalence in the legal regime in the minerals sector has not been rebutted convincingly. Both the elder statesman, Chief Edwin Clark and Adegboruwa believe that if Zamfara can sell its gold, the Niger Delta can also sell its oil. Therefore, the question of three percent ought not to arise.

Oil nationalism

The uncertainty that has followed the regulation of the oil business in Nigeria can be backdated to Resolution 1803 of the United Nations, which gives sovereignty to national governments over mineral resources and management. Though the law also recognizes that the management should be for the welfare of the people, experience in the third world has not borne out any good the communities have gained from national control of minerals. Rather, it has generated more hardship and crises of monumental proportions in such areas as the Congo Basin and Niger Delta.



But what makes the Nigerian experience less palatable is that even though varied mineral resources are found throughout the landmass of the country, not much success has been made in finding oil in the northern region of the country. This has given rise to complications and misgivings in the regulation of the sector. It is even felt and suspected that the exploration of other minerals apart from oil is being stayed until the oil find of the Niger Delta is fully mined and exhausted. It has also been canvassed that the agricultural sector has remained unrevolutionized because cheap oil is being mined to run and sustain the Nigerian state craft. Because the discovery of oil has been sectional, so much crisis of explanation has come to the fore up to the belief that the last civil war was fought because of oil.

In an attempt to balance the cleavages, so much effort and so many resources have gone down the drain in search for oil in the northern fields of the Niger Benue trough and the Lake Chad basin. The hope that oil can be found in those areas has not been lost on the northern oligarchy controlling the political levers of power in Nigeria. In fact, it has become a monumental challenge that the north is characterized as a barren region preying on the oil of the south. The economic reasons given by the British for the 1914 amalgamation seem to still hold water till date. All the laws being fashioned out in the oil sector appear to be guided by these fundamental misgivings and cleavages.

It was not surprising, therefore, that Akpan (2021) stated that the Group Managing Director of NNPC was so determined to increase the nation's oil reserves to 40 billion barrels. This was to be done by galvanizing NNPC to rev up exploration work in the inland basins with the drilling of the Kolmani River 11 Well, culminating in oil found in commercial quantity in the Upper Benue Trough. As soon as the find was made, the north appeared to have woken up from slumber, and the agility with which the Buhari administration got up to unveil the national oil company, NNPC, as a limited liability was unprecedented. The north and the Buhari administration appeared to have broken the jinx in which the north had been kept since modern Nigeria as a 'barren women.'

Frontier exploration fund

It is therefore in the context of the foregoing that the passage of the Petroleum Industry Act has to be understood. It is also in these regards that the sudden appearance of the concept of the Frontier Exploration Fund should be understood. Bitterly opposed to it, antagonists of the fund termed it 'fraudulent jargon' meant to rob Peter to pay Paul. The Frontier Exploration, which was charged on the profit of NNPC Ltd., was hiked from 10 percent to 30 percent without the consent of the members of the Senate Joint Committee on Petroleum (downstream and upstream) and Gas Resources according to Umoru and Nwabughio (2021).

They argue that throughout deliberations and consultations with host communities in Niger Delta, which Mohammed Tahir Muguno chaired, the issue and concept of Frontier Exploration Fund never came up on the cards. It came from the blues! However, to have acknowledged that it was 'hiked from 10 percent to 30 percent' betrays the fact that it was not entirely new. Or, it could be considered as being within the thematic agitation of 10 percent for host communities.

It is also clearly deducible that while no encumbrances were tied to the frontier exploration fund, the three percent charged on the annual operational expenses of multinational oil



companies in the host communities of the Niger Delta is not only to be paid into a trust fund which the communities have no control over, it is also to cover all manner of third party criminal activities. These are in the garb of oil theft, vandalism and sabotage which are inevitable and rampant in the region. The danger in this is that it will make no meaningful impact on the lives of the communities because of a motley of diverse militant groups which are not subject to communal control. In the light of these, dovish stakeholders like Mike Emuh, Chair of Host Communities of Nigeria (HOSTCON) had called for the reduction of the frontier basin exploration fund to 10 percent while the provision which seeks to make host communities liable for any damage to infrastructure should be struck out (Akpan, 2021, p. 12). For Mailafia (2021, p. 17), 30 percent of NNPC limited profit for exploration activities was way too high. 20 percent would have been adequate.

But, for the hawks, 30 percent is provocative and indicative of the exposition of what had been happening for decades on the sterile oil fields in the north (Vanguard, 2021, p. 18). However the hype being made of the exploration fund has been largely de-shined in the sense that the term "frontier basins" are all over the Country and thus not restricted to the north. They are merely new acreages being sought to be worked upon to increase the national reserves.

And more critically, exploration is a business that is hinged on a cost-benefit analysis of a given field or prospect. No investor can be easily manipulated or cajoled into working a field or basin without the sure prospect of finding oil in commercial quantity. And given the empirical evidence that most of the northern fields had been worked upon unsuccessfully in the past, the concept of frontier exploration ought not to constitute a nightmare (Amaize et al., 2021, p. 10–12).

Legal drawbacks of the Act

Perhaps the worst drawback in the provisions of the new law is the monopoly that was created for only oil refiners to hold import licenses for refined products to the exclusion of other commercial entities (Esiedesa, 2021, p. 7). The motive of the restriction is to deny a level playing field and disentitle concerns other than refineries from importing petroleum products. The issue is: How many oil refineries in the country are able to meet the energy needs of a nation of 200 million? The national refineries in Warri, Kaduna and have never been unable to refine a drop of fuel in recent times. They have become moribund with several failed 'turnaround maintenance' attempts that gulped billions.

The Dangote refinery has come upstream with the decision of the Federal government to acquire 20 percent of its equity. But monopoly would be enacted for it by the Act. The passage of the Act has reinforced the belief that the country is no more than a 'fossil fuel economy' without any aspiration to develop beyond a rent and clientele economy (Fasan, 2021, p. 16). This prebendal clientelism stresses the fraudulent use of national resources by politicians to engage in practices such as pseudo privatization of national enterprises. It also involves the clandestine giveaway of oil blocs to bestow favor, benefits and privileges on specific elitist petty-bourgeois capitalists in order to consolidate their material aggrandizement and political grip on state power (Dibua, 2012, pp. 314 & 317).

Furthermore, the agitation for 10 percent for host communities that has culminated in the law with three percent had always been viewed with a hostile disposition from the north



(Olukoju, 2012, p. 33). Attempts at making the host communities of the Niger Delta develop through their mineral endowment have always been scuttled and misinterpreted by the northern oligarchy. They become paranoid whenever issues concerning resource control benefits are raised. Agitations in the direction are viewed as revolutionist or ‘coup strategies’ aimed at increasing the ‘weight and relevance’ of the states and the regions against those of the Federal government. These are in order to gradually pave the way for separation, de-amalgamation and disintegration of the Federal Republic of Nigeria.

To deconstruct Abdul-Azeez Sulaiman (cited in Kumolu, 2021, pp. 37 – 38) the cultured north would not support legislation that seeks to transfer economic power away from the center to the zones or communities using legislative subterfuges as a means of political and economic ascendancy. The ‘cultured north’ believes that the country has been driven to the precipice by ‘authors of mindless violence and separatism’ who seek to use the legislative alternative to continue and actualize ‘what their fathers started’ but could not finish before 1966 by Adaka Boro, in 1966 by Odumegwu Ojukwu, and by Ken Saro Wiwa in the 1990s.

The ‘cultured north’ can hardly be floored in its perception of the three percent provision in the law. This is as a result of previous legislative, institutional and administrative measures which have been put in place to address the minority and marginalization questions of the Delta to no avail. 13 percent derivation had been granted in the past, leading to the State Oil Mineral Development Authorities in the nine oil-producing states of the Federation.

At the federal level, the Oil Mineral Production Development Commission had been replaced by the Niger Delta Development Commission, and amnesty was granted to militants. A Ministry of Niger Delta had also been created to address these same issues concerning resource control and allocation. The north may therefore seem justified that to whom 13 percent derivation had been given, a commission has been set up. An amnesty program has been granted, and a regional ministry has been created. 10 percent for host communities would appear as one too many a request, and they might just decide to scuttle it by agreeing to a pittance of three percent and tying it to onerous and nebulous conditions while giving away 30 percent of the profit of the national oil company, NNPC Ltd, to itself since it has the leverage to grant or decline to grant.

If all the above avenues have been used to address the agitations of the oil-producing states and Communities and respite has not been found by them through the avenues, 10 percent host community trust fund may neither fob off the militant agitations nor bring them to bail. The impression being created in the region, and which has been difficult to erase is that the funds being channeled through these Institutions, Agencies, Programmes, Commissions and Ministries have not found expression in physical, infrastructural development of the region (Unumen, 2012, pp. 64 – 65). They have either been diverted, stolen or misappropriated. In fact, the desire to put its foot down to pass the Act was not actuated by altruism of the Buhari administration for the south. It was rather for the north. The Administration may have taken a hard look at the historical opportunity it had to make the legislative decision and put its knife on the ice to break the jinx in northern favour.

It is because the Jonathan administration had had all the opportunity to pass the bill into law in favor of the region from which he hailed but failed to actualize the dream that motivated the Buhari administration to do so. If, therefore, the Buhari administration had failed to pass the bill into law before leaving office in 2023, chances would be that the next administration



would become an opportunity for a 'southern' president to take over the ball in the game of the consideration of the bill. It was one law that was needed but was stymied by political considerations of the north, the bourgeois petro-state, the multinationals and the petty-bourgeois national oil companies (Okoro, 2020).

It has been stated frontally by multinational oil companies that they are not in business for the development of the oil communities; that the business of the development of the host communities falls within the province of the government. Therefore, the act of releasing three percent of their annual expenditure into a host community trust fund is not entirely one of goodwill and cheers. But it is necessitated by economic considerations and the desire to have relative peace in the environment of business. They also do not want to be involved in any line of activities that are capable of inducing strong linkages in the economic development of the oil sector. The core value of the host communities to the multinationals is relative peace to mine oil and gas and take them abroad to their refineries to meet their domestic energy needs. What trickles back into the country and host communities as imported products are finished for conspicuous consumption!

OBSERVABLE REACTIONS

The mixed reactions that have greeted the passage of the bill into law are abnormal, indicating that the hawks are justified that the original aspiration of the agitators for the law to enable host communities to administer a 10 percent equity share has been dashed. The doves have always been the section working in tandem with state institutions and multinationals. They have always grabbed at the crumbs that fall from the tables of the state and multinational and national bourgeois oil companies in the form of contracts that are poorly executed or menial jobs and social benefits. Given the history of militant agitations in the region, it is not hoped that it will abate. It is equally not hoped that it is the way to go because the previous agitators ended as glorified self-seeking billionaire thugs without ideological briefs or depth. The hope that militancy in the creeks will engender development in the Delta has been lost. When the Obasanjo administration characterized them as criminals and thieves in the guise of advocacy of the betterment of the people of the Delta, the statement was hardly considered charitable. After many years, these agitators, in the likes of Tompolo, Boyloaf, Asari Dokubo and Tom Ateke, etc., have moved on in self-glorification. The region they claimed they were fighting for has remained backward without any hope of the people believing in their genre of militancy again.

The representatives of the region in the state governments and the National Assembly have also been divided against themselves. There is no hope of a common front in the agitation for the region in the future, the Act having made provision for a paltry three percent. The conduct of the region's representatives in the Federal executive was most uninspiring. The fact that several instruments and agencies had been put in place to impact positively on the region in the past to not much avail also signifies that the region has a long way to go before there can be overall improvement in its socio-economic development.

The grouse that has greeted the 30 percent provision for the frontier exploration fund from the annual profit of NNPC Ltd. is not entirely misplaced or hyped. It has the ulterior motive of the development of the northern basins in mind to the detriment of the Niger Delta. It can



still be subsumed within the thesis of the desire of the north to use the resources of the Delta to find oil in the north and develop the same to catch up with the south. But bearing in mind that all previous efforts at finding oil in commercial quantities in the northern basins had proved abortive should not kill the initiative. Although it is not uncommon for such funds to be diverted, stolen or misappropriated, corruption has gained roots in the structural fabrics of the nation. But it must not be the reason for un-planning or lack of expansion of exploration and increment of the national reserves.

CONCLUSION

The passage of the Petroleum Industry Act has failed to meet the aspiration of the peoples of the Niger Delta. The provision of 30 percent of the Frontier Exploration Fund is suspicious, and tying the three percent for the host communities fund to third-party work outlay of multinationals or national petty-bourgeois oil companies excluding the NNPC Ltd., is dubious. The restriction of import licenses to only oil refineries is equally uncalled for as it is restrictive to commerce. The passage of the Act may trigger further violent agitation in the creeks of the Niger Delta instead of abetting it and may call for further legislative amendment of the Act in the National Assembly.

RECOMMENDATION

- The three percent provision for host communities should be increased to 10 percent.
- The 10 percent should be tied to both the profits of NNPC Ltd. and the work outlay of both multinational and national petty-bourgeois oil companies.
- The 30 percent provided for the Frontier Exploration Fund from the NNPC Ltd. should be slashed down to 10 percent.
- Instead of resorting to violent militancy and agitation, the people of the Niger Delta can, through their leaders and representatives in the legislative arm, call for the review of the Act through constitutional amendment.

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