THE POLITICAL ECONOMY OF OIL REVENUE ACCOUNTING AND FISCAL ALLOCATION DISPUTES IN NIGERIA'S FOURTH REPUBLIC

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Abstract
Nigeria as a resource-rich country relies hugely on oil revenues for her sustenance. One of the major contentious items in her federal structure is the revenue sharing and allocation formula. Having been the primary issue in her political stability as a nation, none of the formulae evolved at various times in almost six decades of nationhood has gained general acceptability among the federating units. This paper examines how the management of Nigeria's oil revenues has been implicated in the recurring fiscal allocation disputes in the country since the advent of the fourth republic. Relying on the rentier state theory, the paper highlights the various disputes between and among the states, and between the states and the central government. It recommends a revisiting of the law which gives the central government enormous powers, to the detriment of oil-host communities and others who should be direct beneficiaries of Nigeria's oil wealth.

Keywords: politics, economy, oil revenue accounting, fiscal allocation, disputes

Introduction
It borders on stating the obvious to say that crude oil is the mainstay of the Nigerian economy; it has been so for over four decades. This reality has kept the economy almost always confronted with some vagaries, vulnerabilities and vicissitudes. Indeed, most of the times, the forces and factors that determine the prices of the commodity in the international oil market remain esoteric and beyond the ken of even the officialdom. Usually, the quantity sold and revenues earned are mere guesstimates and objects of controversies. These often exposed the economy to swings of 'booms' and 'bursts' that are antithetical to meaningful economic planning and development. (Okeke, 2014, p. 2).

The above clearly brings to the fore the importance of oil to Nigeria, and how this has been responsible for the critical nature of the sector in her economy (Adedipe, 2004; Odularu, 2008; Akinlo, 2012; Igberaese, 2013). Given the importance, vagaries and controversies associated with oil production and use, most oil-producing countries are faced with crises that border on the use of the huge resources accruable from the product. Over the years, Nigeria has had to face series of crises in the oil industry as a result of the nebulous and opaque manner in which oil wealth is utilized. In the immediate aftermath of Nigeria's return to democratic rule after about three decades of military rule, there was serious agitation by stakeholders in the oil sector – host communities, government and oil companies for proper revenue accounting.

Being the mainstay of the Nigerian economy, diverse issues of interest to both scholars and government have been discussed in terms of the importance of oil to the Nigerian economy. Writers on Nigeria's oil wealth management and violent conflicts (HRW, 1999; Ibeanu, 2002a; 2002b; Douglas, 2004; Joab-Peterside, 2005; Aaron, 2006; Omeje, 2006; Ghazvinian, 2007; Ibaba, 2008; Basedau & Lay, 2009; Oche, 2009; Wakili, 2009; Ibaba & John, 2009; Watts & Ibaba, 2011), allude to alienation, ethnicity, environmental degradation and oil-related crimes in the Niger Delta, as the causes of conflict. Writers on the effect of oil wealth (mis)management on state-citizen relations (Ross, 2001b; Hartzok, 2004; Watts, 2005; Collier & Hoeffler, 2005; Ikelegbe, 2005; Sandbakken, 2006; Ukiwo, 2007; Ibaba, 2008; Okonta, 2008; Onigbinde, 2008; Obi, 2009a, 2009b; Olu-Adeyemi, 2010), see the vast rent from foreign sources independent of the society and economy to lead to authoritarian regimes. Writers on the relationship between replacement of domestic tax revenues with expatriates' production of oil rents and development (Obi, 1997; Hutchful, 1998; Nwankwo, 2007; Omeje, 2007a; Fagbadebo, 2007; Onigbinde, 2008; Olarinmoye, 2008; Akinyosoye, 2009; Adiele, 2009; Mahler, 2010; Thurber *et. al.,* 2010; Anugwom, 2011; Eze, 2011), focus on uneven mineral-based development. Writers on rentier resources control and conflict in Nigeria (Danjuma, 1994; Etekpe, 2007; Izeze, 2012; Ikelegbe, 2005; 2008; Madubuike, 2008; Dode, 2008; Obi, 2010; Chukwuemeka & Amobi, 2011; Bassey & Akpan, 2012), focus on revenue accounting formula and correct revenue and expenditure accounting. However, this paper examines how the management of Nigeria's oil revenues has been implicated in the recurring fiscal allocation disputes in the country between 1999 and 2015. It tests the hypothesis to ascertain whether the centralization of oil revenue accounting in the Federal Government generated fiscal allocation disputes in Nigeria.

Specifically, it focuses on finding out whether the reliance on the Federal Government institutions for production and sales figures; federal control of oil revenue institutions; remittance of oil revenue earnings into the federation account; and Federal Government management of excess crude fund generated recurring allocation disputes between federal and state governments; derivation disputes between the Federal Government and oil-producing states; excess crude disputes between federating units; and management of local government disputes between federal and state governments.

Theoretical Framework

This paper is premised on the theoretical postulations of the rentier state. Mahdavi (1970) is credited with the original conceptualization of the theory in his discourse of the patterns and problems of economic development of oil-producing states in the Middle East, especially Iran. The concept conveys the notion of state dependence on external sources of unearned income, which weakens the state's ability to be accountable to its citizens and inversely creates a lack of pressure from the citizens for democratic change. Thus, a state relies on external factors and sources for what it earns and does not bother its citizens for taxes; equally, the citizens do not task the government in its inability to perform and govern effectively through the provision of relevant amenities for the polity. The theory has gained popular currency as the most influential theoretical model in explicating the absence of, and resultant expectations of democracy in resource-rich developing countries. Thus, it has systematically linked the polity (structure), the politics (process) and the policy (outcome) of a political system to its income base (Beblawi, 1987; Beblawi & Luciani, 1987; Gary & Karl, 2003; Ross, 2004; Sandbakken, 2006; Di-John, 2007; Obi, 2010).

The focus of the theory is on the effects of natural resource abundance on the nature of political regimes and their relationship with their citizens. The basic logic of oil rentierism follows that natural resource abundance leads to great wealth derived from resource rents. This rent wealth has foreign sources and accrues directly to the state. Because the state has vast amounts of wealth independent of the domestic economy, it is not accountable to its own society, which leads to authoritarian political regimes (Omeje, 2007). Thus, the rentier state is one that, based on the nature of its political economy, is largely dependent on extractive resource rents, taxes and royalties paid by trans-national companies, and on profits from its equity stakes in transnational companies' investments (Mahdavi, 1970; Forrest, 1993; Karl, 1997). Rentier states are therefore significantly shaped by a combination of colonial legacy in the state structure and the luxury of natural resource revenues otherwise called the 'rentier largesse' (Omeje, 2010, p. 8). To a great extent, the extractive nature and primary commodity centeredness of most rentier economies were foisted during colonial history and extended in the post-colonial dispensation. And post-colonial Nigeria has received all these attributes to the hilt.

According to Omeje (2010, pp. 8-9), rentierism in many low-income extractive economies produces predatory hegemonic elite (the rentier elite) and a convoluted culture of accumulation and politics. Because rentier accumulation thrives on large and continuous inflow of external capital earned from non-productive investments (for example oil and gas exploitation), the phenomenon often displaces other sectors of the export economy (like agriculture and manufacturing). Thus, within this rentier mentality, rewards and wealth in the rentier class are regarded as the result of rent opportunities (Yates, 1996, p. 22). This is why rentier states are particularly vulnerable to the problems of patronage and corruption, as well as bribery and nepotism (Sandbakken, 2006, p. 138).

The theory characterizes the rentier states as those states whose political economy is anchored on the "sharing of a produce or natural stock of wealth without contributing to it" (Beblawi & Luciani, 1987, p. 41). This view correctly exemplifies the Nigerian situation as oil accounts for

more than 90% of national export earnings and 80% of state revenues (Budina & van Wijnbergen, 2010). Thus, Beblawi & Luciani (1987, p. 18) give the basic principles of rentierism which are that every economy has a certain level of rent, but in the rentier state, the rent situation predominates and the rents come from abroad; rentier states do not rely on taxation for income; thus, they are released from democratic obligations, and this leaves very little room for democratic opposition; only a few are engaged in the generation of this rent (wealth), the majority being only involved in its distribution or utilization; and the rents accrue directly to the government, giving it the opportunity to utilize the oil revenue in placating and repressing its population.

For our analysis in this paper, the rentier state theory explains the problems that have bedeviled the Nigerian oil sector and the inexplicable unaccountability and sharing formula that has been responsible for the disputes in the polity in the fourth republic. It becomes more pertinent given the enormous revenues that have accrued to the Nigerian State over the past five decades and for which a lot has been expected of her to no avail.

Federal Government Control of Oil Revenue Accounting Institutions

The debate on resource control as it relates to oil and natural gas derived its ideological impetus from the activities of the Movement for the Survival of Ogoni People (MOSOP), founded by Ken Saro-Wiwa, who attracted international attention to the plight of the people of the Niger Delta by putting Shell Petroleum Development Company and the Federal Government on the court of international public opinion as it relates to environmental pollution of the area.

This quest for proper control of the resources has seen the Federal Government viewing advocates of resource control with suspicion and as unnecessary distraction that must be crushed. Indeed, the call for the resource control is seen as a call for the break-up of Nigeria because for government, it smacks of separatist tendencies. The Federal Government does not favour dialogue in this matter although her agents feign preference for dialogue and peaceful resolution of the impasse. Thus, the stick approach of the government to the resolution of the resource control question has merely escalated the issue over the years. In effect:

Oil production gives rise to contradictions at different levels of society, between the state and the oil-producing minorities, amongst the oil-producing communities, between the elite and masses of the oil-producing communities, between the state and the oil majors, between the oil majors and the local producing minorities, and amongst the oil majors. (Agbu, 2000, pp. 104-105).

Further, Agbu (2000) notes that in Nigeria, the relationship between the State and any oil-producing community is both ambiguous and conflictual. The State is looked upon to ameliorate the harsh living conditions of the people, but is also seen as a collaborator of the oil companies with the immediate interest of maintaining its relationship with the companies and enhancing their exploitation and degradation of the oil-rich region.

According to Campbell (2010, p. 76), in Nigeria, "at least 90% of the profits from oil above a certain threshold go directly to the State. Almost all oil company activities on land are joint

ventures or production-sharing contracts with the government-owned Nigerian National Petroleum Corporation (NNPC)". In joint ventures, NNPC is responsible for supplying its share of capital for the oil production. Off-shore operations are usually managed through production-sharing contracts between a private oil company and NNPC. Under this arrangement, oil companies carry all of the costs of exploitation and production. Once they have recovered their costs, production profits are shared with the NNPC. Under both arrangements, the oil companies pay royalties and taxes.

Nigeria operates a federal system with three tiers of government – the Federal, State and Local Governments, with the Federal Government vested with the ownership of land and petroleum resources. Petroleum exploitation has mainly been carried out by transnational companies that operate joint ventures with the Federal Government. With this arrangement, oil and gas revenues and taxes are paid to the Federal Government. A system of revenue sharing exists whereby the Federal Government transfers some petroleum revenues to all the 36 states and 774 Local Government Councils. Under the arrangement, 13% of petroleum revenues as derivation fund is paid to oil-producing states as stipulated by the 1999 Constitution. However, the fate of revenues and the derivation fund has continued to be a source of controversy and tension between the Federal and State governments.

According to Osuoka (2007), it is true that there is a Federation Account which exists to which oil and gas revenues are paid with a revenue sharing formula existing as follows: Federal Government: 52.68%; States: 26.72%; and Local Governments: 20.60%. What is not generally understood is that the funds distributed among the different tiers of government are based on the annual federal budget's estimate for the price of oil. With oil prices considerably higher than the budgeted price, funds distributed, including the derivation fund becomes considerably less than what is due them.

There has been a lot of controversy over Federal Government withdrawals from the excess crude account. While the Federal Government pushes arguments to justify its retention and management of the excess crude account, the oil-producing states also claim that they are short-changed by the Federal Government. The situation over the years is that the Federal Government, through various laws that are non-democratic in nature, have taken over the oil revenue issues in such a way that every accrual from the oil wealth goes into the coffers of government, with the Federal Government controlling the production and sales figures, the agencies that deal directly with the MNCs, and all the agencies that are involved with the accounts of oil wealth in the country (Omoweh, 2006). This has left a disillusioned oil host communities that have engaged government in debates and disputes over the management of the oil wealth accruals, to the extent of some states going to court. Since 1999, there have been various court cases against the Federal Government on the allocations to the Local Governments and the control of such allocations. These developments have ensured that the polity had continuously been heated up as those who feel short-changed keep looking for ways to get back what they have lost, and in the process, the citizens tend to engage in wanton criminality in order to make up for losses.

The On-Shore/Off-Shore Dichotomy Derivation Disputes

The famous on-shore/off-shore dichotomy issue rocked the Nigerian political realm immediately after the resumption of civilian rule in 1999. The issue was a game of muscle-flexing between President Obasanjo and the Governors of the nine oil-producing states over the actual quantum of Naira that the 13% derivation as contained in the 1999 Constitution translated to. While the Governors claimed entitlement to 13% of proceeds from total crude oil and gas production, the President insisted on applying the derivation formula based on onshore production only, which he estimated to about 60% of total production. Using the Petroleum Act 1969 which gave the Federal Government control over all land in Nigeria, including land covered by water; or is under the territorial waters of Nigeria; or forms part of the continental shelves; or forms part of the Exclusive Economic Zone of Nigeria; the support to this computation was that offshore oil belongs to the Federal Government and not the states. Therefore, oil-producing states cannot derive any extra income from this offshore production to which they have no title in the first place. This is because the Federal Government has always dominated political, economic and fiscal matters since independence.

According to Iwuji (2003), the Federal Government's dominance in political, economic and fiscal matters in Nigeria today arose from independence. Nigeria was initially a unitary state, sharing no power – fiscal, economic or political – with any constituent units. The colonial regions were only administrative units and their Assemblies merely deliberative and advisory bodies. They were no power sharers. Revenue allocation was unheard of, how much more of a derivative principle. Towards Independence, however, the outgoing colonial power, influenced by majority clamour of the political class of the country, introduced federalism, by which the former regions became federal states, sharing power with the colonial central, which now transformed into the Federal Government based in Lagos. Revenue allocation, dominated by the principle of derivation, commenced. The colonial Minerals Ordinance (now Act) which regulated all mineral exploitation in Nigeria, including the new petroleum and gas, hitherto vested in the colonial Central Government, continued to vest exclusively in the new Federal Government, which had to make annual allocations of revenue to the new states based on a percentage derivative principle. The long military rule that commenced in 1966, while creating more mere 'phantom political' states, in substance moved towards a unitary rule, in conformity with the unified command structure of the Military Establishment, by which Military Governors/Administrators of the states were only regarded as military postings, with no freedom and power to pursue independent federal political, economic and fiscal lines. Thus was systematically destroyed the concept of fiscal and economic federalism in Nigeria and was the case till the end of military rule in 1999. With this development, the oil-producing states started agitating for a better deal under the Federal structure presently in place in Nigeria.

In 2002, President Obasanjo asked the then Attorney General of the Federation, Chief Bola Ige, to file a suit at the Supreme Court asking for a declaration of what constituted the seaward boundary of a littoral state, for the purpose of determining derivation arising from income that

Federal Government gets from natural resources within that state. This was solely for the purpose of determining 13% derivation as provided for in Section 162 of the 1999 constitution.

The legal issues in the onshore/offshore dichotomy case were to determine the procedure for making provision for the formula for distributing the amount standing to the credit of the Federation Account pursuant to Section 162 of the Constitution; the moment in time do the State Governments become entitled to receive their share of the amount standing to the credit of the Federation Account; what provision should be applied to the distribution of the amount; the legal basis for the Supreme Court to make an order against the Plaintiff for an account of moneys in the Federation Account; the competence for any Defendant to counter-claim for a relief which raises the same or substantially the same question or questions which arise in the Plaintiff's action; the legality of the Federal Government to appropriate 1% of the amount in the Federation Account to the Federal Capital Territory (FCT); the legality to deduct moneys from the Federation Account to service or pay debts owed by the Federal Government; the legality for moneys intended for Local Governments or for purposes of primary education to be paid to any person on authority other than the State Government; and the legality of the Supreme Court to have jurisdiction to grant a declaration. The Supreme Court gave the verdict, affirming that the boundaries of such states remain the sea boundary or the shoreline; meaning that those oil wells inside the sea do not belong to any of the littoral states. This resulted in serious political crisis.

Thus, in 2004, President Obasanjo set up a committee to find a political solution in resolving the agitation, which resulted in the National Assembly's *Abolition of Dichotomy in the Application of the Principles of Derivation Act 2004,* paving the way for paying oil-producing states for oil taken from as far as 200 feet isobaths. The Act abolished on-shore/off-shore dichotomy, meaning that the oil wells within Lagos and inside the sea, 200 nautical miles from Lagos State boundary, all belong to Lagos State for purposes of calculating 13% derivation. This gave more money to the littoral states, and did not go down well with the northern counterparts who cried about financial marginalization.

The cry of marginalization by the North was hinged on the fact that President Musa Yar'Adua had created the Ministry of Niger Delta in 2008 when there was already the Niger Delta Development Commission (NDDC), which were all geared towards the development of the oil-rich region, and in order to assuage the anger of the militants who had ensured that the Nigerian oil sector was producing little oil. Even the little produced was being siphoned away through oil pipeline vandalizations. Moreover, the Petroleum Industry Bill which also recommended that after the sale of oil, 25% of the proceeds should go to the host communities. With the Nigerian Senate discovering that 60% of the major projects in Nigeria were within the Niger Delta, the Northern Governors started agitating as each month, Rivers and Bayelsa collect about ₦30 to ₦40 billion while Sokoto, Katsina and Kaduna collect ₦6 to ₦7 billion only (Alli, 2012). Thus, the North set out for a long-drawn battle for the review of the controversial on-shore/off-shore oil revenue with the Chairman of Northern States Governors' Forum and Governor of Niger State, Babangida Aliyu, declaring that contrary to the view in some quarters, the issue was far

from settled. The littoral states lost at the Supreme Court, but the Federal Government merely won the legal battle, but not the peace, bringing about the recourse to political resolution of the impasse.

Oil Wells Disputes among Oil-Producing States in Nigeria

Disputes over oil wells among oil-producing states and between these and the Federal Government become a recurring scenario since 1999. The issue of who gets the 13% derivation has been part of the discourse. States in the South-East like Abia and Imo have been agitating over their status as oil-producing states and the need to get what the other oil-producing states are getting.

Abia State vs Rivers State Oil Wells Dispute

Abia State went to the Supreme Court to get judgment on the oil wells taken away from her and given to Rivers State, and on Friday, 9 January 2009, the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) decided in favour of Abia State on the case of 22 oil wells that were hitherto in contention with Rivers State, bringing to 68, the total number of oil wells that have been ceded to Abia State after erroneous judgments based on the whims and caprices of former President Obasanjo.

Rivers State vs Akwa-Ibom State Oil Wells Dispute

Rivers and Akwa Ibom states wanted an interpretation and re-allocation of oil wells that had been in contention. The Supreme Court on Friday 18 March 2011 gave judgment ordering Akwa Ibom to transfer to Rivers 86 oil wells with revenues which accrued from the wells beginning from April 2009, together with 8% annual interest (*www.nigerialawreports.com/).* This has had a telling effect on the economy of the affected state.

Akwa-Ibom vs Cross River State Oil Wells Dispute

Akwa Ibom and Cross River states wanted to determine ownership of about 76 oil wells. The Supreme Court judgment of July 10 2012 was that the said oil wells belonged to Akwa Ibom, and that Cross River should be excluded from the littoral states with the implementation of the Green Tree Agreement between Cameroon and Nigeria on the disputed Bakassi Peninsula, and therefore not entitled to 76 oil wells which lie offshore as they were no longer in its maritime territory.

Despite the Supreme Court judgment, there is still a lot of squabbling going on between the two sister-states, with Akwa-Ibom asking for ₦15.5 billion, being the 13% derivation that ought to have been paid to the state from November 2009 to 10 March 2010, which is a huge blow to a major source of funding for the development of the state.

Enugu-Anambra-Kogi States Oil Wells Dispute

The location of Orient Petroleum refinery at Aguleri Anambra State brought about a gradual build-up of tension between Enugu, Anambra and Kogi states. While there are claims and counter-claims as to the owners of the land where the oil deposits were discovered, a twist had

come into the matter as people of Ibaji in Kogi State and parts of Enugu State are claiming ownership of the oil deposit, the people of Umueri have taken up the owners of Orient Petroleum over comments that the land where the refinery was sited belongs to Nsugbe people (Ekpone & Odogwu, 2013). In an earlier report, it was noted that the battle over who owned the oil wells between Enugu and Kogi states has continued to heighten tension in Anambra State. Since President Jonathan declared Anambra State as the tenth oil-producing state in the country, neither Enugu nor Kogi states has rested, as they continue to claim joint ownership of the oil wells. On Wednesday (20 September 2012), the Arewa Consultative Forum (ACF) made a statement in support of Kogi State on the matter. But the traditional ruler of the host community (Aguleri), Igwe Christopher Idigo, has warned the two states that nobody had the monopoly of violence in this country. (Onu, 2012, p. 61).

Rivers State vs Bayelsa State Oil Wells Dispute

In October 2012, a hitherto simmering dispute blew up between Rivers and Bayelsa states over the ownership of five oil wells in Soku and Elem-Sangama communities. The Rivers State government, traditional chiefs, youths, women and men of Kalabari Kingdom had taken to the streets in protest over the alleged ceding of some parts of Akuku-Toru Local Government Area of Rivers State to Bayelsa State. They added that President Jonathan aided his native state of Bayelsa to corner ₦17 billion accruable to Rivers from the oil revenue, an allegation described by the RMAFC as baseless. But Governor Dickson of Bayelsa State seemed to be relying on the 11th edition of the administrative map of Nigeria which gave Bayelsa the oil wells.

However, tracing the genesis of the boundary dispute between the two states, Rivers State Deputy Governor, Tele Ikuru said that the problem started when the National Boundary Commission and RMAFC tactically ceded about 80% of the oil and gas bearing communities and settlements in Akuku Toru Local Government area to the old Brass Division in Nembe, Bayelsa State by shifting the boundary demarcating Degema Division from the old Brass Division to River Sombreiro, in the 12th provisional edition of the Administrative map of Nigeria. This was denied by the Chairman of RMAFC, Elias Mbam. Noting that the Commission relied on the decisions of the Presidential Committee on Verification of Oil Wells of 2000 to do its work, he stated:

The Commission does not act in isolation without reference to other relevant government agencies at all levels of government. Indeed, the Commission does not, on its own, generate data, demarcate boundaries or attribute oil wells to any state. Rather, it relies on data or information from relevant government agencies, including the Department of Petroleum Resources, the National Boundary Commission and the office of the Surveyor-General of the Federation. It is not the responsibility of the RMAFC to adjust boundaries or determine location of oil wells. The allegation against the Commission is therefore, baseless, false and misleading (Mbam, 2012).

In all, at least seven states are presently battling their neighbours over ownership of oil wells located in contiguous areas, showing how unproductive Governors and States have become on wealth creation and a foretaste of the crisis that would engulf Nigeria should the oil wells dry

up. The oil wells face-off later dove-tailed into a personal feud between Governor Amaechi of Rivers State and President Jonathan, and was majorly responsible for tearing the ruling PDP apart, thus giving way to a staunch opposition spearheaded by Amaechi and others. Even the Nigerian Governors' Forum (NGF), which the former headed, was polarized as a result.

Recurring Allocation Disputes between Federal and State Governments

The issue of revenue sharing, which has been generating heated public debate, remains a constant feature of discourse in Nigerian nationhood, and had been there even before independence. According to Uche & Uche (2004),

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. (Uche & Uche, 2004, p. 6).

The sharing of proceeds from natural endowment, though not from exploration by host communities, has weakened development of other natural resources by the citizenry, as the desire is to partake in the national cake. It was in view of the persistent grievances by federating entities that several *ad-hoc* bodies were assigned to fashion out equitable sharing formula for economic empowerment and peaceful coexistence. Reports of some of these panels were implemented, some halfway while others were dumped in the archives. Notable reports were received from Raisman Commission (1958), Aboyade Technical Committee (1977), Okigbo Panel (1979) and National Revenue Mobilisation Allocation and Fiscal Commission (1992).

On the inception of the new democratic dispensation, after several years of civil rule, the 1999 Constitution was very explicit on the issue of revenue sharing with Section 162(2) states: 'The President upon the receipt of advice from the Revenue Mobilisation Allocation and Fiscal Commission, shall table before the National assembly proposals for revenue allocation from the Federation Account… provided the principle of derivation shall be constitutionally reflected in any approved formula as not less than 13% of revenue accruing to the Federation Account directly from any natural resources'. Also the Third Schedule of the same Constitution empowers the Commission to '…review from time to time the revenue allocation formulae and principles in operation to ensure conformity with changing realities'.

It was in view of the above constitutional provision that on its inauguration in September 1999, the Hamman Tukur-led RMAFC earnestly started the process of devising a new revenue formula by undertaking a study of relevant literatures and experiences of other federations. This

was followed by publicized request for public memoranda from the stakeholders, interested groups and general public for necessary inputs towards achieving maximum public participation. It would be necessary to state that the 1992 Revenue Formula, backed by Decree 106 was in place and used into the new era of democracy, but could not address changing realities like the increase in numbers of States (6), Local Government Councils (185) and the constitutional provision that increases derivation principle from 1% to 13%. The formula, which existed for almost ten years, gave Federal Government 48.5%, States 24%, Local Government 20%, and Special Fund 7%. The Special Fund that was managed by Federal Government gave the FCT 1%, Ecological Fund 1%, Stabilization Fund 1.5% and Development of Natural Resources 3%. (Eboh *et al.* 2006; Shuaibu, 2006).

By first quarter of year 2001, the RMAFC had received more than a million pages of memoranda, through tours, visits and submissions from stakeholders at Federal, States and Local Government councils. There were also physical representations where President Obasanjo led the Federal Government delegation for an open interaction with RMAFC to present a case for fair revenue. Similar visits were paid to the Commission by State Governors and Chairmen of Local Government Councils through the then Association of Local Governments of Nigeria (ALGON). Considering enormous lobbying through the written and oral submissions, the Commission had to seek the service of professionals for systematic and scientific analyses of the collated data. The consultants were chosen from reputable academia and credible institutions across the country.
By the time collations were made and analysed, a critical study on constitutional responsibilities of each tier was done to assigned commensurate indices through percentages to the beneficiaries. It was therefore not surprising that it took the Commission almost a whole year to submit its first proposal to President Obasanjo in August 2001, which was subsequently passed to the National Assembly in its original form. That initial proposal gave Federal Government 41.3%, States 31%, Local Governments 16% and Special Fund 11.7%. The Special Fund was subdivided as follows: FCT 1.2%, Ecology 1%, National Reserve Fund 1%, Agric/Solid Mineral Fund 1.5% and Basic Education and Skills Acquisition (BESA) 7% (Shuaibu, 2003). The burden of funding primary education by Local Government councils, which resulted to rampant cases of zero-allocation, necessitated the transfer of that responsibility to BESA for direct funding under Special Fund. That gesture was intended to completely eradicate the zero allocation syndromes.

That proposed revenue formula remained with National Assembly for almost eight months before the Supreme Court verdict of April 2002 on Resource Control nullified the Special Fund in the existing formula, which invariably affected the fate of the pending formula with legislators. Considering this development, there was an urgent need to address the issue to avoid dislocation in the monthly federation account disbursement and to also recall the then new formula to reflect changes as result of the Supreme Court ruling.

While the Commission attempted to devise a temporary measure to avoid unnecessary fiscal vacuum, the Federal Government through an Executive Order, took the initiative by taking over items on Special Fund to manage on behalf of the Federation. Therefore, by May 2002, the share of Federal Government became 56% while States and Local Governments maintained their 24% and 20% respectively. But due to outcry from other tiers, the Federal Government in July 2002 through the Second Executive Order magnanimously ceded 1.32% from its allocation where a new picture emerged with States receiving 24.72% and Local Governments 20.60% while Federal Government receives 54.68% (Shuaibu, 2003).

Since there was an Executive Order as authoritative interim measure which was legalized by a subsequent ruling of Supreme Court, the Commission had to devise another strategy in making sure that the revised formula was fair and just without emotion or sentiments. It therefore withdrew the early submission from National Assembly and asked for fresh inputs from stakeholders and general public on how to apply the Special Fund. The response was also very overwhelming in the sense that, Federal Government representatives led by the Secretary to the Government of the Federation made written and oral submission just as did the states. But regrettably, the Local Government Councils could not make representations because appointees of State Governors have replaced most of their elected officers at the grassroots. Therefore, in the absence of democratic government at the lower tier, the states made case for them.
With the Special Fund, as the new bone of contention, the Commission meticulously re-examined fiscal responsibilities of the various tiers of government and existing revenue allocation system in the country towards revising the formula. It also undertook detailed investigations of various functions of the tiers as enshrined in the Constitution in assigning percentages on responsibilities to respective tiers. It also considered, for just sharing, vertical indices such as population, equality, landmass, social development and internal revenue efforts amongst other important parameters. It therefore took the Commission another hectic and tedious journey in proposing a final revenue formula, which it finally submitted to the President in December 2002 who in turn graciously tabled it to the National Assembly in January 2003. The final formula with the National Assembly since then has given the Federal Government 46.63%, States 33% and Local Governments 20.37%. See table 1 below:

From table 1 below, compared to periods before return to democratic governance in 1999, States and Local Governments now control increased share of the federation revenue which was not the case during the periods of military rule in Nigeria when revenue sharing was heavily distorted because of non-adherence to the constitutional imperatives of fiscal federalism. But currently, States and Local Governments account for about 50% of consolidated public sector spending; and sub-national governments have become increasingly significant in the overall national fiscal profile. However, this has not in any way abated the quest for greater control of resource wealth by oil-producing communities and constituent states in the Nigerian polity.

Some of the features of the revenue formula included the treatment of the FCT as if it were a State and its Area Councils treated like Local Government Councils in the statutory

disbursement. The implementation of derivation funds in the proposal, will involve the participation of host communities and traditional institutions. There is also a compulsory pro-rata contributory fund to address problems that are common and peculiar sources of discontent among the tiers. That fund would be used to fund ecology, technology research, solid mineral development, national reserve and national agricultural development. Apparently, that formula did not go down well with the states as states that are still agitating for more equitable distribution of Nigeria's oil wealth. This is evidenced in the suit filed by Abia, Delta and Lagos States against the Federal Government at the Supreme Court.

Abia, Delta and Lagos States vs Federal Government

Abia, Delta and Lagos States filed a suit against the Federal Government [(SC 99/2005; SC 121/2005; SC 216/2005 (Consolidated)], in respect of some sections of the Constitution of the Federal Republic of Nigeria, 1999 and some sections of the Monitoring of Revenue Allocation to Local Governments Act, 2005. The states were asking for a declaration to the effect that no laws made by the National Assembly can validly direct them or any other State Government to include a Commissioner of the RMAFC as a member of the State Joint Local Government Allocation Committee envisaged by Section 162 of the Constitution, nor validly direct the Joint Local Government Allocation Committee to render monthly returns to the Federation Account Allocation Committee. The Supreme Court, in a judgment on Friday 7 July 2006, ruled in favour of the states, contending that the 1999 Constitution gave them the right to implement laws that affect the Local Governments in their respective states.
(*http://www.nigeria-law.org/Attorney%20General%20of%20Abia%20State%20and%202%20Ors%20V%20Attorney%20General%20of%20the%20Federation%2033%20Ors.htm*).

Lagos State Vs Federal Government

In the case between Lagos State and Federal Government, the Supreme Court Judgment (SC 70/2004) of Friday 10 December 2004 stated that the relief sought by the Federal Government on the status of the 57 Local Government Councils created by the Lagos State House of Assembly and in which elections were held and people voted in as Local Government Chairmen would not stand, as States had the right to create Local Government Councils but cannot be recognized by the Nigerian Constitution until the National Assembly passes an Act to amend Section 3(6) and Part of the First Schedule to the Constitution. The Supreme Court therefore ruled that the said 57 Local Governments should not benefit from the Federation Account. The judgment also stated clearly that the President had no right to withhold the allocations of the original 20 Local Governments.
(*http://www.nigeria-law.org/Attorney-General%20of%20Lagos%20State%20V%20Attorney-General%20of%20the%20Federation.htm*).

On 5 April 2012, the 36 States of the Nigerian federation intensified their push for more money from the Federation Account. Governors raised a committee to strengthen their demand for 42% of the Federation Account revenue, which would mean a drastic reduction of the Federal Government's share. The Governors ratified and adopted wholesale the Fashola Committee's

proposal – Federal Government (35%); States (42%) and Local Governments (23%), as against the current formula of 52%, 26.72% and 20.60% respectively. The communiqué of the meeting, signed by Chairman, Governor Rotimi Amaechi of Rivers State, reads:
The Forum deliberated extensively on the continuing unconstitutional deductions by the Federal Government from the Federation Account in the name of oil subsidy which negates the principles of federalism and budgetary provisions. It noted that despite the increase in pump price of petrol, the quantum of subsidy deduction is still worrisome. The Forum accordingly constituted a Committee to meet with Mr. President… Following briefing by the National Security Adviser, the Forum reiterated the need for closer cooperation between the States and Federal Government in addressing security challenges, noting also the necessity for increased empowerment of the State Governors to perform their role as Chief Security Officers in their respective States… The Forum considered the current revenue allocation formula of the country and reiterated its commitment to its earlier report that proposed, among others, the following revenue allocation formula: Federal 35%, State 42%, and Local Government 23%. (Amaechi, 2012).

The above is one major face-off between the Federal Government and the 36 States that was hinged on revenue allocation. Another was the oil subsidy debacle. As reported by *Daily Trust* (Friday, 13 July 2012), the 36 State Governors decided to seek legal redress at the Supreme Court over illegal funds deductions, including withdrawals for petrol subsidy, by the Federal Government. In a communiqué, the NGF said they would challenge continuing illegal deductions from the Federation Account towards offsetting oil subsidy payments, Excess Crude Account and other unconstitutional withdrawals by the Federal Government. Deduction for petrol subsidy has remained a sticking point in relations between the governors and the Federal Government since 2011. Pressure from the Governors to stop the withdrawals contributed towards the President Jonathan's decision to end petrol subsidy in January 2012 though he had to reverse it after devastating street protests in Lagos and other places.

In another but related scenario, the 36 State Governors dragged the Federal Government before the Supreme Court over plans to transfer $1 billion from the "Excess Crude Account" to a new a new account to be known as the "Sovereign Wealth Fund". They further urged the court to order that all sums standing to the credit of the said 'Excess Crude Account' be secured as the court may deem fit pending the hearing and determination of the substantive suit. The Governors maintained that unless the order of injunction was granted, the Federal Government would continue to disregard, disrespect and ignore the pending suits before the Supreme Court as the Federal Government had nearly depleted the sum of ₦5.51 trillion being the balance on the account as at 2008 when the original case was instituted (*Vanguard* 26 March 2012).
Thus, on 20 September 2012, the NGF dragged President Jonathan to the Supreme Court, seeking legal redress against the Federal Government over what they called 'illegal deductions' from the federation account. The Governors had disclosed that the deductions, which the Federal Government was making, were specifically to offset oil subsidy payments, Excess Crude Account and other unconstitutional withdrawals (*Leadership*, 20 September 2012:23).

Conclusion

We set out in this paper to critically appraise how the management of Nigeria's oil revenues has been implicated in the recurring fiscal allocation disputes in the country since 1999. The major focus was to ascertain whether the centralization of oil revenue accounting in the Federal Government generated fiscal allocation disputes in Nigeria; and specifically, whether the reliance on the Federal Government institutions for production and sales figures; federal control of oil revenue institutions; remittance of oil revenue earnings into the federation account; central management of excess crude fund generated recurring allocation disputes between federal and state governments; derivation disputes between Federal Government and oil-producing states; excess crude disputes between federating units; and management of local government disputes between federal and state governments.

From the above analysis, the principle of rentierism which states that the oil rents accrue directly to the government, giving it the opportunity to utilize the oil revenue in placating and repressing its population, played out. We discovered that there is total reliance on the Federal Government institutions for production and sales figures; the Federal Government controls all oil revenue institutions; remittance of oil revenue earnings go directly into the Federation Account and the Federal Government manages the Excess Crude Fund. In all, the Federal Government collected, recorded and determined the Federation Account in a process that is opaque, non-transparent, and open to manipulation even before revenue sharing among the three tiers of government and the host communities. This has engendered disputes and quarrels and several walk-outs in protest at the Federal Government's meddling with funds meant for the entire country. It has resulted in recurring allocation disputes between Federal Government and State governments; resurgence of the once-laid-to-rest on-shore/off-shore dichotomy; derivation disputes between Federal Government and oil-producing states; excess crude disputes between Federal Government and States, and management of Local Government disputes between Federal Government and State governments.

Moreover, the manner of allocation of the oil wealth has been responsible for a lot of court cases and disputes that have not helped the Nigerian economy and polity to grow; in fact, they have led to a less peaceful Nigerian polity. The procedure for oil revenue accounting at the federal level generated fiscal allocation disputes between Lagos State and the Federal Government that had to be settled at the Supreme Court with a lot of bad blood generated within the period that is yet to heal; ownership of oil wells disputes between neighbours Akwa-Ibom and Cross River, and between Rivers and Bayelsa states; ownership of oil wells disputes between oil-producing states (Abia, Delta, Akwa Ibom, Rivers, Bayelsa) and the Federal Government; and the on-shore/off-shore dichotomy case between the Federal Government and the 36 states of the federation. In the light of the above, we reiterate our hypothesis that the procedure for oil revenue accounting at the Federal Government level generated fiscal allocation disputes in Nigeria.

The paper thus recommends the revisiting of the law which gives the central government enormous powers, to the detriment of oil-host communities and others who should be direct beneficiaries of Nigeria's oil wealth. The seemingly concerted efforts by the 7th National Assembly to amend the Nigerian Constitution should be made possible by all the political stakeholders involved so as to ensure equity and fairness in the allocation of oil wealth resources in Nigeria for the good of all parts of the country and for citizens to feel that they are catered for. The manner of the allocation now is skewed to favour a particular section of the country and will continue to yield crises until it is amended.
Secondly, there is urgent need for speedy passage of the Petroleum Industry Bill (PIB), which has touted as the best law to take care of all the teething issues in Nigeria's oil industry and the attendant management, as long as it takes into account all sections of the federation.

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APPENDIX

Table 1: Proposed Revenue Allocation Formula, 1992-2004

		NRMAFC Report and Used 1992-Apr2002 Court nullified	*RMAFC Proposal Submitted in Aug 2001*	*1st Exec Order Presidency May2002*	*2nd Exec Order Presidency July 2002*	*RMAFC Revised Formula Submitted in Dec 2002 but Withdrawn*	*Modified Grant from FMF March 2004*	*RMAFC Revised Formula Submitted to President in Sept. 2004*
Fed. Govt		48.5%	41.3%	56%	54.68%	46.63%	52.68%	53.69%
State Govt		24.0%	31.0%	24%	24.72%	33.00%	26.72%	31.10%
Local Govt		20.0%	16.0%	20%	20.60%	20.37%	20.60%	15. 21%
	Subtotal	***92.5%***	***88.3%***	***100%***	***100%***	***100%***		-
Special Funds						-		-
	FCT Development	1.0%	1.2%	-	-	-		-
	Ecology Fund	2.0%	1.0%	-	-	-		-

	National Reserve Fund	1.5% Stabilisation	1.0%	-	-	-		-
	ASMDF andTR	3.0% DNR	1.5%	-	-	-		-
	BESA		7.0%	-	-	-		-
	Subtotal	***7. 5%***	***11.7%***	-	-	-		-
	Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**

Source: Eboh, E., Omaham, U. & Oduh, M. (2006). "Budget and Public Expenditure across Nigerian States", *BECANS Working Paper 3*, African Institute for Applied Economics. www.yashuaib.com/formula.htm, *6th September.*