

RESOLVING RESOURCE CONFLICT IN NIGERIA: A CASE OF AKWA IBOM AND CROSS RIVER STATES.

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ABSTRACT

The Supreme Court Judgment of June 12, 2012 transferring 76 oil wells to Akwa Ibom State following the litigation by Cross River State, brought to the fore the politics of oil resources. This motivates the study to examining the mechanism for resolving resource conflicts in Nigeria. This paper adopted the historical, descriptive and analytical approach as its method of study and qualitative in nature. The study found that political approach and incorporation of traditional norms and values are preferable as a means of solving socio-economic differences among friendly states rather than resorting to litigation. It concludes such disputes are manifestation weak state reflecting in lack of effective institutional mechanisms for resolving conflicts. The study recommends an inclusive mechanism in resource allocation like in Alaska while conciliation and arbitration method should be adopted at the expense of litigation in line with constitutional provisions as this will gradually demystify statism.

1. INTRODUCTION

The issue of boundary and the administration of resources along the boundary line will for a long time constitute a challenge that the government in Nigeria would have to cope with in order to ensure peaceful coexistence among various ethnic nationalities. The terms "border" and "boundary" are physical in origin. Johnson and Machelsen, (1997) observe in most cases, it has a wider meanings in political and economic geography than "frontiers," which refers to a special case of border used to divide the sovereign limits of adjacent independent according to Guo (2005).

The discovery of oil in 1956 and its exploration in commercial quantity and the unanticipated financial boom derivable from it has largely made the issue of revenue sharing to become a serious challenge since the nation operates a rentier economy. This dream of a better nation is far from been achieved in the face of multidimensional crises largely on account of power sharing and the inability of our leaders to manage the accruing resources in such a way that it will translate socio-economic development since this is still a mirage. Since independence, Nigeria has been moving from one form of crisis to another ranging from political crises and *Agbekoya* in the old western region in 1960s and 1970s, Nigerian civil war, Niger-Delta crisis, ethno communal and religious crises and of late the Boko-Haram insurgency. Sadly, on account of creation of States and Local Government aimed at ensuring even development and alleviating the fear of the minorities, the old minority often turn into new majority and the vicious circle of crises persist.

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The goal of transforming the nation since independence has been governed with high level of mistrust, hatred, acrimony and outright civil disturbance. Some of the pertinent issues include ethnic imbalances, resource allocation, power sharing and unending ethno-religious conflicts. For instance, to address the issue of ethnic imbalances, the Federal Government embarked on creation of States and Local governments so that the ethnic minorities can have a sense of belonging but the goal is still far from being achieved. Same is the experience concerning revenue allocation through the Revenue Mobilization, Allocation and Fiscal Commission, but complaints and dissatisfaction are the order of the day as currently being experienced between Akwa Ibom and Cross River State. This study however believes that the resources in Nigeria are more than enough to equitably take care of the citizenry. The fear of the issue of the seventy six oil wells becoming explosive and thereby adding to the problems of governance in Nigeria motivates this study to search for alternate solution to resolving disputes in respect of resource allocation in Nigeria. As a consequence of the following, this study examined the institutional mechanisms adopted in managing boundary and resource conflicts in Nigeria; examine the implications of the Supreme Court judgment of July 10, 2012 on the relationship of Cross River and Akwa Ibom State; as well as evaluate other mechanisms toward achieving equitable revenue and resource allocation in Nigeria.

2. CONCEPTUAL CLARIFICATION

The difference between a boundary conflict and territorial conflict is that, a boundary conflict is a conflict over a boundary line that as a minimum is defined, or is in the process of being defined, by the parties, by implicit consent or explicit agreement. This means that all stakes and issues leading to disputes and armed conflicts are related to once and somehow agreed upon boundaries. International boundaries are thus sharply defined lines, fixed by nations like fences between their respective properties. However in nature there are no sharply marked boundaries of any sort, only zones of transition (Nordquist, 2002). Territories contestation and conflicts have earned increasing scholarly attention within the social science over the past decades.

Like Holsti, Luard etc, Hensel (1996) also observes that territory has remained a relatively constant source of militarized disputes, although the 1920-1939 (decades of low global economic integration) witnessed the highest percentage of territorial issues in such disputes. Further he expunge that territorial issues are more likely to escalate to produce a greater number of fatalities, and be more conflictual than non-territorial confrontations.

In this regard, preliminary empirical analysis consistently shows that territorial issues that give rise to militarized disputes are more likely to escalate into war than would be expected by chance (Vasquez and Henehan, 2001:123). States and groups have continued to contest territory, often violently; the reasons for a particular attachment have remained obscured like the Ethiopia and Eritrea attachment over the area called Badme.

Hence territoriality defined as territorial states clearly influences conflicts, while it could again be said that territorial attachment in turn is a major determinant of the stakes that actors' particularly, political elites discern in territory. In using these approaches to explain boundary and territorial conflict, one is inclined towards a shift in theory building in helping to explain territorial disputes. Like the Ethiopia-Eritrea border conflict portrays, one is drawn to the conclusion that, territorial explanation of war maintains that territorial issues are a fundamental underlying cause of interstate wars in the modern system since 1495. In other word, territorial issues can be regarded as an underlying as opposed to a proximate, cause of war because they do not directly bring about war in the sense of being a sufficient condition for war. Territorial issues do not make war inevitable- far from it. But Territorial disputes in international law may be divided into different categories. The contention may be over the status of the country itself, which is all the territory comprised in a particular state. Or the dispute may refer to a certain area on the borders of two or more states. Examples are the areas of Bakassi Peninsular, a contested area between Nigeria and Cameroon, and Badme and its region, the basis for the dispute between Ethiopia and Eritrea.

Similarly claims to territory may be based on a number of different grounds, ranging from the traditional method of occupation or prescription to the newer concepts such as self determination with various political and legal factors, for example geographical contiguity, historical demands and economic elements possibly being relevant (Shaw, 1999: 334). This to an extent tends to explain the Ethiopia – Eritrea dispute over the imprecisely demarcated colonial boundary. But this explanation is not sufficient enough to understand and explain the boundary conflict (between Ethiopia and Eritrea), because, aside the traditional method of occupation or prescription and historical demands, the said territory does not have strategic or economic importance. As a result his study adopts a fourth approach: Border disputes often flare up after they become linked within important economic or social interests. Disputed territories may contain important natural resources, such as hydrocarbon, mineral reserves, or water sources; provide access to the sea or shared terrestrial resources, such as grazing areas; or be a strategic location. Such areas also may be subject to irredentist claims based on historical or cultural factors or demands for self-determination by their inhabitants. Competition for contested or shared resources has become more intense in recent years due to economic developments, such as higher commodity prices, and environmental changes, such as overutilization of agricultural land, overgrazing, and desertification, as well as regional and global climate change. It is unlikely that increasing stresses among states resulting from these factors can be successfully resolved using traditional legal methods, particularly adjudication. (The Carter Center, 2010: vi).

3. THEORETICAL FRAMEWORK

Many theoretical frameworks have been propounded on issues relating to dispute or conflict. Among such is the frustration-aggression theory propounded associates in 1939. Another one is the systemic theory based on the pioneering work of David Easton in the field of political science. For the purpose of this study, territorial and the need theory are adopted. Territory is largely viewed as an attribute of sovereignty. Shaw, (1999:331) asserts that the state relies upon the foundation of sovereignty which expresses internally the supremacy of the governmental institutions and externally the supremacy of the state as a legal person. He submits that sovereignty itself, with its retinue of legal right and duties is founded upon the fact of territory. Therefore, without territory a legal person cannot be a state. This explains the contention between the Cross River and Akwa Ibom states on account the territory on which the seventy six oil wells are situated.

According to Holsti (1991) the territory of any nation determines its political and economic powers in his relations with others internally or externally since the days of Louis XIV. Walter (2004:2) notes that the most intractable conflicts in the 20th century were those fought over territory. In fact, Luard (1986) and Holsti (1991) found from the studies that territorial issues constitute frequent sources of war, and that competing governments are less likely to resolve disagreement over territory than almost any other issue (Walter, 2004:2). It is essential to note that the presence of mineral resources or other economic or political values within a particular territory enhances the chances that dispute or conflict is imminent.

The territoriality approach focuses on territory as the paramount issue dividing rival states. Ben-Yehuda, (2004:87), Vasquez, (1993:138) and Huth, (1996:9) observe that what “what makes for war is that, territory once seen as legitimately owned will be defended by the use of violence where other issues are less likely to be”. While this position is true of international boundary disputes, in Nigeria, communal boundary disputes are more volatile than inter-State boundary dispute. Nonetheless, proactive measures are often more effective as a response to potential territorial dispute before it becomes protracted and difficult to handle. Although Kahler, (2003:3) observes that in an era when territory appears to be of declining importance, specific territorial attachments can be mobilized in politics and in ways that reinforces conflict. It is however worth noting that in intra-national system, territory commands significant importance particularly in Nigeria as the revenue allocation formula takes into cognisance the size of the territory not minding the resources therein. It has however been observed that territorial dispute is not sufficient to instigate war. This study agrees with Vasquez and

Henehan, (2001:123) that while the presence of territorial contentions are not sufficient enough to bring about war, their presence as a contentious issue makes war more probable both nationally and internationally as such a situation needs be avoided in Cross River and Akwa Ibom instance not minding the Supreme Court determination of the issue.

Human Needs Theory is anchored on the proposition that aggressions and conflicts are the direct result of some institutions and social norms being incompatible with inherent human needs. The needs that are frustrated by institutions and norms require satisfaction. Coate, and Rosati (2012) note that the Human Needs Theory evolved only in the last few decades as reaction against limited separate discipline explanations of social problems but largely ignored and neglected by peace researchers. The theory offers a valuable explanation into the sources of conflict, and thus possible resolutions.

This is best explained in the desire of all the States in Nigeria to obtain more resources from the federal allocation in a rental economy like Nigeria. From January 2008-May 2012, the Cross River State Government has benefited a sum of N18, 481,913,454.69 from the federated account based on 2004 Presidential directive ceding the seventy six oil wells to the State. Rationally thinking, no State would want to experience a cessation of such fund. Christie (1997) notes that Human Needs Theory offers not only insights to the causes of conflict or dispute but into a range of peace building processes that are involved in “the reduction of both direct and structural violence”. It is essential to note that the two States are undergoing structural and cultural violence. Direct violence, this study attempts to prevent between the two states, stems from unmet need without legal institutional means to address it or systemic failure. This explains why this study adopted territorial and Human Need theories to explain the dispute over the seventy six oil wells and will use same to address a new institutional arrangement that could resolve the dispute and the related ones elsewhere.

4. DISPUTE BETWEEN CROSS RIVER STATE AND AKWA IBOM STATE OVER 76 OIL WELLS

One of the recent challenges is the on-going dispute on account of seventy six oil wells between the Cross River State and Akwa Ibom State in the South-South region of Nigeria with long historical and cultural ties. It would be recalled that the Cross River State government had earlier sued the Akwa Ibom State on the land Boundary dispute as noted in the press statement of the Government of Akwa Ibom State of July 27, 2012. The case bordered on the land boundary involving twenty four villages of Oku/Itu/Ayadehe ward of Itu Local Government Area and the south estuarine boundary between the two States in a suit No. Sc.124/1999. The judgment of the Supreme Court of June 24, 2005 was in favour of Cross River State. The judgment however did not give the ownership of territories in which the seventy six oil wells are located to the State.

In the judgement, the Supreme Court noted that:

In considering the merit of the plaintiff’s (Cross River State) case, it is important to bear in mind, that the effect of the judgment of ICJ dated 10/10/2002 on the land and maritime boundary case between Nigeria and Cameroon is that it has wiped off what used to be the estuarine sector of the Cross River state as a result of which the State is hemmed in the new international boundary between Nigeria and Cameroon. That being the case, there seems to be no longer any estuarine boundary between Akwa Ibom State and Cross River State.

Two issues emanated from this judgement. First, the judgment didn’t meet the total expectation of the people of Cross River state. Second, it reveals the implication the international dispute might have on significant segments of the population at the national level. By implication, the loss of Western Bakassi to Cameroon eroded the assumption that Cross River State was a littoral State. “The peninsula consists of a number of low-lying, largely mangrove covered islands covering an area of around 665 km² (257 sq; mi). The population of Bakassi is over 300,000 people” (Agba et al, 2010). The issue between the two States agrees with Shaw (1997) that “most of the time territorial change is

a painful process, and it has a great impact not only upon the individuals and communities that inhabit the areas involved but also upon the international community and the states concerned”

However, based on Presidential order in 2005, the Cross River State was granted the right to enjoy the resources derivable from the Seventy six wells through the National Boundary Commission’s letter ref. NBC. SEC 28/1/142 of January 24, 2005 as addressed to the Revenue Mobilization, Allocation and Fiscal Commission. The abolition of Dichotomy in the Principle of Derivation Act 2004 that 200 meters water isobaths contiguous to a state of the Federation was deemed to be part of the state for the purpose of computing the revenue accruing to the Federation Account from that State further complicated the existing fragile relations in many states of the federation and led to protest by the affected states. This led to the Presidential directive that the National boundary Commission and the Revenue Mobilization, Allocation and Fiscal Commission to produce the delimitation of the maritime boundaries for the attribution of oil wells for Cross River and Akwa Ibom State, Rivers and Bayelsa and Ondo and Rivers and Abia States. The outcome of this exercise led to the return of the seventy six oil wells to Akwa Ibom State.

However, with the return of Bakassi Peninsula to Cameroon, the status of Cross River State as a non-littoral state was established. The need to establish the claim over the seventy six oil wells led the Cross River State to institute another case in the Supreme Court in 2009 (Suit No. Sc. 250/2009). The final determination of the case by the Supreme Court on July 10, 2012 confirmed the Cross River State as a non- littoral state and with no claim to any maritime territory.

Strassoldo (1989) observed the ambiguity of boundary and declared:

Borders/Boundaries divide and unite, bind the interior and link it, with the exterior; (they) are barriers and junctions, walls and doors, organs of defence and attack. Frontier areas can be managed so as to maximise either of such functions. They can be militarised as bulwarks against neighbours, or made into areas of peaceful interchange.

Diehl (1999) citing the empirical analysis of Bowman argued that there is a "profound psychological difference between the transfer of territory and other types of interstate interactions or treaties because of the strong personal feelings and group sentiments evoked by territory”. Therefore, it is highly impossible to determine the extent that the ripples emanating from territorial disputes with huge economic advantages might reach. The current face-off by the two States challenge the ability of our political leaders to institutionalize an era of peaceful co-existence, where sustainable development will be unhindered and every Nigeria everywhere in the country will feel at home without ethnic, religious or/and political uncertainty. The fear that if this issue is not carefully handled beyond legal justice might lead to another round of conflict that will further worsen the fragile peace in Nigeria motivates this study to suggest ways of equitably allocating resources in Nigeria to create a sense of belonging to the citizenry.

5. THE WAY FORWARD

The study concludes the dispute over resources is natural and cannot be completely eliminated but the recurring nature of such conflict is a manifestation that the institutional mechanisms for managing the national resources and power sharing in Nigeria are conspicuously deficient. The creation of local governments which have been argued to a strategy for encouraging grassroots development has been haphazard to the extent that people of the same ethnic cleavages have found themselves in different local governments; consequently leading to conflicts in terms sharing of resources. This informed the recommendations below.

There is a need for adoption of alternative dispute settlement mechanisms such as arbitration or conciliation, as a result of the fact that litigation in this case of Cross river and Akwa Ibom states has led to a win-lose scenario with the capability of leading to conflict among two states that have co-existed as brothers and sisters for years. The practice of disputes settlement through the process of arbitration is not new phenomenon in Nigeria. Indigenous communities in Nigeria were using

arbitration or conciliation as a dispute settlement mechanism before the colonial powers introduced the British legal system into Nigeria. (Gadazama, 2004 cited in Imam, nd). The implication therefore is that the contemporary society still has much to learn from our tradition values, norms and wisdom that could avert the settlement of socio-economic disputes through litigation as it saves time, energy, and resources as well as guaranteeing continuous harmonious relations among the conflicting parties that the court system is incapable of accomplishing. This agrees with Yagba (1995) that a purely legalistic solution to the dispute stands little chance of acceptability in a situation that it cannot guarantee a 'Win-Win' arrangement.

Stemming from the above, the 1999 Constitution of the Federal Republic of Nigeria, Section 7 & 8 are very specific about the procedure for altering boundaries among Local Governments in Nigeria and by implication the States Government. In addition Boundary Commission and the Office of the Surveyor General of the Federation, through the use of global positioning system could locate all the boundaries upon which the Office of the Revenue Mobilization, Allocation and Fiscal Commission can exercise their authority. The study argues that when such exercise is judiciously carried out and there is a decision concerning littoral State that worked against the interest of Cross River State even before the commencement of the dispute, such issues ought to have been peacefully resolved through political process rather than the court as earlier proposed by the Akwa Ibom State. The Study acknowledges that the Constitution may not be perfect or capable of meeting unforeseen events while the process of boundary adjustment might be cumbersome but adherence to the provision of the constitution is recommended as it does not preclude local arrangement for settling conflict and at the same time saves the court from additional burden in the process.

Lastly, the recurring challenges associated with resource allocation and its effect on peaceful coexistence in Nigeria is a manifestation of the exclusive arrangement in vogue that often leave significant majority of the population in abject poverty and make such people a willing instrument for conflict prosecution in Nigeria. As at 2009, the national unemployment rate was estimated at 19.7% and it was estimated that those in the age group between 15 and 24 years were about 41.6% (National Bureau of statistics, 2010). The implication is that about 30,400,000 Nigerian youth were unemployed not minding those who were not youth but unemployed. The study therefore proposes Alaska solution to Nigerian problem of resource allocation that is said to be exclusive.

In Alaska, there is a Constitutional Budget Reserve since 1982 for sovereign wealth fund paid to residents that have lived within the state for a minimum of two years without criminal record. The lowest amount paid per person was \$331.29 in 1984 while the highest was \$3,269 in 2005. Nigeria produces 2.5 million barrels of crude oil per day at the rate of \$85 per barrel for a year gives a sum of \$62.05 billion giving ₦9.741 trillion per annum while the budgetary provision for 2012 is ₦4.5 trillion. The population of the targeted group for inclusion in the distribution of national wealth is 30,400,000. The study recommends that this category be paid a sum of ₦50,000 per annum given ₦1.52 trillion, as it could be treated as an unemployment while the number will not remain constant as many may be employed while new ones may come in allowance. This arrangement could be extended to include the aged in future. The usual porous argument is that it could encourage laziness and inflation but it could address the challenges of poverty and unemployment

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