

THE CHALLENGES OF EFFECTIVE ENVIRONMENTAL ENFORCEMENT AND COMPLIANCE IN THE NIGER DELTA REGION OF NIGERIA

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ABSTRACT

This essay takes a critical look at the concept of environmental enforcement and its enforceability in Nigeria. This has become a necessary venture given the increased rate at which the environment has been subjected to all forms of degradation especially as we have seen in the Delta Region of Nigeria through the activities of oil multinationals. Using the desk top approach, it seeks to offer a credible explanation for the lack of an effective environmental enforcement programme in the Niger Delta Region, specifically looking at the nature of the Nigerian economy as the point of departure. Its main argument is that the greatest threat to an effective environmental culture in Nigeria with special focus on oil companies and the negative impact of their activities on the environment is the overwhelming dependence of the government on oil rent as the primary source of revenue. This has hampered greatly the political will of the government to enforce its environmental standard on the oil companies. It is therefore recommend amongst others, that there is need for a policy aimed at diversifying the Nigeria economy as this will greatly enhance environmental enforcement in the region.

Keywords: Compliance, Environmental enforcement, Niger Delta Region, Gas flaring, Oil spillage

INTRODUCTION

Environmental issues have constituted a major concern to world leaders especially in the industrialized nation of the western world for over three decades. According to Ebomhe (undated) the close of the 80s, saw environmental issues raising global concerns as the future of earth climatic conditions and man's survival on the planet were called into question as a result of scientific studies. The basic causal factors in the alteration of the earth climatic conditions can be adduced to two related development. First was the increasing depletion of the ozone layer above the earth atmosphere which in turn is caused by a continuous rise in the emission level of what scientists called "green house gases" which consist mainly of carbon related fumes emitted by motor vehicles and industrial plant.

Secondly, there was also the increasing decline of biological diversity and forest reserve (deforestation). The implication of forest loss which significantly acts as carbon sink further expose the world to the dangerous effect of green house gases trapped in the atmosphere. It was against this background that environmental enforcement became a desirable instrument welded by the government in curtailing or reducing the cause of these regional and global concerns. The most fundamental reasons for the conveyance of both the Stockholm conference of 1972 and

the Rio de Janeiro conference of 1992 was to fashion out laws and to ensure environmental compliance with these laws.

Enforcing environmental standards and regulations is one of the surest ways governments can use to checkmate the negative impacts of multinational corporation's activities on the environment and on the lives of inhabitants of host communities. Without an effective environmental enforcement culture, one that is capable of ensuring compliance by big corporations, it is expected that the quality of the environment will be drastically reduced. This assumption is not surprising given the fact that the axiomatic rationale for setting up a business is to make profit while minimizing loss. However, there is this false notion both in government and the private sector that the improvement of environmental performance will have negative effects on a country's ability to improve competitiveness, a position that has been staunchly challenged by Lawrence and Caroline (2005). Given this position especially in the private sector, it is therefore expected that businesses will try to cut loss by sometimes shifting the cost of production to the public. It is this negative externalities visited on the environment that doubles as the source of livelihood for the people as the case of the Niger Delta has shown, that has once again brought to the fore the need for an effective environmental enforcement programme.

Globally, the world is now even seeing the significant role environmental enforcement can play in reducing the emission of green house gases into the atmosphere, a major cause of climate change and global warming. This is one primary reason why over the years humans has witnessed several international conferences and summits aimed at curtailing the negative impact of multinational corporations on the environment. As earlier posited, at the heart of these various conferences discussions is the question of how to effect compliance with the decisions reached. Thus enforcing these major decisions that are environmentally inclined has become the hub of these conferences. However, in developing economy like Nigeria, enforcing environmental standards and regulations have become a difficult task. Faced with environmental challenges which include: deforestation: biodiversity loss, drought and desertification, erosion, flooding, air, water and land pollution, industrial pollution, noise pollution, mounting solid wastes and generally unsanitary conditions, the need to effectively enforce environmental laws cannot be overemphasized. Unfortunately, according to Benebo (2008) the rates of non-compliance with environmental laws, regulations and standards have continued to be high, coupled with the fact that most environmental laws are not only obsolete but in need for a revisit. \

In the oil rich Niger Delta region the activities of oil multinationals corporations and its impact on the environment have been very devastating affecting the economic base of the people and their source of livelihood. This has engendered poverty and restive situation in the region. For instance the issue of oil spillage has been a recurring one affecting adversely the Niger Delta environment. According to Kingston (2011:5), between 1976 and 2009, an estimated 9, 1911,426 barrels of crude oil were spilled into the environment in the Niger Delta with at least 55% into rivers, creeks and shorelines; and, 45% into farmlands, residential villages, communal access roads and sources of drinking water. Most of the oil spillages are caused by the rupturing of very old pipelines, some of which have not

been replaced in more than forty years and has been used on a daily basis to convey highly pressurized crude oil. In 2009, Shell confirmed that its pipelines in the Niger Delta area are prone to rupturing due to wear and tear occasioned by corrosion and rust...

Gas flaring too has become a serious economic and social problem (aside Nigeria losing billions of dollars to this unsustainable practice, studies have also highlighted its impact on the health of the people exposed to it and also its direct relationship to social activism, low agricultural productivity and so on {see Jike, 2004}) According to the UNDP and World Bank reports (2009),

Nigeria flares more than 70 million cubic metres of gas per day, resulting to an estimated 70 million tones of carbon dioxide into the Niger Delta environment per day. Consequently, the oil firms in Nigeria account for more greenhouse gas emissions than all other sources in sub-Saharan Africa combined.

While environmental laws exist in checkmating the effects of oil exploration and production, these laws are seldom applied and when even enforced, it has always be in the favour of these oil companies to the detriment of the host communities. This paper therefore take a critical assessment of these laws and the challenges facing the effective enforcement of these environmental standards especially as it relates to oil companies and the impact of their activities on the Niger Delta environment.

STATEMENT OF THE PROBLEM

Nigeria environmental laws according to Natufe (2001) can favorably compare to standards and regulations obtainable in the advance western world. It is the lack of enforcement of these environmental laws in Nigeria that has been seen by many environmental experts as one major reason why the Niger Delta environment has continually face massive degradation. However, the need for an effective environmental enforcement programme is imperative. Its political, social and economic implication can not be undermined. While government have responded to these environmental problems through the creation of the Federal Environmental Protection Agency (FEPA) which was merged with the Ministry of Environment in 2000, and more recently the creation of the National Environmental Standards and Regulations Enforcement Agency (NESREA) which by its creation effectively repealed the Nigeria flagship laws on the environment i.e. FEPA, there have been little impacts, if any of this agencies activities on the lives of the people directly affected by the negative externalities of oil production. While many reasons have been given for the low environmental enforcement culture in the country with special reference to the impacts of oil production, these reasons so far given has fallen short in explaining the “sacred cow status” enjoyed by oil multinational corporations in light of the destruction of the Niger Delta ecosystem. The problem that therefore provoked the rationale of this paper is to seek out the best plausible reason and critically assess the challenges and problems affecting environmental enforcement in Nigeria in spite of the prevalence of various environmental regulations and standards in the country with special focus on the activities of Oil MNCs in the Niger Delta region. Our primary intent here is to find out what appropriately seems to be the best explanation on why environmental

enforcement is so weak in addressing the myriads of environmental problems in the oil rich Niger Delta Region. In line with the above therefore, the general objective of this paper is to discover laudable ways or what need to be put in place in improving environmental enforcement in Nigeria especially in the Niger Delta Region. Other objectives will include:

- i. To assess the effectiveness of the various environmental laws put in place by the government
- ii. To establish the reason why environmental enforcement in the Niger Delta region has been so weak in spite of the existence of overarching environmental laws

To achieve the above objectives, the use of extant scholarly articles, statistical bulletin and focus group discussion have been extremely helpful

THEORETICAL FRAMEWORK: THE RENTIER STATE THEORY

This paper borrows extensively from the concept of the rent seeking state in trying to capture the weak nature of environmental enforcement in the Niger Delta region. The discovery of oil in 1956 made Nigeria one of the countries to be reckoned with in international economic relations. While according to Iyoha (2002:15), oil revenue has been the engine of economic growth in Nigeria, the overall effect of oil production on the economy of Nigeria has led to what has been aptly referred to as the “natural resource curse problem”. The overly dependence on oil has tended to displace the more stable and sustained internally generated revenue from taxes, leading government officials to escape public control and accountability of their policies and budgetary spending, as checks and balances that taxation system provides diminishes. It has also and very seriously hampers the growth of non-oil exports like the agriculture and manufacturing sectors by making them uncompetitive. Lastly, this has led to rent seeking behavior as government has involved itself in little productive work by their dependence on oil revenue generated by Oil MNCs.

According to the original postulator of the rentier state theory, Mahdavy (1970), a rentier state refers to those countries that receive on a regular basis substantial amount of external economic rent. In such a scenario “the effects of the oil sector are significant and yet the rest of the economy is not of secondary important” (Cited in Yates (1996:11, 12). Thus, Frynas (2000) analyzing the Nigerian situation believes that the Nigerian state revenues were extracted from taxes and rent largely in the form of oil revenue from foreign companies rather than from productive activities. Arguing further, he concluded that the linkage between Nigerian businesses and foreign capital dominates Nigeria political economy and as a result the state is biased in favour of oil capitalist (Cited in Agbonifo, 2002). This has led the Nigerian government to play a weak and subordinate role in its relations with foreign oil companies. According to Agbonifo (2002), while on a few occasions the Nigerian state have indicated a will to review the operational environmental standards against the background of pressure from civil society, the state has however failed to sustain its political will or translate such policy into actions. The reason is that the oil companies have

consistently blackmailed the state with the prospect of reduced revenue and other implications, if any upward review of operational environment is carried out.

ENVIRONMENTAL ENFORCEMENT AND COMPLIANCE – A CONCEPTUAL UNDERSTANDING

Environmental enforcement is the set of actions that government or others take to achieve compliance within the regulated community and to correct or halt situations that engender the environment or public health, while compliance is the full implementation of environmental requirements (International Network for Environmental Compliance and Enforcement (INECE), 1992). In trying to ensure compliance with its environmental standards, government usually employs inspection, negotiations and legal action or the threat of legal actions. For government to achieve therefore the objective of sustainable development, it is therefore appropriate that environmental laws should be made. However, as Field and Field (2009) has noted, there is a natural tendency for people to think that enacting a law automatically leads to the rectifications of the problem to which it is addressed. But this is not the case. Regulation must have to be enforced as it is natural for blind pursuit of profit to override environmental responsibility. In such situation therefore, a well calculated enforcement programme should involves some clearly specified set of steps. These steps are:

- i. A statement of which polluters are subject to regulation
- ii. Specification of the units of compliance and what performance is to be measured.
- iii. Specification on how performance is to be measured using what particular technologies and procedures.
- iv. Description of requirement for self-monitoring and record keeping
- v. Statement of what performance will constitute violation and what these violations will entail in terms of penalties (Field and Field, 2009).

Another aspect where environmental laws can be made more effective is if they provide the authorities necessary for their own enforcement. Inadequate authorities can severely hampered compliance. According to INECE (1992), the credibility of an enforcement programme will be eroded if violators can successfully challenge the authority of a programme to take enforcement actions. As such, authorities or agencies task with environmental duties, should be empowered to inspect regulated facilities and gain access to their records and equipment to determine if they are in compliance, require that the regulated community monitor its own compliance, keep records of its compliance activities and status and also report this information periodically to the enforcement programme and make the information available for inspection. It is also expected that authorities should be empowered to take legal action against non-complying facilities. Thirdly, there is also the need for an institutional framework, one that will specify in clearer terms who and who is responsible for which functions. The absence of such institutional framework will make it difficult to establish who is responsible for ensuring compliance. In fact this may lead to duplication of duties as was the case between FEPA and DPR (see Omorogbe, 2001).

Understanding environmental enforcement entails a proper knowledge of two major approaches used over the years in effecting compliance. There is the traditional regulatory or command and control approach and the market

based/economic incentive approaches (Iyoha, 2002). The first one refer to a situation where government prescribed the desire change through requirements, then promotes and enforces compliance with these requirements. Such requirements may be imposed through laws, regulations and for permits. This can include: technology requirements, works practices or best management practices, test and/or monitoring reporting and/or record keeping, bans on certain products or practices. However, according to Iyoha (2002) the loopholes inherent in this method stems from erroneous policies, ignorance and incomplete information on the part of the government. The second one (Market-based approaches) use market forces to achieve desired behavior changes. These approaches can be independent of or build upon and supplement command and control approaches, for example it is widely believed that introducing market forces into a command and control approach can encourage greater pollution prevention and more economic solution to problems. Market-based/economic incentive approaches includes: fee systems, which allow for tax emissions, effluents and other environmental releases, tradable permits, which allow companies to trade permit emission rights with other companies, offset approaches which allows a facility to propose various approaches to meeting an environmental goal and auctions; in which the government auctions limited rights, to produce or release certain environmental pollutants.

Monitoring and sanctioning are two major steps that can be employed to enhance enforcement and compliance. Monitoring according to Field and Field (2009), refers to measuring the performance of polluters in comparison to whatever requirements are set out in the relevant law while sanctioning refers to the task of bringing to justice those whom monitoring has shown to be in violation of the law. The likelihood that those caught violating the law will be sanction will likely reduce the rate of non-compliance.

It is believed that the presence of environmental laws and the strength of its enforceability if subjected to the conditions above will go a long way in ensuring compliance. This is however not the case in Nigeria Niger Delta region where the exploration of oil and gas has impacted negatively on the environment and economic activities in the region. While there exist to a large measure agencies, institutional framework and so on in ensuring compliance, the rates of non-compliance with environmental laws remain disturbingly high. In fact the increased rate at which the environment is continually degraded has called to question the various regulations that have been made by the Nigerian Government to ensure a cleaner and safer environment.

The need for an effective environmental enforcement is imperative given both the political, social and economic implication of environmental problems like oil spillage, gas flaring and deforestation on the environment. Since the creation of the Federal Environmental Protection Agency (FEPA) which was merged with the ministry of Environment in 2000, there has been little impact, if any of its activities on the lives of the people directly affected by the above listed environmental problems. The impact of oil exploration activity on the Niger Delta environment has been well documented by scholars of various persuasions (see see for example, Ikein, 1990; Iyoha 2002: Jike 2004; Natufe, 2001; Nwilo and Badejo 2006; Owabukeruye 2000). The fact however shows the lack of political will on the part of the government to enforce its environmental standards.

A BRIEF APPRAISAL OF NIGERIA ENVIRONMENTAL LAW AND POLICY AS IT RELATES TO THE OIL INDUSTRY

To understand environmental legislation in Nigeria, it will be helpful to see it in its two phases. This will enable us to measure government commitment in ensuring a safer and cleaner environment over the overreaching desire for profit which could be adequately ensured by the unrestricted access given to oil companies. The basis of environmental policy in Nigeria is contained in the 1999 constitution of the Federal Republic of Nigeria. In section 20 of the constitution, the state is empowered to protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria. Thus, pursuant to this, the federal and state governments are expected to come up with laws aim at preserving the quality of the environment. Hence over the years, the federal government has promulgated various laws and regulations. Though aggressive environmental policy and laws can be said to have began in the years after 1988, there were however environmental laws before then. These laws according to Adegoroye (1998) were geared primarily either toward safety or the protection and conservation of the economically important natural resources. There were virtually no laws on industrial pollution and hazardous wastes since industrialization was considered a key indicator of development. Thus the absence of a law regulating the impact of the activities of big corporations was considered unnecessary as it was posited that it could slow down the process of development. Some of these laws during this era were:

- i. Oil pipeline Act 1956
- ii. Forestry Act. 1958
- iii. Destruction of Mosquitoes Act 1958
- iv. Minerals Act 1958 Cap. LFN 1990
- v. Mineral oil (safety) Regulations 1963 Cap.350 LFN 1990
- vi. Oil in Navigable waters Act 1968 Cap. 339 LFN 1990
- vii. Endangered species Act Cap. 108 LFN 1990
- viii. Quarries Act Cap. 385 LFN 1990
- ix. Sea Fisheries Act Cap. 385 LFN 1990

The period that produces these laws were characterized by certain features, chiefly among these was the near total lack of public awareness concerning environmental protection and development. Environmental issues like biodiversity, conservation, effluent limitations, pollution abatement and sustainable development of Nigeria natural resources did not form part of the general public discourse. This was further complicated by government seemingly slow realization of the interdependence of environment and development.

It was however in 1988 that an unforeseen occurrence led to an aggressive environmental policy. This was when toxic wastes were dumped in koko, a village in Delta State. No wonder in the view of Ogbalu (1994) environmental laws during the period after 1988 was a “product of national emergency”. However, the action of the Nigeria government in responding to this national embarrassment was decisive and quick. The creation of the Federal

Environmental Protection Agency (FEPA) by Decree 58 of 1988 set FEPA as the sole body charged with the responsibility of protecting the environment. The decree gave the agency broad enforcement powers to act, even without warrants, in bringing violators, to book. They have the power to gain entry, inspect, seize and arrest with stiff penalties of a fine and or jail term on whoever obstructs the enforcement officers in the discharge of their duties or make false declaration of compliance (Adegroye, 1995). Under FEPA, National Policy of the Environment was launched on 27th November 1989 and it described guideline and strategies for achieving the policy goal of sustainable development. Some of the emerging environmental laws that came out under the guidance of FEPA were:

- i. National Guideline and standard for environment pollution control in Nigeria (1991).
- ii. National affluence limitation Regulations S.1.8 of 1991
- iii. Pollution Abatement in Industries facilities littering waste regulations S.1.9 of 1991
- iv. Environmental Impact Assessment (EIA) Decree No 56 of 1992 Cap. E12, LFN 2004.
- v. Hydrocarbon oil refineries Act, cap H5, LFN, 2004.
- vi. Oil in Navigable Waters Act cap 06, LFN 2004
- vii. Associated Gas Re-injection Act cap 20 LFN 2004
- viii. The Endangered species Act, cap E9, LFN 2004
- ix. Sea Fisheries Act, cap S4, LFN 2004 etc.

A critical appraisal of these laws shows a marked departure from the past and a desire to regulate especially the activities of oil multinational corporations. But as Ibaba (2010) noted, the overreaching environmental laws in Nigeria has not in anyway contributed to sustainable development. It has also not been able to reduce the rapid rate of environmental degradation especially as the case of the Niger Delta has shown. This he adduce to the lack of enforcement of the laws which is the most fundamental cause of inability of the legislation to protect the environment. Equally Adibe and Essaghah (1997) observed that:

industrial operators (other than in the petroleum sub sector) are apparently not guided by any environmental protection... legislation... where such... legislations exist, conformance with them are not systematically monitored and effectively enforced... (Cited in Ibaba, 2010:46).

The supposed inability of FEPA to enforce environmental laws and compliance in the country was a major reason for the creation of the National Environmental Standards and Regulations Enforcement Agency (NESREA) in 2007. The NESREA Act repealed the Federal Environmental Protection Agency Act and became the primary law on environmental protection. However if history is anything to go by the creation of NERSEA may be an “old wine in a new bottle”. This therefore begs the question: if Nigerian environmental laws even in its outdated state, is seen as favorably comparable to those of the western world (Natufe, 2001), then why have enforcement become a problem? Put differently, why are the agencies charged with enforcing these laws unable to do so especially in relation to oil companies’ activities? What is the major challenge of environmental enforcement in Nigeria Niger Delta region?

CHALLENGES OF ENVIRONMENTAL ENFORCEMENT IN NIGERIA NIGER DELTA REGION

Many reasons have been advanced for the lack of an effective environmental enforcement programme. One of the reasons often cited is the overarching corruption of public officials charged with enforcing these laws. Corruption is a major problem in Nigeria and has pervaded almost all sectors of the economy. Even considering whom enforcement agents have to deal with (oil companies), it becomes even easier to see how these official can be easily co-opted and bribed. Also the diversion of ecological funds to other use possibly of lesser significance has also been seen as a big problem to environmental enforcement in the country. There is also the issue of inadequate personnels (Ibaba, 2010, Adelagan, 2006).

True, these factors highlighted above could alone or in combination act as serious impediments to enforcing environmental regulations. It however offers little explanation on why the Nigerian Federal Government seems reluctant in imposing stringent penalties on activities that caused serious environmental damage in the country, as the case of gas flaring has shown, (considering the several shifting of zero-tolerance stance on gas flaring). The Nigerian leadership is even ready to subject the economic livelihood and health of its citizens over the continued flaring of gas. Though gas flaring has been declared illegal in Nigeria since 1984, and various courts of jurisdiction has ruled against its practice, it continues unabated. Today the country is ranked second after Russia with the highest percentage of gas flared globally

Therefore, to understand why the Nigerian government seem reluctant to enforce its environmental laws to the later, it becomes necessary to look at the nature of its economy because as our analysis will show it is the nature of the Nigerian economy which has tilted it towards the production of a single commodity that has had the greatest impact in weakening the political will of Nigerian independent leaders and has effectively made it rely on rent from oil companies for its survival.

THE STATE OF NIGERIA ECONOMY AND ENVIRONMENTAL ENFORCEMENT

Nigerian economy is basically a mono-product one which solely depends on crude oil as a major source of revenue. This has not always been the case because before the discovery of oil in 1956 in Oloibiri, a town in Bayelsa state, and its dominance in the 19670s, agriculture accounted for over 65 percent of Nigeria revenue (Ola and Tonwe 2003). The discovery of oil did not only displace interest on other sectors of the economy but also effectively ensure that oil became the mainstay of the Nigerian economy. As at 2008, the dominance of the oil sector has been well established, accounting for over 82 percent of government revenue from a meager contribution of 26.1 percent in 1970 (See table 1) and during same period the oil and gas industry account for 99 percent of total export in 2008, a marked departure from 1960 where its contribution was a meager 2.3 (See table 2).

Table 1; Federal Government Revenue and the Contribution of Crude Oil and Gas 1960-2008 (Million Naira)

Year	Total Federally Collected Revenue	Oil Revenue	Non-Oil Revenue	% of Oil Revenue in Total Revenue
1961	223.65	0.00	223.65	0
1965	654.34	0.00	654.34	0
1970	634.00	166.00	467.40	26.1
1975	5,514.70	4,271.50	1,243.20	77.4
1980	15,223.50	12,353.30	2,880.20	81.1
1985	15,050.40	10,923.70	4,126.70	72.5
1990	98,102.40	71,887.10	26,215.30	73.2
1995	459,987.30	324,547.60	135,439.70	70.5
2000	1,906,159.70	1,591,675.80	314,483.90	83.5
2005	5,547,500.00	4,762,400.00	785,100.00	85.8
2006	5,965,101.90	5,287,566.90	677,535.00	88.6
2007	5,715,600.00	4,462,910.00	1,200,800.00	78.0
2008	7,868,590.10	6,530,630.10	1,335,960.00	82.9

Source: CBN, statistical bulletin golden jubilee edition, December 2008

Table 2; Contribution of Crude oil and Gas Export to Nigeria total Export. 1960-2008(Million Naira)

Year	Total export	Non oil export	Oil and gas export	Oil and gas export as % of total export
1960	339.4	330.6	8.8	2.3
1965	536.8	400.6	136.2	25.3
1970	885.7	376.0	509.6	57.5
1975	4,925.5	362.4	563.1	92.6
1980	14,186.7	554.4	13,632.3	96.0
1985	11,720.8	497.1	11,223.7	95.7
1990	109,886.1	3,257.6	106,626.5	97.0
1995	950,661.4	23,096.1	927,563.3	97.5
2000	1,945,723.3	24,822.9	1,920,900.4	98.7
2005	7,246,534.8	105,955.9	140,578.9	98.5
2006	7,324,680.5	133,594.9	7,191,085.6	98.1
2007	8,120,147.9	169,709.7	7,950,438.3	97.9
2008	9,774,610.9	94,316.7	9,680,194.2	99.0

Source: CBN, statistical bulletin golden jubilee edition, December 2008

Thus, according to Mbachu (2012), “the contribution of crude oil and gas to government revenue not only underlines the centrality of revenue from the industry to financial viability of the Nigerian state, it also shows the importance of oil rents in national politics”. It should however be stated here that the groundwork for most African State becoming a mono-product economy was laid by the colonial masters (Ake 1981, 1996). Colonialism encourages the production of a particular good to the detriment of others. Every subjugated economy was forced to produce the goods or commodities the colonizers were interested in and in some cases to embark on a commodity that hitherto they were alien to. According to Ake (1996:2) the power of the colonial state was absolute and arbitrary, compelling the colonies to produce the commodities they needed. This was the case with Ghana, Kenya and Nigeria. The integration of African economy into the world capitalist system further entrenched the imposed production patterns. Thus efforts to reduce the disarticulation caused by these patterns, according to Ake (1981) had at best a marginal effect. The post colonial economy continues to produce for the benefit of western capital and not for the benefit of the people. This meant that such dependent and fragile economy as the case of Nigeria has shown will continue to produce commodities that are in tandem with the demands of the advance capitalist nation. It is no wonder therefore that the global demand for oil and the availability of it in Nigeria has regulated other productive sectors like solid minerals, manufacturing and agriculture to the back seat. This certainly will not have been so if political independence has not meant merely a change of state manager and the creation of a fortuitous elites (Graf, 1982), who like their erstwhile colonial masters sees the state as the quickest means for the appropriation of wealth. The primary driver ensuring the continued economic reliance on western capital and technology is the multinational corporations. In Nigeria, the oil multinational corporations have been very decisive since they are in the sector that the Nigerian government depends on. How then has the dependence on oil affected environmental enforcement in the Niger Delta region?

For an industry that has been providing more than 90 percent of Nigeria total export earnings and more than 82 percent of recurrent revenue, with little or nothing coming from most of the other sectors like the manufacturing and agricultural sectors it becomes easy to understand how such an economy can have a decisive effect on environmental enforcement in the Niger Delta region. In fact, Ikein (1990:55) observation is worth noting:

The almighty power of the multinational oil corporations in partnership with the government of Nigeria continues to pursue profit at the expense of the inhabitants’ lives and property, environmental decay, and dislocation of indigenous economy

Under such an unholy alliance and over dependence on these oil companies, it becomes difficult to regulate the activities of the oil companies. It has been argued that even the various commissions that have been set up to addresses critical issues in the Niger Delta was actually programmed to fail. For instance, the creation of FEPA in 1988 was necessary to repair an already embarrassed and damaged image (the dumping of toxic waste in Koko was extremely embarrassing to the Nigerian government because it happened at a time when Nigeria was taken a leading

role in toxic waste dumping in her sub-region). Since the oil industry accounts for government spending, enforcing environmental regulations that could hamper productions will be extremely devastating for a government who need such revenue to boost up its legitimacy. This has also explained why the oil companies “cheap blackmail” often works to their favour. The “non-feasibility logic” often employed in the case of gas flaring has made the federal government continue to shift grounds at the expense of the health of the people.

To buttress our points lets take the example of gas flaring. Since 1984 gas flaring has been declared illegal in Nigeria. The devastating effect of gas flaring on both the physical, biological and human environment is so enormous that in all societies it is generally considered unethical to flare gas. The list of the implication or consequence of gas flaring is also enormous. Gas flaring is seen as an immediate cause of acid rain, and the Niger Delta people have been complaining of acid rain, which has damaged their crops and physical things. Gas flaring too has serious implication on the health of the people. According to Akoroda (2000) some peculiar diseases the inhabitants of the Niger Delta have tended to suffer from can be traced to the incessant flaring of gas. Sagay (2001) strongly believes that gas flaring caused tremendous heat, which causes increasing hardship and discomfort. Gas flaring contributes immensely to global warming. This is because it releases huge quantities of carbon dioxide into the atmosphere. According to recent statistics, an estimated 2 billion standard feet of gas is flared in Nigeria per day, which is enough to provide electricity for the whole of Africa. This translates according to Evoh (2002) to 19 percent of the gas flared globally making Nigeria to have the notorious record of the country with highest percentage of gas flared , though recent placement puts Nigeria second after Russia (see Orubu, 2010)

Even Shell Producing and Development Company, the greatest culprit in this regard has reluctantly admitted, “flaring wastes a valuable resources and is environmentally damaging” (Shell, 1996). According to Shell, the energy available from Nigeria flared gas is prodigious and is equivalent to one quarter of France gas requirements. Considering the health, economic, and environmental implication of gas flaring, the Ministry of State for the Environmental proposed for the year 2003, the application of zero gas flaring policy in Nigeria. This policy was however challenged and attacked jointly by oil companies on the ground that it is technically infeasible. They argued that this involve the acquisition of the required technology which at present is not within their reach. Following the pressure from oil multinationals, the federal government extended the date to 2007, December 31st. Again the infeasibility of the policy necessitated another shifting of the date to the end of 2008 and this has been the trend ever since. Why the compromise? A plausible explanation has to do with the economic base of the government, which is weak. It pays the government (not the people) to compromise than strictly seeing its policy through. The oil companies are strongly controlled by foreigners with little or no input from the government itself. Applying strictly sound environmental policy will mean great loss or reduction in government revenue or spending. Therefore the political will to effect decisions or policy is extremely constrained or limited due to the weak economic base of our national economy and of course our political leaders. Put differently, the false sense of wealth gotten from oil proceeds and the lack of a strong economic base has impacted so much on the political will of the government to make binding decisions or to effect one. Saddled with an economy that depends so much on oil and fully engineered by foreigners of all kinds, the political will to enforce environmental standards in the oil industry can never be there.

This is the primary reason why there has been much shifting ground on the part of the government towards the issue of gas flaring. It is the same with other environmental disasters like oil spillage and deforestation. Even why Shell has admitted to oil spills through corrosive pipelines, unorthodox practices, negligence and blow-outs, there have been no effort on the part of the Nigerian government to arrest the situation or compelled Shell and other oil companies to be environmentally friendly. The reasoning in government circles is that pursuing this line of actions will amount to loss of income. From the standpoint of the Nigerian economy, this is a logical reasoning given the axiomatic truth that it is the oil sector as evident in table 1 and 2 that sustains the whole economy.

CONCLUSION AND RECOMMENDATION

Oil has become the bedrock of Nigerian economy. According to one source, the World Bank (2005) it accounts for over 90 percent of Nigeria export earnings 87 percent of total government revenues and 45 percent of the Gross National Product. The above statistics have had serious implication for the enforcement of environmental laws relating to the oil industry in the Niger Delta region. This paper has argued that the nature of Nigeria economy as a petroleum-based single commodity reliance economy has effectively militated against effective environmental enforcement in Nigeria. While environmental laws and enforcement agencies have been created to tackle the issue of environment degradation, little have been achieved so far as the issue of gas flaring proves. In fact, as this paper shows, the problem is not so much that environmental enforcement has failed as that it was never really on the agenda in the first place. The lackadaisical attitude expressed by the government over the years towards the enforcement of its environmental laws is largely dependent on her reliance on oil proceeds as the major source of revenue. So long as the diversification of the Nigerian economy is not rigorously pursued, environmental enforcement in Nigeria Niger Delta Region will continue to experience serious setback. Oil MNCs has evidently exploited this setback in perpetuating serious damages on the Niger Delta environment in the pursuit of profits. The need therefore for the government to initiate a policy aim at diversifying the economy is pertinent. This is because the diversification of the economy will broaden the economic base of the state and effectively reduce reliance on the oil sector. More importantly it will further enhance the enforcement capacity of the government towards these oil giants.

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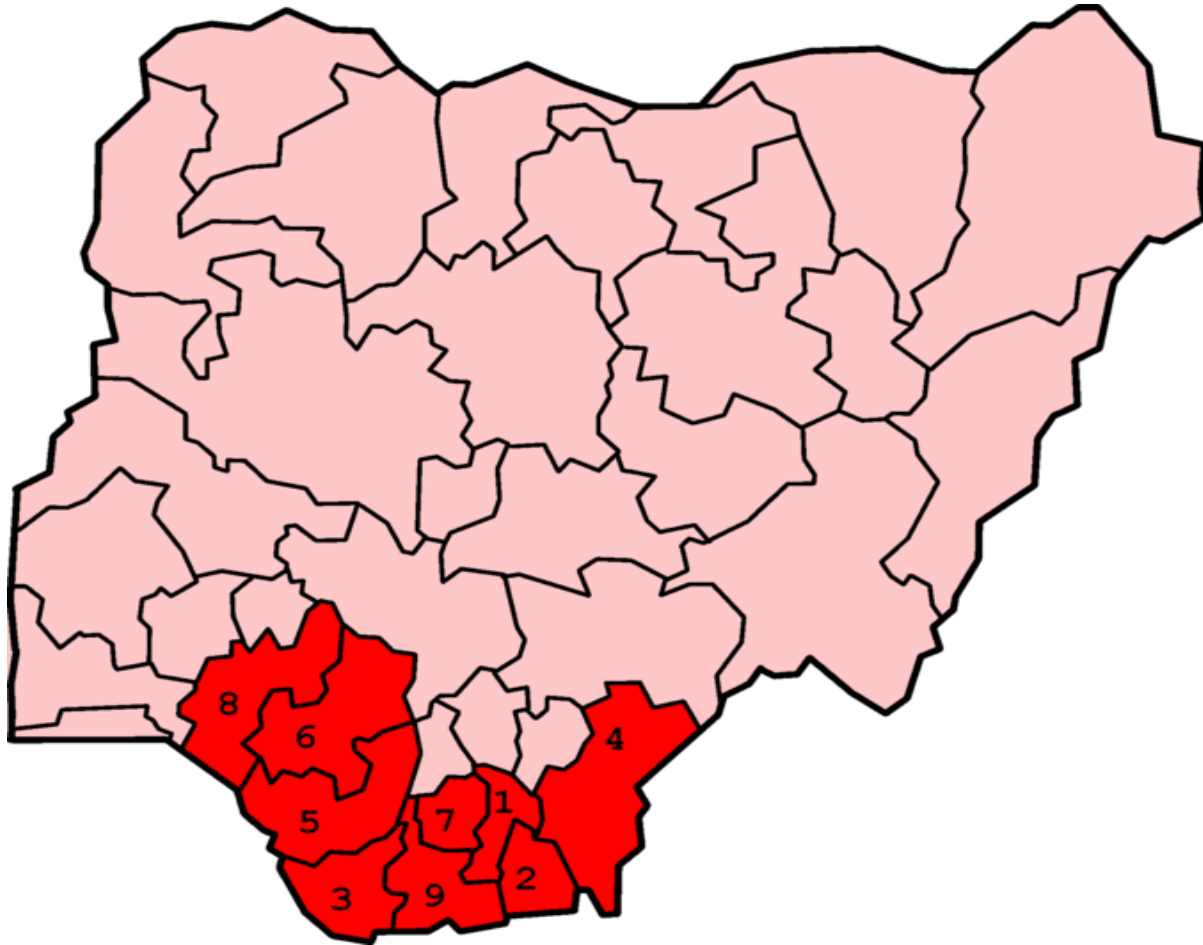
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Appendix 1



Map of Nigeria numerically showing states considered part of the Niger Delta region:

1. Abia, 2. Akwa Ibom, 3. Bayelsa, 4. Cross River, 5. Delta, 6. Edo, 7. Imo, 8. Ondo, 9. Rivers