

# I | The Nigerian state, oil and the Niger Delta crisis

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## Introduction

The government of Umaru Musa Yar'Adua recorded a remarkable feat when it finally got Niger Delta militants to accept the presidential proclamation of amnesty at the eleventh hour. The proclamation gave unconditional pardon to all those standing trial for militant activities and those involved in such activities once they gave up their arms and embraced peaceful resolution of the crisis. Acceptance of the amnesty generated much excitement and relief in political and oil industry circles as there was palpable concern that yet another major government initiative to resolve the long-running crisis would flounder after so much investment of political capital.

The government's initial plan to organize a high-profile summit on the Niger Delta had failed as a result of the rejection of the appointment of Professor Ibrahim Gambari as its convener.<sup>1</sup> The government subsequently established the Technical Committee on the Niger Delta (TCND) to collate previous policy recommendations for addressing the crisis in the region (see International Crisis Group 2009: 7; TCND 2008).<sup>2</sup> Although the TCND submitted a report to government in November 2008, nothing much was heard from government afterwards.<sup>3</sup> Rather, in April 2009 the government authorized a military offensive against the Movement for the Emancipation of the Niger Delta (MEND).<sup>4</sup>

Pressure from the world's oil-dependent powers and oil multinationals, as well as the limited success of the military approach, influenced the government to release Henry Okah (a MEND leader standing trial) and announce an amnesty for militants. President Yar'Adua, who described the acceptance of amnesty as 'an Independence anniversary gift',<sup>5</sup> promised his government 'shall do everything to ensure that the conditions that make people take arms against the nation and subject themselves to inhuman conditions in the creeks are ameliorated'.<sup>6</sup>

This commitment signalled a shift from the prevalent perspective that criminalized the Niger Delta militants. The criminalization of Delta militants stemmed largely from their alleged involvement in underground or illegal economic activities, such as hostage-taking, protection rackets, political thuggery, theft of crude oil or illegal 'oil bunkering' and weapons proliferation (Human Rights Watch 2002, 2003, 2004; International Crisis Group 2006a: 6, 2006b: 8-10; Asuni 2009; Davies 2009).

Militancy in the Niger Delta has been troubling for the international community as a result of the region's rising strategic importance. Nigeria accounts for about 10 per cent of US oil imports (the equivalent of about 40 per cent of Nigeria's oil exports), and the Niger Delta has loomed large in the security interests of the USA, as it has for the EU and other major oil-importing nations such as China and India, especially with security challenges in the Middle East since September 11 (see Lubeck et al. 2007: 3; Watts 2007). According to Obi (2008a: 428): "The globalisation of the Niger Delta's oil has gone side-by-side with its "securitisation", in which global hegemonic forces see the oil as a vital "globally-needed" resource, whose continued "uninterrupted" flow along with the safety of (transnational) oil investments and oil workers must be protected at all costs, including military means.'

As the global interest in uninterrupted oil production coincides with the interests of the Nigerian rentier state and its dominant social forces that depend on oil revenues – accounting for over 90 per cent of government revenue – oil production has also become a national security concern. The Nigerian government has not only welcomed international military support for safeguarding oil production (Asuni 2009) but has also deployed serving and retired military officers to troubleshoot in the region.<sup>7</sup> Massive troop deployments to the region have made the ratio of security personnel to oil workers expand beyond affordable and sustainable limits. It is hardly surprising that a sizeable proportion of the federal government's budgetary allocation to the Niger Delta in 2008 was allocated to security, even though the military and police had among the largest chunk of the budget (International Crisis Group 2007: 6).

The desperation of both dominant global and national social forces for oil production to continue at all costs has also indirectly boosted the militancy. It showed militants just how vulnerable the state and global oil markets were to attacks on oil investments in the creeks. It is no wonder that MEND always ensured that reports of its attacks were sent to newswires and reverberated in the global oil markets. The staying power of the militants was due not to the strength of their numbers and arsenal or popular support for insurgency, but rather to their calculation that dominant national and global social forces had more to lose from prolongation of the insurgency.

This chapter sheds light on the root causes of conflict, the responses of the Nigerian state, and what needs to be addressed if the post-amnesty programme is to lead to sustainable peace and development.<sup>8</sup> It includes a critique of the dominant narratives of the crisis. The ways in which the technology of oil production and the politics of oil revenue distribution lie at the heart of the conflict in the region are also explored. This lays the basis for the analysis of the transition from civil protest to violent mobilization. In the concluding section, some suggestions are proffered for resolving the crisis.

### Revisiting the ‘resource war’ perspective to violent conflict

Post-Cold War studies of armed conflict have been dominated by the ‘resource war’ perspective, which privileges economic motives of armed groups. Two broad versions of this perspective have been applied in the analysis of the violent conflicts between militant groups and the state and oil companies in the Niger Delta.<sup>9</sup> The first version argues that ‘greed’ is the primary motivation of Niger Delta militants. It posits that though militant groups claim community grievance, their primary motivation lies in opportunities to plunder resources to actualize visions of a better life for themselves (see Reno 2000; Collier et al. 2006; Oyefusi 2007). The second version argues that though the primary motivation may be group grievance, the opportunities for plunder create an incentive for perpetuating the conflict. Thus, far from triggering conflict, greed exacerbates and makes it intractable (Ikelegbe 2006a). Analysts increasingly refer to the transformation or evolution of grievance into greed (Watts 2007: 637).

Against this background, commentators started differentiating groups that are motivated purely by grievance from those motivated by greed. While the former were recognized as genuine *militants* fighting the just cause of the Niger Delta, the latter were dismissed as *criminals* that deployed the rhetoric of self-determination for filthy lucre. This approach is common to scholars and government officials alike, as well as some militants who threatened to apprehend criminals masquerading as militants.<sup>10</sup>

Although the resource war perspective contributes to our understanding of the multiple and complex motivations of insurgent groups, it overlooks the historical and structural causes of violent conflicts. It also serves hegemonic interests as the economic interests of state actors hardly become the focus of its lens (Le Billon and El Khatib 2004; Keen 2007; Kabia 2008). Moreover, the focus on the criminal intentions of insurgents often leads to the adoption of a securitized solution and neglect of the imperatives of redressing more fundamental issues of injustice and horizontal inequalities. The position taken in this chapter is that violent conflicts in the Niger Delta can be traced to alienation and despair over what Watts (2007) has described as ‘accumulation by dispossession’. The section that follows discusses the modalities of accumulation by dispossession in the Niger Delta.

### The technologies and politics of dispossession

Technology and power are central to the exploration and production of oil. While technology provides the technical know-how, power provides the legal framework of exploration and exploitation. Oil begins to flow only when the interests of technology and power coincide. The terms of agreement that govern exploration and production define who partakes in the production and distribution of oil revenues. This section shows how the technologies and politics of

oil production marginalize oil-producing communities and generate violent conflicts.

*Technology of oil exploration and exploitation* Seventy years after the *potopoto*<sup>11</sup> people of the Niger Delta first witnessed the ritual of oil exploration the experience has remained alienating to them. The hallmark of the entire process of exploration, concession and exploitation is the non-involvement of the *potopoto* people. The oil industry is an enclave economy par excellence as the oil companies enter the community with their capital and labour en suite. Most of the oil facilities are prefabricated and can easily be dismantled and relocated. The *potopoto* people are made to understand that they lack the skills to be employed in the highly technical industry. The only contribution of the people to the process is that they are titular owners of the land and water on which the activity is taking place. However, this contribution is tenuous because their title to land is customary and not legal. This is because, with the enactment of the Land Use Act of 1979, all land belongs to the state. The process is also alienating in the sense that the *potopoto* people have nothing to do with the inputs and outputs of the company. The company has no connection with the local market.

Even the process of the oil company's entry is alienating as it is the government that unilaterally grants it the licence to operate. It is assumed that the villagers have tacitly consented to the concession because they did not object when the government called for objections – a ritual that precedes oil licensing. The fact is, however, that the newspapers in which the oil concession notices are published do not get to the village, and the villagers who are likely to have radio sets do not pay attention to such announcements. Thus, even the means of consultation and communication is alienating.

When in the 1980s the people intensified their complaints about pipes that criss-crossed their communities and intermittently leaked into their farmlands and rivers, as well as the unquenchable gas flares that generated much heat but no light for their communities, another ritual of consultation was introduced. Community activists argue that this new ritual, called environmental impact assessment (EIA), offered only an opportunity for the people to talk but not to decide whether or not the company should be admitted to their communities (see Okonta and Douglas 2001; PEFS 2004; Omeje 2006a).

The *potopoto* people contrast their experiences of alienation and exploitation in their relations with government and oil companies with their previous relations with the global market. The slave trade and palm oil trade required community participation as they entailed massive mobilization of local labour and capital. Surpluses and rents which accrued to the local elite contributed to class formation and the consolidation of dynastic rule in some of the prominent communities. This explains why Niger Delta elites were relatively privileged in the early colonial period, though some Niger Delta inhabitants resented their

loss of influence and wealth with the imposition of formal colonial rule (Ekeh 1996).

The fortunes of Niger Delta elites worsened with the regionalization of politics and the transformation of Nigeria's disparate ethnic groups into 'majority' and 'minority' ethnic groups in the mid-1940s. Regionalization transformed Niger Delta ethnic groups into ethnic minorities in the Eastern and Western regions. Surpluses appropriated by regional governments through the marketing boards furthered class formation and capital accumulation among elites of the emergent major ethnic groups in the regions.

*The political economy of oil revenue allocation* This is because the prevailing revenue allocation formula allowed the regions from which cash crops were derived to retain 50 per cent of the revenue. However, the derivation principle, which was one of the major building blocks of Nigeria's federalism, was de-emphasized with the advent of oil as a major source of revenue in the late 1960s. Successive reviews of the revenue allocation formula witnessed the reduction of the derivation component (see the Introduction to this volume; Uche and Uche 2004). This generated resentment which snowballed into militancy in the region. It is instructive that the MEND emerged shortly after the 2005 National Political Reform Conference (NPRC) failed to accept the recommendation of Niger Delta delegates on the pegging of the percentage of revenue allocated on the basis of derivation at 25 per cent (see Ukiwo 2007).

The Nigerian state and dominant social forces embarked on the ingenious construction of oil as a *national* asset in order to devalue the derivation principle. The regional identities of cocoa, groundnut, palm oil and rubber, which entitled the regions to collect surplus values from their respective cash crops, were discouraged when oil became the major source of revenue. The nationalization of oil was evidenced by the naming of marketing companies, the granting of subsidies to oil products to guarantee a flat pump price across the nation, and the construction of the oil revenues as the *national cake* (Apter 2005: 24–5; Ukiwo 2008a: 74). The naming of certain types of oil and some oilfields after local oil-bearing communities was only symbolic and had no economic value.

The nationalization project has been alienating to oil-producing communities in all its ramifications. First, while oil wealth was deployed to foster unity among Nigerians through the construction of roads and bridges, no effort was made to construct similar roads and bridges to foster unity among Niger Delta peoples.

Second, the appropriation of oil wealth and its transfer to non-oil-producing states to give them a sense of *national belonging* and guarantee them a *minimum national standard* of living have come at the cost of alienating the 'goose that lays the golden egg'.

Third, while concerted efforts were made to transport petroleum products to non-oil-producing sections of the country and therefore guarantee national

access at a subsidized rate, no corresponding effort was made to guarantee access to people from whose backyard oil is extracted.

Finally, the nationalization project is alienating to the peoples of the Niger Delta because it is specific to oil. Oil, found *only* in the Niger Delta, is the *only* resource in the country that is represented as a *national* resource. As Okilo aptly puts it:

This is worse than apartheid [...] Some parts of the country have freedom to exploit minerals found in their country, while in others a whole gamut of laws prevents them from doing same. Solid minerals, wherever you find it, some Nigerians are free to exploit it and people in those areas do. But when you get liquid minerals (*potopoto*), Nigerian laws catch you. But when you are lucky to have solid minerals, no law affects you.<sup>12</sup>

It is evident that central to understanding the current insurgency in the Niger Delta are the competing constructions of oil as a national and a local community resource. The dominant discourse of oil as a national resource to be harnessed to build a virile nation has been associated with the pauperization and disempowerment of oil-producing communities.

### **Alienation, group mobilization and violent conflicts**

Movements for self-determination in the Niger Delta pre-date the advent of the oil complex. Since the late nineteenth century, various resistance movements have mobilized against external domination and/or exploitation in the region. The first set of movements was initiated by merchant-kings against the intrusion of British traders and proto-administrators (see Ikime 1968).

The 1950s witnessed the emergence of another set of resistance movements that were concerned about the marginalization of the Niger Delta in the emergent regional politics of Nigeria. These movements, namely the Mid West State Movement (MWSM), the Calabar Ogoja Rivers State Movement (CORM) and the Conference of Rivers Chiefs and Peoples, were also elitist (Vickers 2000).

The Niger Delta Volunteer Force (NDVF), led by Isaac Jasper Adaka Boro, rebelled against the authority of the Nigerian federal government under General Aguiyi Ironsi by declaring a Niger Delta Republic in February 1966. The resistance was different from political mobilizations in the 1950s because it was a non-elite resistance movement. The rebellion was quashed and Boro later died fighting as a combatant on the federal side in the Nigerian civil war.

Isaac Boro was politically reincarnated three decades later as the icon of Ijaw youths who, like him, were disenchanting with oil exploitation and unimpressed by the efforts of the mainstream leadership to get a better deal for their people (see Nwajiaku 2005). The Ijaw youths were also inspired by Ken Saro-Wiwa, the writer and environmental activist who spearheaded anti-state and anti-oil company mobilizations among the Ogoni people.

Saro-Wiwa avoided Boro's militant tactics, adopting a pacifist strategy instead. He took great pains to consult extensively among various segments of the Ogoni community – a tragic oversight on Boro's part. He put his skills as a writer to use by preparing a very effective international campaign and grassroots mobilization based on the ideology of Ethnic Autonomy, Resource and Environmental Control (ERECTISM).<sup>13</sup> Saro-Wiwa rightly reckoned that the Movement for the Survival of Ogoni People (MOSOP) would be more effective if it took Nigeria and Shell – the main oil company in Ogoniland – to the global court of public opinion. He therefore embarked on the construction of the Ogoni as an endangered indigenous people. The discourse of endangerment struck the right chord with resurgent international minority and environmental rights organizations, which massively mobilized global support for MOSOP (see Okonta 2008a).

Ijaw youths under the aegis of the Ijaw Youth Council (IYC) adopted all of MOSOP's strategies but also tried to do what Saro-Wiwa did not proactively attempt, namely to cultivate a pan-Niger Delta platform. They were aided by two significant factors. First, it was easier for the Ijaw as the most populous group in the region to lead the initiative. Second, the emergence of the IYC in 1998 and its presentation of the Kaiama Declaration roughly coincided with the most recent transition to civil rule in Nigeria. The transition to democracy was significant because it removed a major barrier between political elites and youths and other subaltern groups in the region. Throughout the period of military rule, especially when non-indigenous governors and administrators were in charge of states in the region, elite accumulation and reproduction required alliances with dominant interests in the Nigerian state system.

However, the reconfiguration of power occasioned by the election of indigenous governors bridged the gulf between the elites and the youths. Recognizing the popularity of the cause promoted by the youth groups, a cause that had been enshrined in a couple of bills of rights of ethnic minority communities in the region (see ERA 1999; Raji et al. 2000), and *ipso facto* the political dividend they could harness by becoming patrons of the campaign for a greater transfer of resources to the oil-producing region, the Nigerian elites jumped on to the bandwagon of the resource control struggle (Ukiwo 2007).

The defining moment of unprecedented unity among Niger Delta social forces was the decision of Niger Delta delegates to walk out of the NPRC in 2005 after northern delegates rejected the proposed 25 per cent increase in derivation revenues. The aftermath of the botched conference enhanced the profile of Delta elites as trusted representatives after the turbulent 1990s, which witnessed the decapitation and banishment of some chiefs. At the national level, many Delta chieftains and politicians regained relevance as eminent persons whose good offices were sought for the mediation of conflicts between youths, the state and oil companies.

The context for this was the proliferation and militarization of youth movements amid increased opportunities for local political patronage, security contracts with oil companies and the heavy-handed response of the Nigerian state to civil protest in the Delta (see Ukeje 2001a). The invasion and destruction of the sleepy Odi community in central Niger Delta by Nigerian soldiers in search of the killers of twelve of their colleagues was a turning point. That this armed onslaught against Odi occurred under a democratic government convinced most hardliners that only armed resistance could counter the extractive and exploitative designs of the government and oil companies and force them to pay attention to local demands.

This perception partly contributed to the proliferation of small arms and light weapons as groups procured weapons to overpower poorly armed security agents and defend their communities. Proliferation of weapons was also driven by the penchant of power-hungry elites to arm youths during elections, chieftaincy disputes and communal conflicts, as well as oil bunkering (Ibeanu and Mohammed 2001; Hazen and Horner 2007; Asuni 2009).

The critical factors explaining the transition from civil protest to militant agitation can be discerned at different levels. At the regional level the rapprochement between elite and non-elite groups, the popularization of the resource control agenda and the proliferation of youth organizations were crucial. At the national level, the continued dependence of the Nigerian state on oil and the determination of dominant social forces to control oil wealth by all means were crucial. At the international level, the increasing reliance of the global oil markets on Nigerian oil amid deteriorating security conditions in the Middle East, developments in information technology and communications and proliferation of small arms and light weapons were crucial. The capacity of MEND to attack strategic oil infrastructure and kidnap oil workers otherwise protected by state security exposed the weaknesses and capacity problems of the military and police forces.<sup>14</sup> In a region saturated with weapons the success of MEND in partially crippling oil production and exports and pushing up world oil market prices inspired other armed groups to jump into the fray.<sup>15</sup>

It should be noted that the Niger Delta is not the poorest region in the country. The region is doing relatively well on some human development indicators (see UNDP 2006). It is, however, the region with the highest rates of youth unemployment and income inequality. Violent conflicts in the region are thus driven by perceptions of alienation and exclusion. As a World Bank study puts it:

The widespread perception of relative deprivation in the core Niger Delta states is driven by the considerable mismatch between the level of wealth extracted from the region and the benefits accruing to the region and its people. Levels of self-assessed poverty are much higher in the Delta than those revealed by household income and expenditure data. In the South South zone, over three quarters

of the population (77 percent) consider themselves to be living in poverty, compared to the official figure of one third (35 percent). (World Bank 2008: 8–9)

Factors that account for the high perception of relative deprivation include the inflationary effects of high incomes in the oil industry, declining opportunities for gainful employment in the oil industry for youths from oil-producing communities, and high levels of corruption in public service and oil companies. It is important to underscore the fact that souring relations between oil-producing communities and oil companies coincided with the implementation of the wage liberalization regime of structural adjustment programmes in the early 1990s. This policy, which transformed the fortunes of oil workers at a time when wages in the public sector were stagnating, triggered competition for jobs in the oil industry. The competition seemed more intense as the liberalization regime had led to the closure of industries and the introduction of embargoes on recruitment into the civil service.

Job seekers from the region could not compete effectively for jobs in the industry and began to identify some institutional factors that placed them in a disadvantageous position. These include the location of the headquarters and/or personnel departments of most companies in Lagos and the mandatory one-year national youth service. They alleged that oil company staffers, who were mostly from non-Niger Delta areas, favoured non-Niger Delta applicants in the recruitment exercises. There were also allegations that statutory positions for junior staff that should have been reserved for ‘indigenes’ had been allocated to ‘non-indigenes’. As unemployed youths from oil-producing communities began to besiege oil companies in search of jobs, the companies began attempting to buy peace by paying the youths monthly allowances. The handouts ironically created an impression of the industry as a place to scrounge free money. The failure of such handouts to sustain peace led the oil companies to hire some youths as security consultants to protect facilities. The favoured youth contractors deployed some portion of the payments they had received to purchase weapons. Free money and light weapons had a destabilizing effect on many communities as different youth groups formed their own companies or gangs to compete for security contracts from oil companies (see WAC Global Services 2003; International Crisis Group 2006a, 2006b).

The situation was further complicated by the advent of democratization in the late 1990s as politicians secured the services of the security outfits and gangs to manipulate the electoral process (Human Rights Watch 2003). The colossal scale of corruption in the Niger Delta between 1999 and 2003, in which public office-holders privatized oil revenues and bamboozled the people with ill-gotten wealth, increased the stakes for political power. This formed the context for the violence in the 2003 elections across the region. Politicians either secured the services of existing cults and gangs or facilitated the formation of new ones to attain their electoral objectives.

## **Conclusion: the imperative of resource ownership and control**

The consequences of the violent conflicts discussed above are ubiquitous and depressing. They include decaying community governance structures, violent and violated environments that can no longer sustain livelihoods, declining social capital and pervasive distrust of public institutions and officer-holders, and the internalization of the culture of militarism. The danger of not addressing these consequences is that each has the capacity to trigger another cycle of violence. This explains why governments and civil society organizations at the regional, national and international levels have demonstrated commitments towards addressing them. However, these investments in resolving the Niger Delta crisis have yielded few dividends because little attention has been paid to addressing the fundamental causes of violent conflicts in the region discussed in this chapter.

A cursory examination of the policies introduced to tackle the Niger Delta crisis reveals the privileging of security and governance perspectives. The security perspective is based on the assumption that the violent conflicts are due to the activities of criminals and vested interests. It therefore adopts a law-and-order approach. It suggests stiffer penalties for criminal activities,<sup>16</sup> more investments in security to enable the security agencies to contain criminality, and social policies such as recruitment of unemployed youths into the police force to prevent them from being recruited into criminal networks and activities.<sup>17</sup>

The governance perspective assumes that the violent conflicts in the region are the result of the absence of development, democracy and good governance. There is thus a concentration of effort in bringing about development and good governance through a range of activities in the Niger Delta that include establishment of a development board, construction of roads, provision of amenities, forceful impeachment of corrupt governors, promoting transparency in public budgeting and supporting monitoring of oil revenues.

Some of these initiatives are laudable and need to be strengthened. They have, however, failed to realize their noble objectives because they are being pursued in lieu of addressing the fundamental issue of alienation which arises from the political question of resource control. In fact, proponents of the security and governance perspectives dismiss the quest for resource control on the grounds that the 13 per cent derivation revenues awarded by the 1999 constitution made a difference only to the bank accounts of politicians and not to the lives of Niger Delta peoples. Presented in this top-down and patronizing fashion, these perspectives offend the sensibilities of the Niger Delta people.<sup>18</sup> Both approaches privilege the criminalization discourse. Essentially, while the security perspective incriminates subaltern classes, the governance perspective blames the woes of the region on corrupt practices by its elites.

Evidence from best practices in the region suggests that the solution to violent conflicts is addressing alienation by entrenching community partici-

pation, ownership and control. A case in point is the community trust funds operational in Akassa, Bayelsa state (Ibeanu 2008). By institutionalizing community ownership, the model has provided the community with an objective interest in protecting oil company facilities. Thus, a rare phenomenon was reported in Akassa, where community leaders rounded up and handed over youths who attacked the oil company facility to law enforcement agencies. The trend across the region is for aggrieved community members to turn a blind eye to 'oil bunkering' activities taking place in their neighbourhood. The Akassa model is currently in high demand across the Niger Delta because the dominant practice that drives conflict is one in which, according to Ledum Mitee, the president of MOSOP, the oil-producing communities 'have nothing to lose if oil stops flowing'.<sup>19</sup>

There is a groundswell of opinion in favour of resource control across the region. For instance, 5,000 Ogoni leaders, youths, professionals and women met on 19 July 2008 to approve the framework of benchmarks to be met by prospective operators.<sup>20</sup> The Petroleum Industry Bill (PIB), which is currently being considered by the National Assembly and provides for direct transfer of 10 per cent of oil revenues to oil-producing communities, represents an opportunity to mainstream community participation (Transnational Crisis Project 2010).

The second proposal to address alienation in the Delta is directed at the political economy of oil revenue allocation. There is a need to redesign the modality of the Federation Account with a view to enabling oil-producing states to collect oil revenues and remit an agreed percentage to the account. This reform is highly needed in Nigeria's fiscal federalism as it would reduce dependency on oil and provide an incentive for non-oil-producing states to harness resources that are currently neglected.

Finally, to address alienation there is a need to institutionalize free and fair elections and make elected officials accountable and responsible to the people. Fraudulent elections produce fraudulent leaders. Militancy has thrived in the region because guns rather than votes count during elections. The gains of the amnesty programme will be lost if the politicians rearm the youths in future elections.

# Notes

## Introduction

1 For example, the Associated Gas Reinjection Act of 1979 makes gas flaring in Nigeria illegal, but also gives the petroleum minister the power to grant exemptions to oil companies. Most oil companies prefer to apply for ministerial exemptions, or pay fines for gas flaring and continue breaking the law. The full implementation of the law has been repeatedly postponed by government, in 1984 and 2008, and has been put back to 2012.

2 By virtue of its location along the coast, the Niger Delta was integrated into transatlantic commerce from the fifteenth century onwards, when European merchants traded salt, spices, textiles and then slaves with local traders. In the nineteenth century, the trade in slaves was replaced by that in palm oil, giving way to the trade in petroleum in the second half of the twentieth century. This interaction had a far-reaching impact on the politics, cultures and socio-economic life of the people.

3 Shell D'Arcy commenced operations in 1938 after it was granted an oil concession over the Nigerian mainland by the British colonial government. This gave Shell a head start over other oil companies, which arrived on the scene over two decades later. It is an advantage that Shell has held on to ever since as the largest oil-producing company in Nigeria.

4 The principle of derivation provided that the revenue should be shared in proportion to the contribution by each state/region to the central/federal purse (the greater the amount contributed, the greater the amount received). Before the war, this principle had favoured the old regions based on their cash crop econo-

mies. But after the war (and the collapse of cash crop economies), the reversal of the principle implied that the same hegemonic ethnic groups retained control of the new source of national wealth, oil, even though their states no longer contributed the bulk of national wealth. Instead, the ethnic minorities whose states produced oil were alienated from the bulk of the oil wealth.

5 This is based on the observation that the increase in derivation from 3 to 13 per cent, resulting in a massive increase in federal revenue allocations to the Niger Delta states, has not had any visible developmental impact on the region; rather, several governors from these states and the political elite have amassed huge fortunes. Two such governors have been found guilty of corruption-related crimes, while another is wanted in the UK to answer to money-laundering charges.

6 Illegal oil bunkering refers to the theft of crude oil by tapping into oil pipelines, transporting the stolen oil in barges to oil tankers anchored offshore, for sale in neighbouring countries or farther afield. According to some estimates, Nigeria loses about a tenth of its annual oil production to oil bunkering.

## I The Nigerian state

1 Niger Delta leaders and activists rejected Professor Gambari's appointment because he had defended the hanging of Ken Saro-Wiwa and eight other Ogoni activists when he served as Nigeria's representative at the United Nations in 1995. See I. Chiedozie, 'Niger Delta summit: FG shops for Gambari's replacement', *Punch*, 7 July 2008.

2 This was in response to the position

of Niger Delta leaders and activists that what was needed was not another talking shop but implementation of recommendations of the reports of previous commissions and committees on the region.

3 The resolve of the committee to take independent and radical positions apparently influenced government's decision to ignore it. For instance, government pre-empted the report of the committee by establishing the Ministry of Niger Delta Affairs. See Ekekwe et al. (2010).

4 Formed towards the end of 2005, MEND is a loose coalition of militant groups that through systematic attacks on the oil industry seeks transfer of more resources to the oil-producing region. (See Ukiwo 2007; Watts 2008b; Asuni 2009.)

5 G. Oji and A. Ogbu, 'Ateke surrenders, pressure mounts on Tompolo', *This Day*, online version, 2 October 2009.

6 Transcript of presidential speech aired on *Weekend File*, NTA, 10 October 2009.

7 General Alex Ogomudia, chief of army staff, was chair of the Special Presidential Security Committee on the Niger Delta, empanelled by the Obasanjo administration. General Godwin Abbe was the chair of the Presidential Committee on the Amnesty, Demobilization and Rehabilitation established by President Yar'Adua. To emphasize the security perspective, Abbe was reassigned to serve as minister of defence shortly after his appointment. He was minister of the interior at the time of his appointment.

8 This is imperative as the protracted illness of President Yar'Adua raised concerns over the successful implementation of the post-amnesty programme. A bomb explosion linked to MEND, which disrupted a government forum on the Niger Delta in Warri in March 2010, is indicative of the fragility of the truce.

9 This chapter is primarily concerned with community, state and oil company conflicts. Other forms of violent conflicts in the region are intra- and inter-community conflicts (see Ojo 2002).

10 The first salvo was fired by the fiery

Asari Dokubo shortly after being released from detention. The leader of the Niger Delta People's Volunteer Force (NDPVF) was peeved that during his detention a number of groups that had nothing to do with the struggles he was leading had emerged. He promised to ferret out this group. At the time of writing, neither Dokubo nor other militant leaders who made similar threats have arrested so-called criminals.

11 This refers to marshy or swampy land or to dirt generally. Chief Melford Okilo, the late veteran Niger Delta politician, used this term to refer to the Niger Delta peoples. The metaphor also captures the fact that they are poor and live in squalid conditions.

12 See G. Wahab, 'We want a share of our wealth', *Tell*, 25 January 1999, p. 36.

13 ERECTISM called for representation in Nigeria's federation on the basis of ethnicity and the right of people to control their resources and environment. (See Okonta 2008b.)

14 Among the major attacks orchestrated by MEND were the attacks on Bonga field, Nigeria's largest offshore oilfield, in June 2008, and Atlas Cove, Lagos, a major oil distribution artery, in July 2009.

15 See O. Ofiebor, 'Reign of violence', *The News*, 29 May 2006, p. 45.

16 For instance, most legislatures in the Delta are planning to pass executive-sponsored bills to make kidnapping and hostage-taking a criminal offence that will attract capital punishment.

17 This approach has been emphasized even when the armed forces increasingly recognize that security cannot address the issue in the absence of political decisions to address the fundamental grievance of people (see Federal Republic of Nigeria n.d.).

18 See A. Agbo, 'Voting against tokenism', *Tell*, 22 January 2007.

19 See *Newswatch*, 28 July 2008, pp. 58–60.

20 See 'Communiqué issued at the end of the special Ogoni National Congress held at Suanu Finimale Nwika

Conference Hall, Bori', *The Hard Truth*, 31 July–6 August 2008, p. 8.

### 3 The struggle for resource control

1 Part of the text of the communiqué issued at the end of the Third Summit of Southern States' Governors held in Benin City, Edo state, on 27 March 2001. See Senator David Dafinone, *Resource Control: The Economic & Political Dimensions*, on-line at the Urhobo Historical Society website, [www.waado.org/nigerdelta/essays/resourcecontrol/Dafinone.html](http://www.waado.org/nigerdelta/essays/resourcecontrol/Dafinone.html), accessed 22 April 2010.

2 The two reference cases, re *Secession of Quebec* [1998], 2 S.C.R. 217, and *Lalonde v. Ontario* (Commission de restructuration des services de santé), 2001 CanLII 21164 (ON C.A.), defined federalism generally and specifically examined the Canadian conception.

3 *Attorney-General of the Federation v. Attorney-General of Abia State* (2001) 11 NWLR (pt. 725) 689.

4 According to the professor, agencies such as the Department of Petroleum Resources (DPR), which presently supervises the industry, and the Nigerian National Petroleum Corporation (NNPC), which partners the oil multinationals on behalf of the federal government, will be under the control of the body.

### 4 The question of access to justice

1 Such as the Universal Declaration of Human Rights 1948, the International Covenant on Civil and Political Rights 1966, the International Covenant on Economic, Social and Cultural Rights 1966, the International Convention on the Elimination of All Forms of Racial Discrimination 1965, the Convention on the Elimination of All Forms of Racial Discrimination against Women 1979, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984, the UN Convention on the Rights of the Child 1989, the International Convention on the Protection of the Rights of All

Migrant Workers and Members of their Families 1990, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters 1998.

2 See also see *Sarei v. Rio Tinto, PLC*, 456 F.3d 1069, 1073-74 (9th Cir. 2006).

3 *Beanal v. Freeport-McMoran Inc.* 969 F. Supp. 362 (E.D.La., 1997); Australian Council for Overseas Aid, *Eyewitness Accounts of West Papuan Resistance to the Freeport-McMoran mine in Irian Jaya, Indonesia and Indonesian Military Repression*, June 1994–February 1995, [www.utwatch.org/corporations/freeportfiles/acfoa.html](http://www.utwatch.org/corporations/freeportfiles/acfoa.html), accessed 11 January 2009. While the veracity of these accounts is contested, they do provide some evidence of the existence of conflict in this resource-rich area and the issue of access to justice.

4 The recognition of collective rights is also a key feature of the African Charter on Human and Peoples' Rights, Banjul, Gambia, January 1981, OAU Doc. CAB/Leg/67/3/Rev 5 (1981); reprinted 21 ILM 59-68 (1982).

5 S.1 of the Land Use Act of 1979, now Cap 202, LFN, 1990.

6 S.29 (1) & (4) of Land Use Act.

7 Ss 2 & 3 of the Constitution of the Federal Republic of Nigeria, 1999.

8 S. 4 (2) (4), read together with Item 39 of Part 1 of the Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999.

9 The Federal Environmental Protection Agency Act, 1988, Cap 131, LFN, 1990, as amended by Decree No. 59 of 1992 & Decree No. 14 of 1999. This law has now been repealed and replaced with the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007.

10 The Harmful Wastes (Special Criminal Provisions) Act, Cap 165, LFN, 1990.

11 Although recently the National Oil Spill Detection and Response Agency (Establishment) Act (NOSDRA) was enacted in December 2006, with the main objective of the agency being to detect