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The land of black gold, corruption, poverty and sabotage: overcoming the Niger Delta's problems through the establishment of a Nigerian Non-Renewable Revenue Special Fund (NNRSF)

Adrian Gonzalez, Cardiff University

Through statistics published by the Shell Petroleum Development Company (SPDC), the paper explores why oilfield sabotage from 2009 to 2015 remains a problem in the Niger Delta, despite the 2009 amnesty programme. It explains why some of these incidents are a direct result of the failure to implement socio-economic development in successive state agencies due to corruption, a consequence of the natural resource curse. The article then explores why and how a Nigerian Non-Renewable Revenue Special Fund (NNRSF) overseen by the United Nations Development Programme should be established which would not only manage a portion of oil revenue funds from the Niger Delta but also initiate valid social and economic projects in order to help reduce the prevalence of sabotage and instability in the region.

Key words: Nigeria; Niger Delta; oil production; oil revenue; socio-economic development; corruption; United Nations Development Fund

1. Introduction: Nigeria and the resource curse

An investigation into this West African state reveals a country teeming with financial, social and economic contradictions. Despite Nigeria's huge petroleum resource wealth, it is clear that the country has been unable to utilise this for the benefit of wider society as a range of international statistics on life expectancy (United Nations Development Programme [UNDP], 2014, p. 162)¹, poverty (Department for International Development [DFID], 2012a, p. 1, 2012b p. 2; United Nations Children's Funds, n.d.), child mortality (DFID, 2012a, 2012b, p. 1), unemployment (International Monetary Fund [IMF], 2012, p. 87; Trading Economics, n.d.), malaria (DFID, 2012b, p. 2) and sanitation levels testify (The World Bank, n.d.).

A central question this paper sets out to explain is how this poor socio-economic situation has occurred in a nation so rich in natural resources. One could argue that Nigeria's over reliance on oil revenue (Ahmed, 1985, p. 347; IMF, 2013, p. 28; Nwajiaku, 2005, p. 464;

¹ One must acknowledge that whilst the 2013 UNDP life expectancy figure of 52.5 years (UNDP, 2014, p. 162) shows a slight improvement on the 2011 figure of 51.9 years (UNDP, 2011, p. 129), this still helps to place Nigeria in the low human development index (HDI) category (a ranking of 152 out of 187 nations) (UNDP, 2014, p. 162) and beneath many other sub-Saharan African nations.

Pinto, 1989, p. 331; Ross, 2003, p. 9), economic mismanagement (Forrest, 1986, p. 12; Uche & Uche, 2004) and lack of trade and industrial diversity (Akindele, 1986, p. 9; Cooper, 1992, p. 35; Sala-i-Martin & Subramanian, 2003, p. 13)² has left the country badly affected by world oil price shocks. This is a difficult foundation from which to achieve socio-economic development. Indeed, at least half of the members of the Organisation of Petroleum Exporting Countries (OPEC) (including Nigeria, a member since 1971) were poorer in 2005 than they had been in the 1970s (Higgins, 2009, p. 3; Ross, 2008, p. 3).

Nevertheless, despite recent production problems³ and a slump in the 2015 global oil prices (see EIA, n.d.), the country has received a large fiscal revenue from oil throughout the previous three decades (see OPEC, 2008, p. 13, 2015, p. 17) (helping it to amass over \$600 billion in oil revenue since the start of production in the 1960s) (Amnesty International & Friends of the Earth International, 2011, p. 4) which can conceivably minimise global market oil price fluctuations as a cause of its societal poverty and weak national development. Instead, it is clear that Nigeria suffers from the natural resource curse, a phenomenon that at its broadest level sees resource-rich countries grow less economically rapidly than resource-scarce economies (Bulte & Damania, 2008; Collier & Hoeffler, 2009; Dietz, Neumayer, & De Soysa, 2007; Norrbin, Pipatchaipoom, & Bors, 2008; Pendergast, Clarke, & Van Kooten, 2011; Ploeg, 2011; Sachs & Warner, 1997; Wick & Bulte, 2005). This resource curse has two generalised impacts both of which are visible in Nigeria.

Firstly, studies have indicated that resource-rich and resource-dependent countries are more likely to lapse into violence (Elbadawi & Soto, 2015; Humphreys, 2005; Ross, 2004, 2006) and instability. It is clear that Nigeria, a country that fits both these preconditions, has

² It must be noted here that although oil exports have developed rapidly since the 1960s, agriculture (including livestock, forestry and fishing) still produces about 40% of GDP (The Economist Intelligence Unit, 2008, p. 33). Be that as it may, agricultural productivity remains poor partly due to limited access to pesticides, extension services and modern technology (The Economist Intelligence Unit, 2008, p. 33). The economy outside of the energy sector is also seen as highly inefficient and is estimated to be as high as 75% of the total economy (Odularu, 2007, pp. 2, 4). The northern agricultural base has also suffered from pastoralist-farmer clashes in Bauchi, Jigawa and Yobe States during the 1980s and 1990s due to cattle overgrazing and a lack of grazing resources in floodplains (Adams and Mortimore, 1997, p. 154; Milligan and Binns, 2007, pp. 145-146) so Nigeria is heavily reliant on its mineral extraction income.

³ Production reached a peak of 2.44 million bbl/d (barrels per day) in 2005 but began to decline significantly due to militant group violence which forced many companies to withdraw and production to plummet by 25% by 2009 (averaging only 1.8 million bbl/d) (EIA, 2013, p. 7). Figures for 2014 averaged only 1.90 million bbl/d (first quarter) (Central Bank of Nigeria (CBN), 2014a, p. 26), 1.91 million bbl/d (second quarter) (CBN, 2014b, p. 26), 1.98 million bbl/d (third quarter) (CBN, 2014c, p. 26), 1.99 million bbl/d (fourth quarter) (CBN, 2014d, p. 26) and in 2015 1.89 million bbl/d (first quarter) (CBN, 2015, p. 26), the latter a decline of 4.1% in comparison to the last quarter of 2014.

been prone to violence in the oil-producing region of the Niger Delta since the 1970s (Eweje, 2006a, p. 30; Frynas, 2000; Hazen & Horner, 2007; Ikein, Alamiyeseigha, & Azaiki, 2008, p. 172; Maehler, 2010; Obi, 2001; Olusakin, 2006; Omeje, 2006a; Watts, 2007; Zalik, 2004, p. 406). This has disrupted oil production and caused adverse financial consequences for the country (Amadi, Germiso, & Henriksen, 2006, p. 25; Cesarz, Morrison, & Cooke, 2003, p. 1; Watts, 2007, p. 639). The sabotage/theft of oil facilities through artisanal refining and bunkering has played an instrumental role in this instability (see Davis, Von Kemedi, & Drennan, 2006, p. 5; United Nations Environment Programme [UNEP], 2011a, pp. 101–102) and its scale and impact are significant; around 7–10% of Nigeria’s oil production is bunkered (Mazzitelli, 2007, p. 1083) which has had a recent monthly estimated value of \$1 billion (Obi, 2014, pp. 259–260).

Secondly, the resource curse can disrupt national governance through increased state and societal corruption (Arezki & Brückner, 2011; Bulte & Damania, 2008; Busse & Gronning, 2011; Dietz et al., 2007; Kolstad & Søreide, 2009; Leite & Weidmann, 1999; Mehlum, Moene, & Torvik, 2006; Robbins, 2000; Sala-i-Martin & Subramanian, 2003; Shaxson, 2007; Weinthal & Luong, 2006, p. 38), particularly in countries with weak or poor state institutions like Nigeria (Fukuyama, 2014, pp. 225–226; Mo Ibrahim Foundation, n.d.; Omeje, 2006b, p. 213; The World Bank, 2015, pp. 4–6) and this has major significance in explaining the country’s present socio-economic issues. “[H]igh natural resource rent relative to GDP deflects the incentives of governments away from the efficient creation of wealth and into rent re-distribution, which confers greater and more immediate political rewards” (Auty, 2007, p. 629).

Evidence of corruption in post-independency Nigeria exists via international statistics (The World Bank, 2015, p. 7) and academic literature (Bain, Porter, & Watts, 2015; Diamond, 1983, p. 906; Dike, 2005; Fagbadebo, 2007, p. 30; Fukuyama, 2014, pp. 223–224, 244; Omololu, 2007; Scher, 2005, p. 20; Smith, 2001, 2007; Tignor, 1993). For example, Transparency International’s most recent Corruption Perception Index data ranked Nigeria 136th out of the 176 countries, categorising it as highly corrupt (Transparency International, 2014), a conclusion also shared by Human Rights Watch (HRW) who named their 2007 Nigerian report *Criminal Politics* owing to the pervasiveness of violence and corruption within the country’s governmental institutions (HRW, 2007). The scale of this problem is colossal. According to the country’s Economic and Financial Crimes Commission (EFCC), the level of public funding embezzled since Nigerian independence is estimated to be between \$380 billion

and \$412 billion (Ayittey, 2006, p. 5; Kolstad & Søreide, 2009, p. 214), the latter figure being equivalent to six Marshall Plans (Ayittey, 2006, p. 4). Within the petroleum industry, the Nigerian National Petroleum Company (NNPC) has suffered decades of inefficiency and corruption that recently saw \$20 billion worth of oil revenue “lost” in 2014 (Sayne, Gillies, & Katsouris, 2015).

Crucially, however, whilst the natural resource curse has of course caused an increase in violence and societal instability in the Niger Delta, research has concluded that other factors like corruption have also played a role (Bagaji, Achegbulu, Maji, & Yakubu, 2011, p. 41; Ibaba, 2011). It is this problem which this author believes permeates so resolutely into the Niger Delta context. It can be seen as a central cause behind ongoing oilfield sabotage/theft by citizens,⁴ why the 2009 amnesty programme has failed to stop these actions and why successive state development agencies have not provided widespread socio-economic development. Taken together, these issues will help highlight why the establishment of a Nigerian Non-Renewable Revenue Special Fund (NNRSF) is so important for the country.

In order to validate this hypothesis and highlight the need for the NNRSF, the paper will now turn towards a more detailed study of the Niger Delta region, the site of the country’s main production facilities. The section will show why the amnesty programme has failed to prevent ongoing sabotage⁵ incidents from occurring due to the lack of widespread socio-economic development, a situation that has occurred due to corruption within successive state development agencies.

2. The Niger Delta: a paradox of black gold and poverty

Life expectancy is falling in an age of blockbuster oil prices. Energy availability is poor in a region that provides one-fifth of the energy needs of the United States. The delta needs to import fuel despite producing over two million barrels of crude per day

⁴ The people behind the sabotage come from a wide array of backgrounds and include unemployed youths and those from university campuses who formed armed groups as well as armed ethnic militias such as MEND (Movement for the Emancipation of the Niger Delta) (see Akinwumi, 2006; Agbola and Alabi, 2003; Asuni, 2009a, 2009b; Mahler 2010). However, a large organised criminal element with international links also operates in the Niger Delta (see Ojatorotu, 2009; Wali, 2008, pp. 50-54; Watts, 2007).

⁵ Data on the level of sabotage will be based on information provided by the Shell Petroleum Development Company (SPDC), a subsidiary of Shell Companies in Nigeria (SCiN), the largest oil operator within the country (see Shell, 2014a, p. 2). While this will only provide a snapshot on the levels of sabotage/theft affecting other operating companies, it will still be able to highlight the seriousness of the problem.

The policies pursued by the federal government to bring stability to the long-running Niger Delta militancy have not achieved deep-rooted success. The use of military force to repress and crush the protests was a failure (Ajayi & Adesote, 2013, pp. 513–514; HRW, 1999; Ikelegbe, 2005, pp. 223–224; International Crisis Group [ICG], 2005; Ojabor & Gilbert, 2010, pp. 5–6; Omotola, 2009a, pp. 138–140; Omeje, 2004) whilst the implementation of the phased state-sponsored Disarmament, Demobilisation and Reintegration (DDR) programme (see Obi, 2014, p. 249; Oluwaniyi, 2011) has had mixed results. Although 30,000 youths have been demobilised (Aghedo, 2015, p. 138) and several thousand weapons handed in through the programme (Oluwaniyi, 2011, p. 50) (the latter a partial success, given that Nigeria is home to an estimated 1 million small arms weapons in 2001) (Obuoforibo, n.d., p. 17), its success in bringing about widespread and long-term stability has left some academics sceptical (Aghedo, 2012, 2015; Ajayi & Adesote, 2013; Davidheiser & Nyiayaana, 2011; Obi, 2014; Oluwaniyi, 2011; Ushie, 2013). A mark of this can be seen in the number of post- 2009 oil field incidents reported in the Niger Delta.

Statistics published by SPDC categorise their oilfield incidents into two major types: sabotage/theft and operational failures.⁶ Accordingly, Figure 1 shows that at least half (often far more) of the cases are due to sabotage/theft, though the data also show a fairly high number of incidents resulting from operational failures which raise concerns about SPDC Niger Delta operating standards in comparison to business production in other oil-producing countries (see Steiner, 2010). These incidents are seeing a huge volume of oil lost; Figure 2 shows that in 2013 alone, 25,000 barrels were stolen from SPDC pipelines and facilities, though there has been a reduction in the past two years. Moreover, according to SPDC, “intentional third-party

⁶ One must be cautious about these terminologies; under Nigerian law, oil REIs do not have to accept legal liability or pay out compensation or damages to local people, communities or the environment if oil spills have been found to be caused by third party involvement including sabotage. As a result, “[m]any operators have hidden under the cloak of sabotage to avoid remediation in cases of environmental spills accidents and discharges” (Fraynas, 1998, p. 465. See also Adewale, 1989, pp. 93-96; Manby, 1999, p. 7) which has also seen accusations of deliberately underreporting the volume of oil spilt in each incident (Amnesty International, 2009, p. 16; Amnesty International and the Centre for Environment, Human Rights and Development (CEHRD), 2012, pp. 7-8; Amnesty International and Friends of the Earth International, 2011, p. 4; Etekpe and Okolo, 2010, p. 14; San, 2001, p. 11). A conflict of interest is also apparent as Nigerian regulatory bodies like the National Oil Spill Detection and Response Agency (NOSDRA) have no independent means to initiate oil spills investigations and instead rely on oil companies’ data and equipment (Amnesty International and CEHRD, 2012, p. 5; UNDP, 2006, p. 81). SPDC figures therefore should be viewed as indicators of a general yearly pattern or trend rather than as accurate statistics.

interferences with pipelines and infrastructure were responsible for around 75% of all oil spill incidents ... over the last five years” (Shell, 2014b, p. 1).

Figure 1: Number of oil spills/year (Shell, no date)

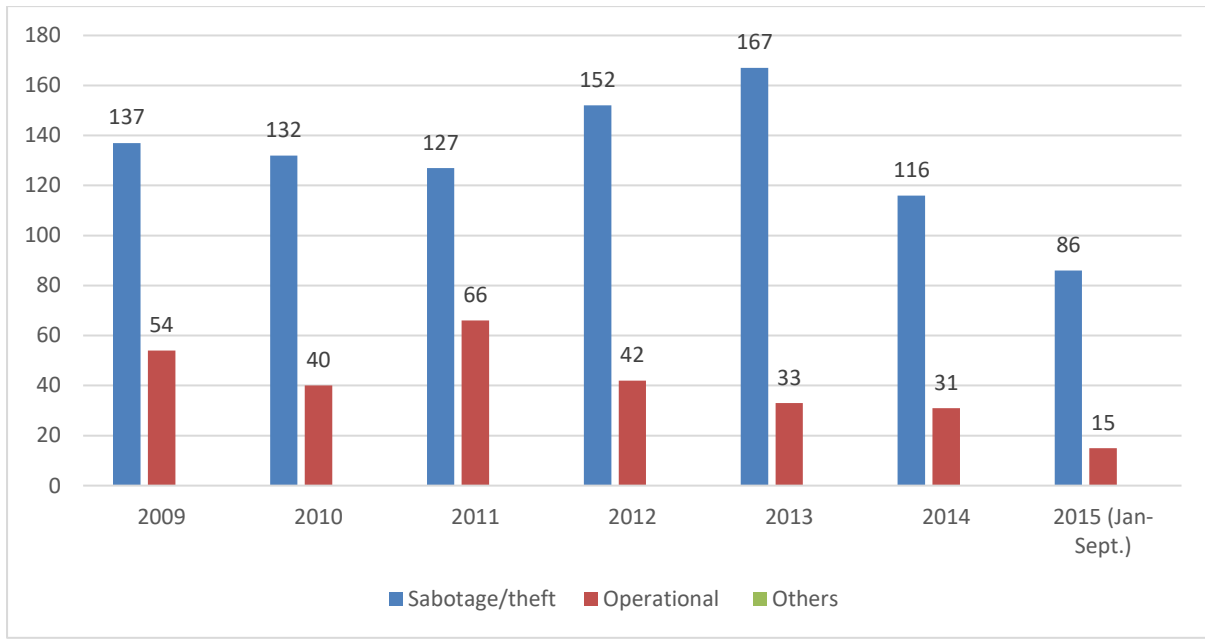
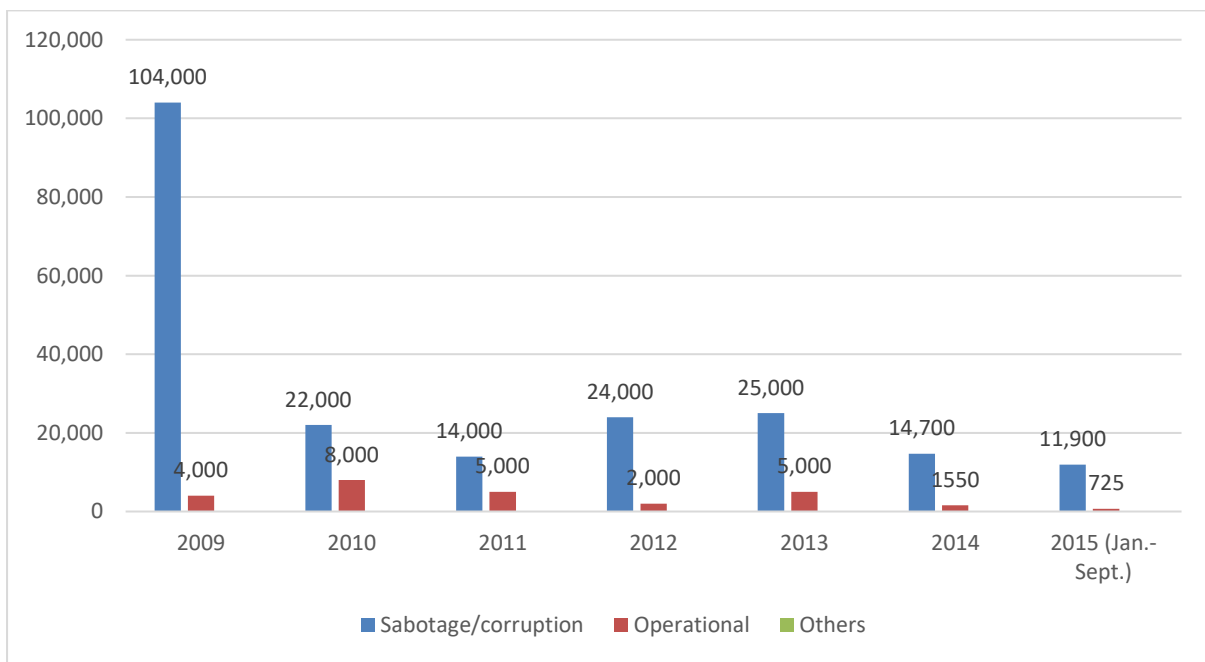


Figure 2: Volume of oil spills/year (per barrel (bbl)) (Shell, no date)



What does this tell us about the DDR programme and the wider instability issues that remain in the Niger Delta? It is clear that these high levels of oilfield sabotage/theft in the post-2009 period are partly fuelled by ongoing environmental devastation caused through oil and gas exploitation (see Figure 2 and Aghedo, 2015, p. 149; Gerner, Svensson, & Djumena, 2004,

p. 2; Ikelegbe, 2013; Nwilo & Badejo, 2006, p. 2; Obi, 1999; Olawoyin, Oyewole, & Grayson, 2012; Omadjohwoefe, 2011, pp. 250–251; UNDP, 2006, p. 87) and the unresolved human development-related problems (Aghedo, 2015, p. 149; Ifeka, 2001, p. 99; Ikelegbe, 2013; National Bureau of Statistics, n.d.; Obi, 2014; Omoweh, 2001; UNDP, 2006, pp. 2, 137) which the DDR programme is not designed to tackle or resolve (Ajayi & Adesote, 2013, p. 518; Ushie, 2013, p. 30).

However, it is important to stress that other factors such as the increased risk of violence for resource rich and dependent countries (seen through the violent government response to Niger Delta protests (Omotola, 2009a, p. 141), the federal government's control of natural resources⁷ (Ikelegbe, 2001, pp. 437–438; Ojione, 2010; Oyefusi, 2014; Uche & Uche, 2004) and the level of oil and gas revenue allocated to oil- and gas-producing states (Bain et al., 2015, p. 2; Dibua, 2005; ICG, 2006, pp. 12–13; Uche & Uche, 2004) through the derivation rule⁸ (Aghedo, 2015, pp. 148–149) have directly contributed to these oil sabotage incidents.

Yet, one could argue that the financial concerns remained tied up to the lack of development that the derivation fund provides to Niger Delta citizens which once again reinforces why the socio-economic situation plays such a key role in the creation of societal animosity, resentment and eventually violence towards the state and resource extraction industries (REI) operations. The impact of these unresolved issues would appear to be supported by research on why splinter militant groups began to violently sabotage the DDR programme in 2009–2010 (Okonofua, 2011, pp. 252–253). Ikoh and Ukpong (2013) found that militants abandoned the amnesty due to “respondents’ experience of failure in governments

⁷ The Nigerian state's effective control of oil resources in the Niger Delta occurs through a number of legal instrumentalities; Section 15 of Decree 51 of 1969, the Land Use Decree of 1978, Section 40 (3) of the 1979 Constitution and the 1999 constitution (Odukoya, 2006, p. 254). The 1999 constitution sets out guidelines for the intergovernmental sharing of the major centrally collected revenues which under Section 44(3) includes the ownership and 'control of all minerals, mineral oils and natural gas in[,] under or upon any land in Nigeria, or in, under or upon the territorial waters, and exclusive economic zone' (Constitution of the Federal Republic of Nigeria 1999, 1999).

⁸ The derivation rule refers to the level of revenue received from natural resources exclusively on a derivation or constituent unit-of-origin basis (Iledare and Suberu, 2010, p. 4) i.e. states receive allocations from the central pool of funding in strict proportion to their contribution (Akinola and Adesopo, 2011, p. 252). The money from natural resources is paid into a Federation Account which is allocated by the National Assembly based on the recommendations of the Revenue Mobilisation Allocation and Fiscal Commission (RMAFC) (Iledare and Suberu, 2010, p. 3). Derivation revenue is set aside before the remaining money is distributed in the (current) proportions (without special funds) of 52.68% to the federal government, 26.72% to the State governments and 20.60% to the local governments (Salami, 2011, p. 41). The derivation principle has had a ‘sharp decline from 100[%] in 1953 to 10[%] in 1960, 45[%] in 1969, 20[%] in 1975, 1.5[%] in 1982, 1.0[%] in 1990, 3.0[%] in 1992 and the current 13[%]’ (Akino and Adesopo 2011, p. 252) set out within the 1999 Nigerian constitution.

empowerment programme in the past” and because of successive government failures to genuinely tackle the root cause of political and economic exclusion (p. 155) through wealth redistribution, economic development and local resource control (Ojione, 2010; Oyefusi, 2014, p. 536; Ross, 2003, p. 13). The years of neglect have left communities feeling marginalised, cheated and left out from the benefits of oil revenues (Omadjohwoefe, 2011, p. 251) which has helped foster a siege mentality specifically among youths who continue to suffer unemployment (Aghedo, 2015, p. 149). They thus “feel ... condemned to a future without hope and see conflict as a strategy to escape deprivation” (Oviasuyi & Uwadiae, 2010, p. 120; Oyefusi, 2014, pp. 537–538).

Consequently, whilst it is impossible to extrapolate the number of sabotage/theft events that are due to an organised (often international) criminal element in the Niger Delta and those which are due to local gangs, militias or communities, one can project that an undisclosed number of attacks are due to the latter group (see Eweje, 2006a, p. 31; Turner & Brownhill, 2004; Watts, 2001, p. 15; Zalik, 2004, p. 413). However, the creation of this situation is not because of any failure within the DDR programme but rather that other successive state agency mechanisms have failed to implement development due to corruption, and economic mismanagement,⁹ an issue that also extends into the Special Funds Account (SFA)¹⁰ and the various funds it invests into (Ikhariale, 2013; Okafor & Shittu, n.d.; Umoru & Erunke, 2013).

Where does this leave the future of the Niger Delta? The ongoing mismanagement and corruption in development agencies and SFAs have led to decades of missed opportunities and

⁹ On the 1960 Niger Delta Development Board (NDDDB) see England and Yakub, 2012, p. 536; Francis and Sardesai, 2008, p. 30; Frynas, 2001, p. 36); the 1973 Niger Delta River Basin Development Authority (NDRBDA), the 1984 River Basin and Rural Development Authorities (RBRDAS) see Aghalino, 2009, p. 58; Akindele and Adebo; 2004; p. 59; Paki and Ebienfa, 2011, p. 137; Salua, 1986, p. 327); and the 1992 Oil Mineral Producing Areas Development Commission (OMPADEC) see Aghalino, 2009, p. 59; Akinwale and Osobu, 2009, p. 145; Frynas, 2001, pp. 37-39; Ibaba, Ukaga, and Ukiwo, 2012, p. 13; Omotola, 2007; Omotola and Patrick, 2010, pp. 121-127; Osha, 2006, p. 2). The situation today under the current Niger Delta Development Commission (NDDC) established in 2000 has seen improvement. Authors have noted that despite its limited financial budget (see Francis, Lapin and Rossiasco, 2011, p. 74) it has performed better than all of its predecessors with a high number of projects completed by the agency (Higgins, 2009, p. 5; Olusakin, 2006, p. 19). Even so, the NDDC is not without its critics who see little progress made to improving the living conditions of either the Niger Delta people or the environment (Imobighe, 2004, p. 108). Moreover, as in previous incarnations of state agencies, the NDDC has been plagued by political bureaucracy and reports of corruption (Duruigbo, 2004-2005, p. 162; Omotola, 2009b, p. 43) whilst projects and contractors are still selected via political patronage (Aigbokhan, 2008, pp. 241-242; Ojajorotu, 2008, p. 107).

¹⁰ Under constitutional law and before revenue is allocated to each Nigerian state from the Federation Account, the derivation principle includes 7% of special funds (known as the Special Funds Account (SFA) that are held and used by the Federal State from the FSA; the 0.72% Stabilisation Fund, 1.46% Derivation and Ecology Account and 3% Natural Resource Fund (Ekpo, 2004, p. 25).

it is clear that providing genuine socio-economic development and economic opportunity to Niger Delta citizens is crucial if societal stability and a reduction in oilfield sabotage events are to occur. Moreover, government policies or agencies designed to bring about systematic development to the Niger Delta must be safeguarded from this problem which explains why simply increasing the level of derivation money allocated to Niger Delta states or the implementation of yet another new development agency does not guarantee success. Instead, the NNRSF policy offers a bold but logical step forward through which to achieve meaningful socio-economic development in order to help bring down the high levels of oilfield sabotage. The next section will set out this policy in detail through a focus on its leadership and level of funding whilst also examining the political conditions for its establishment, an important factor, given the entrenched issue of corruption.

3. From theoretical solutions to practical implementation; breaking the cycle of corruption and sabotage

‘The level of pillage and plundering of public resources is *not* limited to oil communities; it is emblematic of the corruption pervading Nigeria’s larger society’ (Akinola, 2008, p. 93 emphasis added).

The problems in the Niger Delta have seen numerous strategies put forward that aim to successfully harness oil wealth in order to provide socio-economic development. These ideas include the concepts of corporate social responsibility (CSR), an ethical and moral framework that seeks greater involvement of REIs solving social and environmental problems (Branco & Rodrigues, 2006; Rama, Milano, Salas, & Liu, 2009; Zyglidopoulos, 2002), and stakeholder relations management (SRM), where corporations are confronted with economic, social and environmental stakeholder claims from Niger Delta communities and the federal government that they then resolve on their behalf (Buysse & Verbeke, 2003; Hillman & Keim, 2001). Academics have also proposed direct state distribution of mineral revenue to citizens rather than government agencies such as the NDDC (Moss, 2010; Palley, 2003, p. 10; Sala-i-Martin & Subramanian, 2003, p. 17; Shaxson, 2007, p. 1135).

However, whilst CSR and SRMs’ underlying intentions deserve some praise for achieving a measure of success in Nigeria and other countries (Eweje, 2006b; Ite, 2007; Sachs, Post, & Preston, 2002), other academics remain critical of these policies (see Boele, Fabig, & Wheeler, 2001; Frynas, 2005). CSR has also been seen by some as little more than public

relations exercise (Christian Aid, 2004; Friedman, 1970; Valor, 2005, p. 200) whose impact in Nigeria has helped create and sustain intercommunity violence and the militant revolt through the favouring of some oil host communities over others (Akpan, 2006, pp. 234–35; Frynas, 2005, pp. 589–591; Ite, 2004, p. 7; Tuodolo, 2009, pp. 537–538). These small-scale, localised and often highly contentious development projects have a micro-level impact (Christian Aid, 2004, p. 24; Quak, 2008) which cannot achieve the large-scale socio-economic development necessary in the Niger Delta to help reduce oil field sabotage. Direct state revenue distribution is also problematic. Despite this approach helping circumvent state corruption, it would prevent the Nigerian Government from investing in the necessary socio-economic development for the Niger Delta (and wider country) and thus would do little to stem the high levels of Niger Delta oil field sabotage and instability. It is also difficult to believe that Nigeria would be able to manage this mechanism in a transparent manner in the face of entrenched institutional instability and inherent corruption (Ross, 2007, p. 243; Weinthal & Luong, 2006, p. 42).

How then can a policy be designed that suppresses corruption whilst at the same time securing the Niger Delta socio-economic development? Given the above points, this author proposes the creation of a Nigerian Non-Renewable Revenue Special Fund (NNRSF). The NNRSF is designed to counter the embezzlement of state funds and achieve sustained socio-economic development in the Niger Delta. In essence, the NNRSF would have a separate trust fund managed in partnership with the UNDP that would be funded through a petroleum excess revenue formula. Whilst the scheme presents real challenges, they are not insurmountable and several possible steps can be taken which would help create a climate that would be more conducive to the scheme.

3.1 Leadership of the NNRSF

Internationally, there are numerous examples from emerging market and developing economies (EMaDEs) that have undergone constitutional and legal changes regarding the location and mechanism that hold natural resource revenue. One of the most common systems is the creation of a non-renewable fund (NWF), which is part of the broader Sovereign Wealth Fund system.¹¹ “A trust is an arrangement in law in which legal ownership of an asset, the res, is transferred to a trustee who becomes responsible for managing the res for the benefit of another person or persons, the beneficiaries” (Duruigbo, 2004, p. 168). In terms of oil trust

¹¹ See Truman (2007, p. 10) for a comprehensive list.

funds, this would see the revenue, or part of it, derived from oil exploration and production constituting the asset (i.e. the agreed excess revenue level) which the board of trustees would be empowered to manage for the benefit of the population (Duruigbo, 2004, p. 169). In Norway, for example, all government revenue from the petroleum sector is channelled directly into the Government Pension Fund Global (GPF) to isolate government spending away from this revenue and save the oil wealth for future generations (Norges Bank, n.d.; Organisation for Economic Co-operation & Development [OECD], 2009, p. 50). Meanwhile, on the advice of the IMF, Venezuela has included the establishment of article 321 in the 1999 Constitution which created the Investment Fund for Macroeconomic Stabilisation (FIEM) to help insulate the budget and the economy from fluctuations in oil prices (Fasano, 2000, p. 9) and invest in economic diversification (Sovereign Wealth Fund Institute [SWFI], n.d.-a). Similarly, The Oil Revenue Stabilisation Fund of Mexico (FEIP) was legally launched in 2000 in order to lessen the effects on the nation's finances when there are declines in oil revenue and act as a stabilisation fund (SWFI, n.d.-b).

Whilst these NWF examples highlight different objectives, many utilise similar methods; both Mexico's FEIP and Venezuela's FIEM are financed through oil revenue that exceed annually set average benchmark prices (Bjerkholt & Niculescu, 2004, p. 175; OECD, 2009, pp. 53–55). In Venezuela, despite frequent changes to the FIEM by former President Hugo Chavez (Bacon & Tordo, 2006, p. 113; Manzaono & Scrofina, n.d., p. 10), revenue benchmarks since 2008 are calculated for government fiscal revenues based upon five-year moving averages (Clemente, Faris, & Puente, 2002, p. 20). In Mexico's case, the FEIP gains cash inflow from a special levy on oil revenues (Jimenez & Tromben, 2006, p. 73) set at 25% since 2003 (Revenue Watch Institute, n.d.) which the government has set at \$76.40 per barrel in its 2015 forecast (Montes, 2014).

However, although the NRFs in Mexico, Venezuela and elsewhere have contributed to enhancing the effectiveness of fiscal policy by making budget expenditure less driven by revenue availability (Fasano, 2000, p. 20), the results have been mixed. Authors (Davis, Ossowski, Daniel, & Barnett, 2001, p. 27; Weinthal & Luong, 2006, p. 40) have queried whether these NRFs are an entirely appropriate solution to the fiscal and policy problems faced by countries such as Nigeria. Indeed, as DeVries (2002, p. 33) summarises, NRFs are only part of the solution which also require robust fiscal rules and strong political commitment, both of which contemporary Nigeria cannot readily rely upon. This is crucial because the running of

the Mexican and Venezuelan NRFs is via the national government¹² and as such, Nigeria's political institutions are perhaps not best placed to lead the NNRSF scheme, especially in the light of the NDDC and SFA corruption problems.

Consequently, where NNRSF policy differs to these other examples is through the involvement of an exterior outside agency which would run the trust fund in partnership with the Nigerian Government. This would help avert unrestrained public spending in oil booms that lead to macroeconomic instability in the country (Eifert, Gelb, & Tallroth, 2003, p. 8), prevent the deviation of the NRF from its original course (a problem for certain other NRFs which could be the case for Nigeria (Fasano, 2000, p. 20) and make sure that the fiscal capital is utilised to implement the necessary Niger Delta socio-economic development. Moreover, such an arrangement acknowledges that direct autonomous control of oil revenue funds for development through a government-controlled NRF would, in all probability, continue to suffer the same levels of corruption and embezzlement problems outlined in this paper. The movement of the oil revenue money into a trust fund managed by an international partner helps nullify this issue. For Nigeria, the precedent for its own NNRSF has in many ways already occurred. Nigeria's SFAs (see Note 8) are funded through the central Federation Account so a similar set-up could apply for the NNRSF which would prevent the necessity of constitutionally amending Article 162(1) or removing revenue from outside the Federation Account system.¹³ Indeed, such a move is not overly radical as the precedent for state constitutional changes has been seen in other EMaDEs many times before; Dressen summarises that in the 1990s alone, "roughly 70 emerging democracies have completely rewritten or substantially altered their constitutions" (Dressel, 2005, p. 1).

The UNDP represents an obvious choice to run the NNRSF due to its widespread development and financial experience. The UNDP currently runs over 3,100 development projects in 177 countries and territories and has worked in a number of high-profile and successful (EMaDE) government development partnerships (Government of Rwanda and UN,

¹² The FEIP is run through a Technical Committee formed by officers of the Ministry of Finance (SHCP) (International Forum of Sovereign Wealth Funds (no date) whilst FIEM is regulated by the Board of the Central Bank of Venezuela (BCV) (Sovereign Wealth Fun Institute, no date a).

¹³ Article 162(1) of Nigeria's 1999 constitution, categorically states that all revenues collected by the Federation shall be collected and placed 'into the Federation Account' except for a number of listed caveats (Constitution of the Federal Republic of Nigeria, 1999). These listed caveats include 'the personal income tax of the personnel of the armed forces of the Federation, the Nigeria Police Force, the Ministry or department of government charged with responsibility for Foreign Affairs and the residents of the Federal Capital Territory, Abuja' (Article 162(1) Constitution of the Federal Republic of Nigeria 1999).

n.d., p. 25; UNDP, n.d.-a). Meanwhile, their array of international Funds and Joint Programmes that run through their Multi Partner Trust Fund (MPTF) Office and alongside their “National Fund” approach offer clear parallels to the NNRSF scheme (UNDP, n.d.-b). In Ecuador, the (now defunct) Yasuni ITT scheme funds were administered by the UNDP MPTF Office. The steering committee included three government representatives, one civil society representative, two contributor representatives (chosen from nations that contribute to the scheme) and one technical secretary with no vote (Martin, 2011, p. 69). Originally using majority voting, the scheme ran with consensus voting if there is no majority vote, whilst the Ecuadorian Government reserved the right to make all final trust fund decisions (Martin, 2011, p. 70).

The NNRSF could utilise a similar steering committee composition that takes into account the context of the Nigerian Federal political system and the development aims and objectives. Six federal governmental representatives could be chosen alongside six state-level representatives with the latter rotated on a pre-determined bi-annual basis so that over a 6-year period, all 36 Nigerian states would have had direct involvement in the NNRSF.¹⁴ Again, due to the danger of corruption, they would not form the majority of the steering committee but would instead be joined by 15 representatives from the UNDP MPTF office to ensure that transparency and financial accountability are maintained. Two further positions should be given to members of Nigerian civil society in a bi-annual process through either elections (which does run the risk of fraud) or their award to different ethnic group leaders on a rotational basis. These members would not only help oversee the work of the NNRSF but also provide a direct link with Nigerian society which becomes part of this central decision-making mechanism. Lastly, a technical secretary position with no vote would have the final position.

As in the original format for the Yasuni ITT scheme, the NNRSF steering committee would utilise majority voting which would act as a final accountability check on how the funding is spent and the development undertaken. To aid the steering committee in this regard, the NNRSF could also operate formal community meetings in the region (similar in scope and scale to the recent UNEP fieldwork mission to Ogoniland, Niger Delta which saw the assembled team conduct 264 formal community meetings attended by over 23,000 people (UNEP, 2011b, p. 2) so that constructive dialogue is occurring between the trust fund and local

¹⁴ In order to ensure fair representation, one of the six Federal governmental representative should be for the Federal Capital Territory Region around Abuja.

people about development priorities in the local area. Where possible, development project contracts could be awarded to local Niger Delta builders and other tradesmen, whilst revenue could also be set aside to train and find employment for young people, a key priority, given the ongoing youth unemployment and underemployment.

3.2 Funding of the NNRSF

The second key NNRSF consideration is the level of funding. The implementation of a more stringent Norway GPFM might appear to be more suitable than the FEIP or FIEM, but as has already been noted, Nigeria's strong reliance on oil revenue makes this impossible. Therefore, the NNRSF steering committee could utilise an excess revenue system similar to Venezuela's FIEM and Mexico's FEIP created from all derivable and accruable petroleum income¹⁵ and based on yearly estimates for petroleum prices that take into account short-term market volatility.

Though the OECD has criticised Mexico's FEIP for the limited accumulation of savings due to excess revenue allocation rules and a capped revenue fund (OECD, 2009, pp. 51–52), it is unlikely that Nigeria would agree to a NNRSF that had a funding level anywhere near so high. Instead, a smaller excess revenue level of between 15% and 20% of yearly petroleum prices would stand a greater chance of acceptance which although lower, would still provide a sizeable level of revenue from which to work with. For example, 2014 figures for Nigerian oil production in the second quarter averaged 1.91 million bbl/d (second quarter) (Central Bank of Nigeria, 2014b, p. 26) which when multiplied to the world oil price in November 2014 of US\$76 would provide government revenue of US\$105 million. A NNRSF excess revenue scheme set at a 15% funding would receive US\$15,750,000, whilst an excess revenue scheme set at 20% excess revenue would generate US\$21,000,000.

These figures highlight the significant cash revenue that could be generated with a lower set excess revenue formula that would still enable the NNRSF to be able to implement widespread socioeconomic development. It must be noted that the volatility of oil prices means that such levels of funding for the NNRSF cannot always be guaranteed. However, were other federal government development and investment schemes abolished and amalgamated into the

¹⁵ This would include all revenue derivable to the Federal and State government as set out under the Constitution, Article 161(1), which in turn encompasses all revenue from downstream and export operations, taxes, royalties, rents, signature bonuses, fees etc.

NNRSF (e.g. the NDDC, SFAs and others¹⁶), a policy undertaken in Chile,¹⁷ this would not only help “kick start” the NNRSF financially but shore up the fund when oil prices fall.

So far, these sections have been able to show the worthwhile role that the NNSRF can play in countering the problem of corruption and implementing socio-economic development in order to help reduce the level of oilfield sabotage and instability in the Niger Delta. This last section of the paper assesses the viability of its implementation by investigating the wider political economy of Nigeria and gauging where the possible political conditions for its emergence may stem from. This is important, given the difficulties that previous political administrations have faced in reforming the petroleum industry, an indicator of which can be seen in the failure to pass the petroleum industry bill (PIB) (see Okoye, 2012; Pérouse de Montclos, 2014) and the radical changes implemented by President Buhari in relation to the Nigerian National Petroleum Company (NNPC) (Gupte, 2015a, 2015b).

As has been shown, one of the biggest challenges for the country is its battle against corruption. This paper believes that it is through the government’s effort at combating corruption via the reforming of various laws, anti-corruption agencies and the judiciary where the right conditions for the discussion and possible implementation of the NNRSF can emerge.

3.3 Implementation of the NNSRF

It is important to note that the issue of corruption has not been ignored by Nigerian Governments which have sought to combat this problem through various legal laws and commissions.¹⁸ Most recently, under former President Obasanjo, anti-corruption mechanisms have assumed two key forms: the Independent Corrupt Practices and Other Related Offences

¹⁶ These include the Petroleum Equalisation Fund (PEF) and the Petroleum Technology Development Fund (PTDF). The PEF was established as a parastatal of the Ministry of Petroleum Resources by Decree No.9 of 1975 (amended by Decree No.32 of 1989) to administer uniform petroleum product prices throughout the country. It is funded through the net surplus revenue recovered from Oil Marketing companies (Petroleum Equalisation Fund (Management) Board, no date). The PTDF was established under Act No 25 in 1973 as a fund for the purpose of training and education of Nigerians in the oil and gas industry (Petroleum Technology Development Fund, no date). This was funded through the outstanding monetary assets in the former Gulf Oil Company Fund and money freely donated by individuals or accruing to the government (ibid).

¹⁷ Chile's Economic and Social Stabilisation Fund (ESSF) was established in 2007 under the passage of the Fiscal Responsibility Law. Its initial contribution of \$2.58 billion was mostly derived from Chile's old Copper Stabilisation Fund (totalling \$2.56 billion) established in 1985 that the ESSF replaced (Chile Ministry of Finance, no date).

¹⁸ This includes ‘[t]he Corrupt Practices Decree of 1975, the War Against Indiscipline (WAI) campaign, the Code of Conduct Bureau of 1990, Advance Fee Fraud and other Related Offences Decree of 1995, Independent Corrupt Practices Commission’ (Umoh and Ubom, 2012, p. 102. See also Sowunmi, Adesola, and Salako, 2010, pp. 1055-1056) and the Money Laundering Act 2011 (Odusote, 2013, pp. 130-131).

Commission (IPIC) established through the Corrupt Practices and other Related Offences Act in June 2000 and the EFCC through the Economic and Financial Crimes Commission Establishment Act of 2004.

The IPIC is an independent body that has extensive administrative duties and is tasked with investigating, arresting and prosecuting people for corruption (which also extends to non-Nigerian agents in foreign states) and enacting corrective, preventive and educational duties (Abdulrasheed, Babaita, & Yinusa, 2012, p. 21; Independent Corrupt Practices and Other Related Offences Commission, 2000; Ocheje, 2001; Odusote, 2013; Olagoke, 2004).¹⁹ Offences committed under the Act (mostly surrounding economic corruption carried out through business but also in relation to political corruption (Olagoke, 2004, p. 77) are prosecuted in the Federal High Court and State High Court (Odusote, 2013, p. 129), with sentences carrying a maximum weight of up to seven years or the option of a fine (Odusote, 2013, p. 129; Independent Corrupt Practices & Other Related Offences Commission, 2011).

The IPIC and wider Act have been given positive evaluations by some scholars (Ocheje, 2001, p. 184; Olagoke, 2004) and achieved some successes (see Musari, 2015). However, concerns have been raised over some of the Acts' financial deterrence aspects (Olagoke, 2004, p. 86) and lack of severe punishment for those convicted (Odusote, 2013, p. 129). More worryingly, despite over 300 cases being pursued by the IPIC (Independent Corrupt Practices & Other Related Offences Commission, 2015, pp. 1–21), very few cases lead to convictions.²⁰ This is partly attributable to the politicisation of cases and the failure of the court system to ensure that individuals are successfully prosecuted and convicted where appropriate (Enweremadu, 2006; Odusote, 2013, p. 125).

The second key anti-corruption mechanism is the EFCC. This is charged with investigating, prosecuting and penalising economic and financial crimes and enforcing the various laws dealing with these matters (Sowunmi et al., 2010, p. 1056). The EFCC has seen

¹⁹ The IPIC is 'composed of a chairperson and twelve other members, including a retired police officer, not below the rank of Commissioner of Police, a legal practitioner with at least ten years post-call experience, a retired judge of a superior court of record, a retired public servant not below the rank of director, a woman, a chartered accountant, and a young person, not less than 21 or more than 30 years of age (section 3(3)(a)-(f))' (Ocheje, 2001, pp. 177-178).

²⁰ 'For example, between May 2001 and July 2005, ICPC filed 49 cases involving 104 individuals but was able to conclude just one' (Ogungbamila, 2014, p. 145).

some notable achievements (Adebanwi & Obadare, 2011, pp. 194–198; HRW, 2011; Obua, 2010, pp. 44–45; Ribadu, 2006; Sowunmi et al., 2010) but again has been critiqued over the lack of prosecutions against corrupt political figures and the little progress made on court cases (HRW, 2011, p. 1; Inokoba & Ibegu, 2011, pp. 288–289; Obua, 2010, pp. 45–46). This issue has been exacerbated by the constitutionally enshrined immunity laws (Section 308(1) for the president, vice-president and the 36 state governors and their deputies (Umoh & Ubom, 2012, p. 103) (totalling 76 senior government officials) (Hatchard, 2014, p. 83) who thus remain beyond the reach of the law (Tajudeem, 2013, p. 195). The EFCC has also been criticised for its use as a political instrument against government opponents (Adebanwi & Obadare, 2011, p. 198; Hazen & Horner, 2007, p. 12; Inokoba & Ibegu, 2011, p. 289; Lawson, 2009, p. 86; Sowunmi et al., 2010) which has “effectively aborted” (Suberu, 2009, p. 264) or at least severely weakened the legitimacy of its work.

Given these issues, how viable is the NNRSF and where would it emerge from? In answer to these interlinked questions, this paper believes that the NNRSF can be implemented after initial steps are taken that strengthen the fight against corruption. It is through these steps that a political environment will emerge that will offer the right conditions for the NNRSF policy to be announced, discussed and it is hoped to be accepted.

The first step is the removal of the political immunity clauses from the constitution. This could occur through its transference into legislation in order to bring it in line with judicial and legislative immunity laws, thus making it easier to amend or remove the clause (Okeke & Okeke, 2015, p. 120). One way might possibly be through an amendment to Item 47, 2nd Schedule, of the 1999 Constitution which grants the National Assembly the power to make law on privileges and immunities of its members, and consequently could be enlarged to include the immunities of the President, Vice-President, Governors and Deputy-Governors (Arishe, 2010, pp. 283, 306). This reform is supported by academic (Aka, 2006, p. 475; Arishe, 2010; Umoh & Ubom, 2012), non-governmental (Socio-Economic Rights & Accountability Project, n.d.), political (Kayode-Adedeji, 2015; The Nigerian Voice, 2013, 2014) and public and civil society groups (Ehirim, 2013; Mohammed, 2015), highlighting that a groundswell of support for this policy does exist in Nigeria. However, as efforts at overturning this constitutional right have failed in the past (Aziken et al., 2015), it is clear that the support of the Nigerian president is crucial to this endeavour. The incumbent President Muhammadu Buhari, who fought his Presidential campaign on an anti-corruption platform (see Akinloye, 2015), has indicated that

he would remove the immunity clause from the constitution (HRW, 2015) so it is hoped that this will occur in the near future.

Secondly, efforts should be made to condense the wide, often overlapping sets of corruption laws into one piece of legislation and also reform the apparent “duplicity of effort” surrounding the two anti-corruption agencies work (Odusote, 2013, p. 132). A single piece of corruption legislation would prevent narrow interpretations of the various corruption laws by defence counsels or the judicial system which help defendants escape justice (Odusote, 2013, p. 132). Penalties for corruption offences should be raised and such measures could be inserted into the new bill (though this paper does not agree with authors who suggest the use of the death penalty for maximum sentences (Adegbulu, 2010; Odusote, 2013, p. 129).

Reform of the two corruption agencies is also imperative in order to improve the effectiveness of their work. Either each agency should be given a clearly defined corruption jurisdiction (e.g. the EFCC concentrates on political, administrative/professional and societal corruption, whilst the IPIC examines economic/commercial and organised crime corruption (Adegbulu, 2010, p. 12) or one of them should be abolished and their work amalgamated into the other. This author, like Odusote (2013, p. 140), believes that the establishment of a single corruption agency independent of the federal government is the best solution for the country which indicates that the IPIC should become the country’s national corruption agency, given the additional need to amend the EFCC bill to prevent ongoing government interference (Sowunmi et al., 2010, p. 1066). Their work would be aided through wider judiciary system reform, something that academics feel is vital if the agency(ies) are able to achieve better results (Enweremadu, 2006; Odusote, 2013).

This second step is no less difficult than the first and would require political support from the president to have any hope of success. Again President Buhari has recently signalled his interest in overhauling both of these agencies (Etuk, 2015) and the judicial system (P.M. News, 2015) via the creation of an anti-corruption advisory committee (BBC News, 2015) and it is hoped that whatever reforms do transpire go far enough in strengthening agency and judicial work.

Once these steps occur, the corruption agency(ies) will be in a stronger position from which to oversee and prosecute corruption cases (especially against Nigerian politician’s) and

by doing so help gradually move the political apparatus away from entrenched corruption towards an environment that would be conducive for the proposition of the NNRSF. At this point, the newly empowered corruption agency(ies) would undoubtedly welcome efforts to improve government fiscal accountability and thus would have a significant role in promoting the NNRSF policy. In order to gain crossparty support for the NNRSF in the Senate and House of Representatives and the necessary statutory law and constitutional changes, agreement could be reached with the UNDP to widen the scheme and accommodate socio-economic development projects in other non-Niger Delta states over a set period of time. This would help alleviate potential concerns of regional favouritism and allow other areas of Nigeria to benefit from socio-economic development.

Overall, one must view these as long-term transitional steps which will be difficult to achieve and do not guarantee success, given the current political economy of Nigeria. Nevertheless, the seeds for these changes have already been sown through the establishment of the EFCC and IPIC, the previous (albeit failed) efforts at constitutionally amending Nigerian political immunity and the election of a president on an anti-corruption platform. Indeed, the election of Buhari raises real prospects for the necessary reforms to occur as the president's support is vital. "Attempts to eliminate corruption tend to succeed when reforms ... are supported at the highest levels of government" (Mauro, 1998, p. 13). Whilst only time will show whether this anti-corruption rhetoric turns into reality, were this to happen, there is every reason to believe that the NNRSF could be launched and seriously debated in Nigerian political circles.

4. Conclusion: why a Nigerian NNRSF is a positive step forward

'Constitutional reform...has become a popular method for countries to account for past institutional failures, reconstruct political structures after authoritarian rule, and ensure better governance in the future' (Dressel, 2005, p. 1)

The human and environmental situation in the Niger Delta cannot and should not continue. Nigeria should be a flourishing African and international economic power, one which ought to have given its citizens improved social and economic living conditions. Instead, as this paper has revealed, the disparity between the Niger Delta's oil wealth on the one hand and the chronically poor socioeconomic and environmental conditions for its citizens on the other has helped ferment anger and resentment by citizens who feel woefully betrayed by the state. This

article believes that local people are driven to violence and ongoing oilfield sabotage by a sense of injustice over not only what they see as “their oil” but also by state development agencies that have consistently let them down. The natural resource curse is most starkly seen through the huge levels of corruption that have hampered these agencies and represents an ongoing challenge for the work of the EFCC and IPIC who have taken positive steps forward but remain overwhelmed by the sheer scale of the problem and weaknesses in their regulatory frameworks.

Two points follow on from this. Firstly, it is clear that any policy designed to implement socioeconomic development would need to acknowledge that the impact of corruption will remain a factor in the short to medium term. The NNRSF has sought to do this by creating a policy that accommodates Nigeria’s wider political economy and the influence of corruption directly into the scheme. Secondly, the policy can only be borne out of efforts to tackle corruption and reform the various national agencies, judicial system and laws. By doing so, it may be possible to create an environment that would be more conducive to the idea of the NNRSF. Whilst this is not guaranteed, it stands the greatest chance of success with an administration like President Buhari’s that is keen on pursuing the campaign against corruption.

Thus, the NNRF should be seen as a long-term strategy that will only bear fruit after many years of planning, consultation, political commitment and labour, the achievement of which will help reduce the levels of sabotage in the Niger Delta and provide employment for young people hungry to improve their lives. The scheme can be seen as only the first step on the road to wider Nigerian social and economic development and could and should be repeated in other areas of the country that are also in desperate need of socio-economic advancement and support. As a result, this article believes that the NNRF should steer Nigeria’s social and environmental development for at least several decades in order to ensure that the country’s fiscal petroleum income is utilised for the benefit of the many and not for the few.

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