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ENHANCING THE EFFECTIVENESS OF THE OIL AND GAS PRODUCING AREAS DEVELOPMENT COMMISSIONS IN FIVE STATES OF THE NIGER DELTA

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Executive Summary

This study assesses the operations of Oil and Gas Producing Areas Development Commissions across five oil producing states namely, Abia and Imo in the South-East; Edo and Delta in South-South, and Ondo in South-West geopolitical zones, southern Nigeria. The research assesses these commissions by describing and analyzing their operational efforts, enabling laws and the extent they have applied the 13% derivation fund from the federation accounts to the state government and then to the commissions, to improve the living standard of oil producing communities.

It also applies the concept of transparency and accountability to the commissions operations, undue political influence and anti-corruption. The aim is to inform stakeholders particularly civil society anti-corruption advocacy actions in the region. The qualitative and quantitative research methodologies were deployed with questionnaires administered and interviews conducted between April and June 2022. The study was initiated by Africa Network for Environment and Economic Justice (ANEEJ) to build the capacity of civil society and the media to conduct advocacy and engagement of benefiting states governments, their Houses of Assembly, as well as Host oil communities and the commissions for reforms.

The study provides greater understanding of the operations and level of impact made across a 10-year period covering 2013-2021. The findings showed high volume of projects implemented by the commissions for the development of the oil producing communities. In terms of impact, beneficiaries attest to the benefits derived although the impacts were low and this indicates that there is room for improvement. Infrastructural projects were extensive in scope but lacking depth so that their operations covered almost anything under the sun; road construction and highways, building of schools, housing estates, solar street lights, security armoured gun boats, transformers and vehicles for political campaigns, to name but a few. A number of reasons were adduced for these, including the approach to rural development that was based on contractors and procurement model not grounded in participatory approaches that favour bottom-up rather than top-down approaches.

The findings show that respondents were far more inclined toward accountability and value for money for projects implemented than additional funding through the upward review of 13% derivation fund for the commissions. Some operational gaps and policy reforms have been identified including recommendations to address anti-corruption, transparency and accountability issues to pave the way for a more effective and efficient delivery of intervention projects to the target beneficiaries. They included the following:

- Reforms of the federal and state laws of the commissions: The federal government, national and state houses of assembly should conduct reform to amend Section S162 (2) of the federal constitution to provide clear objectives, guidelines and an appropriate framework that ensures that derivation funds are paid directly to oil producing areas development commissions as has been done under Ss.235, 238 and 239 of the Petroleum Industry Act 2022.
- Capacity building for rights-holders and duty-bearers to understanding and evolving transparency and accountability mechanisms in the commissions operations and the periodic engagement with stakeholders.

- A robust CSOs policy advocacy and engagement strategy for reform through multi-stakeholder approach to follow up on the recommendations that will allow the Federal Accounts Allocation Committee (FAAC) to disburse 13% derivation fund directly to the commissions, or its Community Trust Fund to be established.
- Development of guidelines to encourage the commissions to adopt best practices in the utilization of the 13% derivation fund and anti-corruption measures.

CHAPTER 1: INTRODUCTION

This study assesses the operations of Oil and Gas Producing Areas Development Commissions and their enabling laws to proffer recommendations for reform to make the institutions more responsive, transparent and accountable to citizens of oil rich Niger Delta, southern Nigeria. The initiative by Africa Network for Environment and Economic Justice (ANEEJ) is to build the capacity of civil society groups and the media to conduct advocacy and engagement of benefiting states governments, their Houses of Assembly, as well as Host communities and the commissions for reforms.

ANEEJ effort supports the initiative for *enhancing anti-corruption and social inclusive reform initiatives in Nigeria* designed to strengthen Civil Society organizations' advocacy and local engagement. The goal of the project is to promote and engage in anti-corruption policy reforms at both the national and sub national levels in Nigeria. One of the objectives is to advocate for reforms in the five Oil and Gas Producing Areas Development Commissions in Nigeria.

1.1.Background

The Niger Delta is located in the oil rich southern Nigeria and has been described as restive for reasons that have characterized the region including problems of underdevelopment, environmental degradation, poverty and violent resource conflicts. A political economy discourse of Nigeria's natural resource governance shows that oil and gas is Nigeria's economic mainstay, yet, the oil host communities where exploitation operation is taking place are without tangible benefits. The Nigerian oil economy has been described as a 'double-edged sword' for its bloom and gloom narratives.[i] The Nigerian economic mainstay mainly oil and gas resources are extracted from the region and accounting for over 80% of national revenue and 90% of her export earnings. At the same time, the oil economy induced an enclave-economy with small high income subsector co-existing with larger low-income subsector, neglect of sustainable productive assets in favour of rent-seeking oil revenue flows, environmental degradation and pollution costs often externalized in the oil and gas production process.[ii]

In particular, environmental degradation, social unrest, induced resource conflicts, and livelihoods destruction impoverished the rural folks.[iii]Till date there is persistent gas flaring and frequent oil spills resulting in over 10,000 oil spill sites and over 13 million barrels of crude oil spilled into the environment of the region and none has been adequately cleaned up.[iv]The region continued to be a paradox as trillions of oil derivation revenue accruing to the states of the oil-rich region since the return of democratic governance in 1999, has not translated into concrete development. The 1999 Constitution prescribes for the allocation of at least 13% of the revenue accruing to the Federation Account directly from any natural resource to the State where the natural resource is derived.[v]

Grinding poverty in the Niger Delta region has persisted over the decades because of the governmental and stakeholders' approach in tackling it. To address community agitations and underdevelopment of the region, some agencies, ministries such as the Niger Delta Development Commission (NDDC), Federal Ministry of the Niger Delta Affairs (FMNDA), and various oil and gas producing areas development commissions were set up. These commissions are the focus of this study to provide deeper understanding of the mandates, policies and operations for a more efficient and effective resource utilization.

A major gap is the lack of transparency and accountability in the operations of the commissions. Civil society and ANEEJ cluster groups working on the extractive sector recognized that corruption is a major challenge hindering the growth and development of Nigeria. Nigeria is consistently ranked one of the most corrupt countries in the world as evidenced by Transparency International's Corruption Perception Index (CPI) reports.[vi] For example, the 2021 CPI report indicated that Nigeria scored 24 points out of 100 and ranked 154 out of 180 countries and territories assessed, indicating high level of corruption as in the previous reports. Frequent crisis from environmental justice struggles occasioned by political and economic marginalization have negatively impacted the work of the commissions. The commissions need peaceful atmosphere to plan and execute projects, unfortunately, the region remains restive and the gap of inequality and poverty is widening rather than reducing.

The 13% derivation fund was introduced in the nation's constitution as a conflict resolution mechanism to address the lack of basic infrastructure, poverty, livelihoods destruction, neglect and marginalization of the region. The Niger Delta states receive 13% derivation funds from the Federal Government as its quota of revenue derived from oil. Whilst there has been a clamour for increase in the derivation funds by the region's elites and arguments in support of resource control, it is believed that to a large extent, the issues surrounding the use of derivation funds come down to mismanagement, lack of transparency and accountability. Although there are some concerns on the slow progress in relation to limited funding, however, to what extent the commissions have effectively managed the resources received and what impact being made in the communities are major issues to be addressed.[vii]

The Africa Network for Environment and Economic Justice (ANEEJ) in 2015, conducted research entitled, Oil of poverty in the Niger Delta.[viii] The research led to the discovery that only Ondo State had an institutional framework for the management of the 13% derivation fund vide the Ondo State Oil Mineral Producing Areas Development Commission (OSOPADEC). On the strength of this discovery, ANEEJ developed advocacy strategy to get other states in the region to have an institutionalized framework. The effort resulted in the establishment of Edo State Oil and Gas Producing Areas Development Commission and the Delta State Oil Producing Areas Development Commission (DESOPADEC). Imo and Abia States not located in the region later took a queue. This research builds on this effort to assessing the extent of how these commissions are delivering on their mandate and the development of the oil Host Communities.

1.2. Niger Delta Oil Wars and Resource Control Agitations

The people in oil producing communities believe that they have not benefitted sufficiently from revenues accruing from oil and gas majorly because of their status as ethnic minorities. They point to the fact that from the 1950s up until the 1970s when primary agricultural commodities were the main export products for the country and the major ethnic groups were in charge of producing these commodities the derivation ratio was 50% to the region where the commodity was produced, and 50% retained in the central purse.[ix]

Resistance against oil and gas activities due to their deleterious impacts on ecosystems, health and the livelihoods of the people was popularized in the early 1990s from the Ogoni mobilizations led by Ken Saro Wiwa and his Ogoni kinsmen and some leading civil society groups. The concept of greed and grievance has been deployed to explain the rise of militants in the Niger Delta.[x] The greed for crude oil theft and disregard for environmental degradation are major issues that cannot be swept under the carpet. However, genuine causes such as the case for local resources for local control gained currency which some of the state governors supported at the time. The revenue allocation framework that has always been a sensitive and contentious subject in Nigeria's socio-political and economic milieu resurrected in full force. The oil impacted communities of the region replicated these agitations for the protection of community ecosystems, local livelihoods, and access to a bigger share of the revenues accruing from the resources extracted from their lands and waters as well as clear pathways to participation in governance especially at the federal level. These agitations turned the region into a hotbed of discontent, anger and violent resource conflicts.

Dissatisfied with the violent and repressive responses of the Nigerian state at the time against the genuine cries of the people for development and a sense of belonging, some opted to utilize the very strategies of violence favored by the Nigerian state rather than dialogue. The emergence of militant groups led by Niger Delta People's Volunteer Force, (NDPVF) and several other groups that waged armed rebellion against the Nigerian state, destroying oil facilities, shutting down oil operations, kidnapping oil workers and appropriating crude oil from facilities for sale and for use in artisanal refining operations.[xi] Dozens of other militant groups such as the Movement for the Emancipation of the Niger Delta (MEND) joined the fray in later years, and this made peaceful operations reducing oil production to well below one million barrels per day from its capacity of 2.5mbpd.[xii] The tension and violence in the region only began to de-escalate after the government of late President UmaruY'adua initiated the amnesty program that was embraced by the militants and dialogue with the people of the Niger Delta.

1.3. The Political Compromise of 13% Derivation Principle

The 13% derivation principle was a political compromise designed to ensure a just and equitable allocation of revenues derived from natural resources to states and communities who bear the ecological, health and social dislocation costs of extractive activities. The principle was agreed during the 1995 constitutional conference but some serious misgivings about the technical and mathematical indices for calculating 13% derivation still exist till date.

Historically, "different formulas by ad-hoc commissions at different times have been adopted to determine the allocation formulae and criteria.[xiii] Between 1946 and 1979, there were eight of such commissions on revenue allocation: Phillipson (1946), Hicks/Phillipson (1951), Chick (1953), Raisman (1958), Binns (1964), Dina (1968), Aboyade (1977), and Okigbo (1980).[xiv] It was not until 1988 that a permanent body was created to monitor, review, and advise the federal government on revenue allocation as well as statutory allocations on a continuing basis. The new body, called the National Revenue Mobilization, Allocation, and Fiscal Commission, set up in 1989, represents a structured attempt to replace the ad-hoc approaches to effecting changes in revenue allocation.

According to Adebayo (1998) the Phillipson commission of 1946 was the first to propose the issue of derivation as a way of ensuring that regions with natural resources could retain a percentage of the revenues derived from the extraction of the resource based on the percentage of contribution of the resource to the common pot.[xv] Although the constitution at the time was not a federal constitution in the strict sense of the term but the creation of regional governments necessitated the formulation of a revenue sharing framework among the existing tiers of government.[xvi] Each region was known for its export oriented agricultural products. The North for its groundnut, cotton, hides and skin; the East for its palm oil and coal; the West for its Cocoa; and the later entrant the Midwest for its rubber and timber. The federal government promulgated a decree in 1970 that shared revenue at 50% based on equality of states and 50% on population size.[xvii] By the early 1970s oil revenues extracted from the minority Niger Delta region as a part of Nigeria's foreign exchange earnings had increased dramatically and accounted for large chunk of government revenues and foreign exchange which led to drastic reductions in the derivation principle.

1.4. Research Methodology

The research deploys qualitative and quantitative techniques of research and applies descriptive and analytical approaches. Data was gathered from primary and secondary sources. Secondary data from desk review complemented primary data obtained from key informants' interviews and respondents to the questionnaires administered in five states; Abia, Delta, Edo, Imo and Ondo states. A validation workshop of stakeholders drawn from government, commissions staff, civil society and community representatives was held to provide feedback and validation as well as from five focus groups discussions in July to complement data gathering. The selection of the five states from the eight currently receiving the 13% derivation fund was due to the fact that these states each had set up special purpose entities called oil producing areas development commissions to manage and utilize derivation fund to ameliorate the sufferings of people in oil producing communities.

1.4.1. Objective of Research

The objective of the research is to assess five Oil and Gas Producing Areas Development Commissions' performance, level of planning, priority setting and impact on the beneficiaries. It seeks to demonstrate the extent the commissions have applied available resources to improve the living standard of the people; assess funding to the commissions in the past 10 years and the adequacy of such funds in financing the commissions' operations and development initiatives. It also examines whether the legal and administrative structures that underpin these commissions have the capacity to ensure transparent and effective use of the derivation funds, and mechanisms to protect the funds from fraud and undue political influence. It also discusses how best to increase funding/alternative funding for the commissions. The primary aim is to seek reforms for improved work of the commissions and an agenda-setting for civil society advocacy actions in the region. Considering that the commissions are not working in a vacuum, the research finally looked at whether there are synergies between the commissions' work and other stakeholders involved in the development of the region.

1.4.2. Key Research Questions

Some of the key research questions included, (a.) To what extent is the commissions' work relevant to the development of oil-bearing communities? (b) How does the existing legal provision in the commissions address issues of transparency and accountability? (c.) To what extent is there a lacuna in the legal provisions of the 13% derivation fund and addressing any disbursement shortfall? (d.) What are the key reforms that need to be addressed including recommendations to tackle transparency and accountability issues?

1.4.3. Rationale

Studies focusing on the oil and gas commissions and the 13% derivation exist. However, they are often skeletal, hardly comprehensive and lacking a holistic approach. This study is relevant to assess the extent of relevance and the operations of the commissions in five states. The study provides greater understanding of the key successes, impacts made and challenges they are currently facing. By contributing to the literature and proffering suggestions for improvement the study is relevant as part of the anti-corruption initiative and sets a broad and informed agenda for CSOs advocacy and engagement with policymakers for reform of the 13% derivation fund.

1.4.4. Challenges

Some difficulties were encountered in accessing basic documents on the various commission's operations, project implementation reports and financial statements directly from commissions' staff. In some cases, we had to depend on what we could glean from their websites and public statements. There is not much information in the public domain making research challenging. However, a visit to the Edo state oil and gas commission office, and telephone interviews were conducted across the five states to complement data collection and allow for triangulation.

Face-to-face key informant interviews could not be deployed due to limited internet access by respondents in the communities, time and resource constraints. Also, requesting for an interview or to fill a questionnaire on the subject was seen as "investigative" or sensitive due to the opaqueness of the system. There is low rigorous research on the operations, impacts and challenges of the commissions hence the need for more studies in this area.

CHAPTER 2: THE COMMISSIONS LEGAL AND INSTITUTIONAL FRAMEWORK

This chapter presents the legal and institutional framework informing the operations of the oil and gas producing areas commissions. It also conceptualizes the notion of transparency and accountability and relevance to enhancing anti-corruption and social inclusion in the commissions' operations.

2.1. Conceptualizing transparency and accountability as anti-corruption initiative

The concept of transparency and accountability are relevant to the study to better understand the roles of duty-bearers or officials and that of rights-holders or target groups in the development process. Defining transparency and accountability indicators are relevant to the study. According to the global Transparency and Accountability Initiative (2017), transparency applied to governance means that public officials and directors of state and non-state actors have a duty to act visibly, predictably, and understandably to promote participation and accountability.[xviii] The elements of transparency are access to relevant information, timely and accurate dissemination of information in the planning process and during and after the implementation of policies and programmes.

Similarly, accountability means ensuring that officials of government or organisations are answerable for their actions and that there is redress when duties and commitment are not met (TI, 2017). The Webster Dictionary expansively defines accountability to mean "an obligation or willingness to accept responsibility or to account for one's actions." Even more relevant to accountability is the ability of the rights-holders or citizens to sanction or punish the duty-bearers for any breach or "falling below the standards expected of them." Transparency and accountability address anti-corruption and guide against abuse or misuse of power delegated.

Transparency and accountability are mutually reinforcing because they both work to enable citizens to have a say about issues that matter to them, influence decision-making and hold decision-makers to account. Transparency and accountability discussed here are those relating to willingness of government officials to be transparent and accountable in their actions and the extent citizens' active participation to bring officials to account and forestall corruption.[xix]

In practice, civil society and individuals can deploy vertical forms of accountability in which citizens and their associations play direct roles in holding the powerful to account by mobilizing and conducting advocacy and lobbying of government and demanding explanations. They can also deploy the name and shame strategy with the negative publicity it could generate against organizational or corporate image. In spite of the increasing searchlight beaming on the operations and revelations against the commissions the name and shame approach has hardly produced any significant results.

2.2. Constitutional Provision for 13% Derivation Fund

To address decades of marginalisation, poverty and neglect of the Niger Delta region, the 13% derivation fund was enshrined in Section 162, sub-section 2 of the 1999 Nigerian Constitution.[xx] Derivation fund means the value of 13% sum deducted from the oil and gas proceeds from a particular state and payable to them. The aim is to address community development and poverty reduction. Since Nigeria's Fourth Republic began in 1999, there has been a renewed focus on the Niger delta environmental and development challenges. As a result, the oil producing states have received over N9 trillion under the derivation principle.[xxi]

Section 162, Sub-section 2 of the Nigerian Constitution stipulates that the fund is for the "exclusive use of oil/gas producing communities as compensation for loss of fishing rights and productive farmlands as a result of oil and gas exploration and production activities". However, the reality is that this constitutional mandate may have become a major albatross for the socio-economic development of oil-bearing communities because it gives states governments' unfettered access and control over the derivation fund. Although the Nigeria's constitution clearly stipulates payment of 13% of oil revenue from the Federation Account to the states as derivation fund, also relevant is the degree of the utilization of the fund in relation to the mandate and goals of the commissions.

To ensure effective and equitable utilization of the 13% derivation fund, five states: Abia, Delta, Edo, Imo and Ondo states, created oil and gas producing areas development commissions by legislation through the states houses of assembly. The legislation enacted also reduced the amount of derivation revenue disbursed to the different commissions to between 30% and 50%. This fund reduction has consequences on the commission's operations and impact.

CHAPTER 3: COMMISSIONS PROJECT DELIVERY AND IMPACTS

In oil producing states such as Rivers, Bayelsa and Akwa Ibom, the state governments have opted not to set up oil producing areas development commissions but instead incorporate the derivation revenue directly into their yearly budget estimates and derivation funds are disbursed without adhering to the constitutional mandate. This practice negates the principle of derivation.

The five commissions under study are fully operational and backed by law with some key successes and impacts recorded. There are also some lapses in the operations which indicate room for improvement.

3.1. The Commissions Operations and Scope of Projects Delivery

The 13% derivation fund received by the commissions is geared towards meeting diverse needs. Table 1 presents an impressive, wide range of projects including infrastructural buildings, educational, environmental, livelihoods, human capacity building and security. Some of these translate to concrete projects on ground including the educational projects such as classroom building, scholarships to tertiary institutions, inter-school debates; health sector such as clinics and community health centre buildings; rural electricity and solar street lights; ecological remediation; relief materials; roads networks, bridges and landing jetties; building public toilets; building of Nigerian police stations; provision of armored gun boats, and operational vehicles for the state government. The commissions diverse projects listed above are by no means exhaustive and present the commissions' outlook as All-purpose interventionist agencies.

Table 1: Scope of Commissions Projects

ONDO STATE: The Ondo State Oil Producing Areas Development Commission (OSOPADEC) was established by the Laws of Ondo State CAP. 106 in 2001.[xxii] OSOPADEC enabling legislation is to (ii.) Ensure fair and equitable distribution of development projects across oil producing areas, and (ii) to liaise with relevant federal and state government authorities on the control and effective method of tackling problems of coastal erosion, oil pollution, spillages, and environmental pollution.[xxiii]40% was stipulated as statutory disbursement to OSOPADEC. The projects included majorly community welfare which comprised of vast areas of work such as social services in health and education, and community relations, mobilization and advocacy. Others include inter school debate, scholarships and bursary awards, procurement of science equipment, child survival initiative, purchase of educational materials, environmental remediation and oil spill clean-up projects, and relief fund and materials for the recent Owo massacre survivors through a condolence visit by the chairman of OSOPADEC to the community. OSOPADEC website shows that the commission also partners with banks such as UBA and First Bank, construction companies such as Setraco, and oil companies to leverage on project delivery.
EDO STATE: The Edo State Oil and Gas Producing Areas Development Commission (EDSOGPADEC) was established in 2007 as an interventionist agency to accelerate the development of oil-producing areas in Edo state. There is lots of media reporting but its website is currently not functional or inaccessible. In particular, the commission statutorily receives into its account and administers exclusively 40% of the 13% oil derivation fund accruing to the Edo state government. The state mainly focuses in three local government areas that are oil producing areas which the commission

serves.

The Edo state oil producing areas development commission says on its website that it is an interventionist agency in areas of infrastructural development, human capital development, social development, economic development, youth development, and peace and security. Projects executed included, provision of scholarships for oil host indigenes, entrepreneurial training for women and youths, asphalted road construction of Benin-Abraka road, Ekosodin road and five adjoining streets, schools building including Akugbe primary school in Okha, Ikopa Okha, LGA, established 2 marine bases at Gelegele and Ologbo and the procurement of armored gun boats, and speed boats to boost the marine policing and enhance the security in riverine areas. Others included ultra-modern police station at Ugonerie, Upper Sakponba Road, including the 7 police stations burnt during the irate youth action during the ENDSARs protest are currently being rebuilt by EDSOGPADEC. Others include, building of magistrate courts and Area Customary courts including those at Odunna, Okada in Ovia North East, and Idogbo in Ikpoba Okha, LGA. While the commission has been commended for this, they plan to build and renovate high, magistrate and customary courts in the state in 2022.

DELTA STATE: The Delta State Oil Producing Areas Development Commission (DESOPADEC) was established for the rehabilitation and development of oil producing areas in the state. It is mandated to receive and administer exclusively 50% of the 13% of the Derivation Fund accruing to the Delta state government.[xxiv]

Some of the projects include teacher's staff quarters in Opuama, building of community clinics, health centre built in Jakpa community, Warri, community town hall in Tsekelewu, supply and installation of 1000KvA sound proof generator in Opuoma. Other projects included roads construction, generator sets and generator house, donation of relief materials to flood victims including, mattresses, toiletries, and food items in Patani, Burutu, and Bomadi communities. There are more abandoned projects by the commission than any other commission prompting the intervention of the Delta state government tasking the commission to refocus on these abandoned projects.

IMO STATE: 40% of the 13% derivation fund was stipulated for the ISOPADEC. Since the Imo state oil producing areas development commission was established it has implemented several projects. Some of the ISOPADEC projects interventions took place in the oil producing areas of Ohaji/Egbema, Oguta and oru East Local Government Areas of Imo state. There is no functional website, however, according to their media communication; ISOPADEC is "touching lives in many ways". Some of the projects included construction and installation of solar streetlights at Etekwuru, Umudike, borehole in Ikwerede, Awara, Iyioka, Ugba, health centre in Ugbada, building of Nigeria police station at Akiri Oguta, construction of six classrooms block at St Patrick's school, Ihie, and 20 bed general hospital at Oguta town.[xxv]

The recent Abaezi forest artisanal oil explosion in Ohaji/Egbema axis in Imo state that claimed over 100 lives burnt beyond recognition attest to the poverty, environmental degradation and desperation of the people with the loss of over 200,000 barrels of oil per day by the federal government.[xxvi] There are widespread corruption allegations. In August 2020, a group called Media Initiative Against Injustice, Violence and Corruption (MIIVOC) alleged embezzlement of 40% of the 13% derivation fund amounting to N3 billion to Imo state oil producing areas developing Commission (ISOPADEC), and N600 million left in the coffers by past managers allegedly disappeared from the account.[xxvii] Earlier in January 2020, the Imo state investigative panel set up to look into the activities of ISOPADEC indicted former Gov. Rochas Okorocha for allegedly misappropriating over N6 billion funds allocated to the state ISOPADEC. The funds were allegedly used to purchase vehicles and transformers during the governorship electioneering campaigns.[xxviii] Although this is coming from a rival government there are frequent cases of alleged fraud and misappropriation of projects funds that have very little benefits to the oil-bearing communities.

ABIA STATE: The Abia State Government Oil Producing Areas Development Commission (ASOPADEC) was established to intervene in oil host communities and 30% of the 13% derivation fund was stipulated for the commission. It has a website but mostly dedicated to commissioned projects and educational scholarships.[xxix] Barely two weeks from the artisanal oil refinery which occurred in Imo state killing over 100 persons, a similar incident occurred in early May and 10 persons have been reported dead with several others injured or maimed in Uzuaku community, Ukwa West LGA, Abia state.[xxx]

From the abandoned projects we have a sense of the numerous projects being carried out. For example, the Asa Development Union in Abia state has lamented the persistent cases of abandoned projects saying the projects have not benefited the local communities. Some of the abandoned projects included construction of district hospital at Obokwe-Asa, construction of Umuaka-Obokwe-Asa internal road, Umuituru Ozar central school road, (allegedly awarded twice and not executed), Ukanafun (Akwa Ibom), Azumini-Obehie-Owaza (Abia), and Etche (Rivers) dual carriage highway abandoned at the boundary between Ukwa East and Ukwa West LGAs, and Umudobia-Owaza Housing Estate. However, 17 post graduate scholarships, 125 admissions into tertiary institutions and opportunity to access admission in Abia university and school fees put at about N25million were secured.[xxxi]

Source: Author, compiled from various sources.

3.2. Challenges and critical reflections on the commission's operations

The challenges the commissions are facing in projects operations is significant in shaping the choice and location of projects in a given community. According to the staff of the Commission, their mandate is all-encompassing and this poses a challenge in itself; to improve on infrastructural provision and human capital development across the various sectors. There is also the challenge of project balancing in sitting of similar projects in each of the oil-bearing communities. Other challenges are political interference in the operations and project selection process, uncooperative attitude of some community members out to extort, vandalism and insecurity. For example, in Imo state, there has been funding delays and non-release of funds for capital projects as at June 2022. Both the ISOPADEC's Managing Director and Chairman of the Board and members are the political appointees of the Governor making political interference a cause for concern. These are similar to what is obtained in the other commissions under study.

These challenges above drive a high level of projects duplication by the commissions similar to other development agencies such as NDDC and LGAs. Although officials of the EDSOGPADEC claimed there were no abandoned projects or projects duplication, the same cannot be said of Delta and Imo states. According to one respondent from Delta State, in Ugbori community, Warri South LGA, there were 3 boreholes for water supply installed by three different entities; DESOPADEC, NDDC, and the LGA involved. It is rather surprising that none of the boreholes were currently functioning thereby constitute a conduit pipe. Similarly, one respondent from Imo state stated that school buildings have been duplicated by ISOPADEC and

NDDC in Oguta and Ohaji/Egbema areas in Imo state. Still in Imo state, one community requested for rural electrification but was instead foisted with a cassava processing mill with a take it or leave it gesture.

A critical reflection on the scope of the projects shows that the diverse projects present some opportunities to achieve greater reach and address different needs. However, a major weakness in project scope shows they are unwieldy, uncoordinated and spread out too thinly. The diverse projects by the commissions in the different states are way too much for the funds that finally get disbursed by the state government from the 13% derivation fund. Clearly, the commissions are biting more than they can chew, covering some real needs and other prestigious projects some of which does not directly address the poverty needs of the communities. Also, some projects by the commissions duplicate government responsibility in certain areas such as security, construction of highways, housing estates, solar streetlights, and ecological remediation. The commissions' effort in combating poverty seems an uphill task due to the widening gap of people falling into poverty rather than reducing. We submit that the commissions will be more effective if operations are restricted to specific areas of poverty reduction, livelihoods, electricity, education, water and health. Anything outside this scope calls for special consideration.

3.3. Oil Producing Commissions and Projects Impact

If the commissions' work is wide ranging, what impact are they making in the communities? The findings show that the commissions recorded some impacts because actual projects executed by the commissions exist and are currently benefiting the oil host communities. Across board, one area the commissions are making high level impact is in the educational sector, schools building, scholarships and bursary awards to students in tertiary institutions indicating a clear priority area (see Table1). Rather surprisingly, 80% of the respondents said the completed projects were directly or indirectly beneficial to the communities. Another area of impact is in road construction (see also Table 1). According to some commissions' officials, roads that were hitherto inaccessible have been constructed for easy access which opens up the communities and makes mobility of humans and goods a lot easier than before.

Further, the provision of security gadgets which supports the fight against piracy, terrorism and other criminalities has brought a level of peace in some of the communities. Together, the work of the commissions is best appreciated as complementing government efforts to fast track the provision of basic infrastructural provision and benefits to the goose that lays the golden egg, stated by one staff of the commission. Similarly, a study conducted on the DESOPADEC projects show significant impact in the development of host communities through the construction of various roads and the provision of boreholes supplying water which provided easy access to water and the reduction in water related diseases that have led to improved standard of living in the oil-bearing communities.[xxxii]

That said, a major reason for beneficiaries attesting to projects impact arises from the grinding poverty prevalent in the rural communities often without basic infrastructure. Thus, whatever is done to fill the gap of development was seen as beneficial and impactful but minimal in transforming the socio-economic development strides of the oil producing communities. 20% of the respondents stated that, it is difficult to assess the commissions projects benefits because there are no indicators to measure success.

Another study focusing on DESOPADEC was localized and covered six oil producing communities in Itsekiri land.[xxxiii] The study shows that many projects, including hospitals and health centre were ill-equipped, lacking medical personnel, or completely abandoned infrastructural projects. In some instances, the physical structures were overtaken by weeds. Some community folks have suffered from preventable diseases and died as a result. According to the study, DESOPADEC had awarded a contract of N25.8m to Emitoj Nig Ltd for landscaping, fencing, and construction of a generator house for the health centre at Obodo community in Warri. Both the health centre and the generator house were abandoned as at the time of the report. Other places of abandoned projects and health care facilities included Egbokodo, Ogidigben, Madangho in the Excravos area.

To address the persistent problem of abandoned projects and non-payment of contractors, the DESOPADEC Indigenous Contractors and Stakeholders Forum (DICSF) staged a peaceful protest to the office of DESOPADEC in Warri March 31, 2022.[xxxiv] Their grievances included the non-payment for contracts executed with verified payments certificates leading to a backlog of unpaid contractors. Some of the placards of the aggrieved contractors read, "pay us our monies oooo", and "contractors are dying, please pay us", among others.[xxxv] In the report, the Chairman of DISCF stated that the management of the Commission "refused to pay them their money despite all entreaties." Similar situation exists in some of the commissions such as in the case of Imo and Ondo states with delays in the payment of contractors and bursaries.

3.4. Lack of Local Participation in Project Planning and Delivery

The commissions maintain project planning and development departments with the responsibility to conceive, plan and develop projects, consultancy procurement and preparation of contract documents.[xxxvi] This is done through town hall meetings and stakeholders' engagement to carry out sensitization and mobilization, needs assessments and projects prioritization. Although communities are not directly involved in the implementation, however, in the case of EDSOGPADEC, community members are actively involved in the monitoring and evaluation in the case of road construction where communities nominate a liaison officer for this purpose.

However, the lack of participatory planning to project delivery means that communities are not directly involved in project planning and implementation as well as allocation and use of the derivation fund. Projects developed are subjected through the procurement process thereby effectively cutting out local participation. The lack of local participation beyond "stakeholder's consultation for few hours" in the project cycle is a major weakness of the commissions' work. 80% of the respondents stated that the communities were not involved in the design and implementation of the projects hence, they knew very little about them. Some respondents stated that projects are sometimes conceptualized by 'politically connected big shots' or influential persons and presented to the commissions that then award these projects to the connected person who conceived it. A Town hall 'consultation' meeting may be organized by contacting community chiefs or powerful and influential persons in the communities to legitimize the process and obtain their buy-in. This has denied them any influence and sense of project ownership that could help to minimize the increasing rate of white elephant projects and abandoned projects.

Local participation and involvement in project design and decision making is important to the sustainability of the projects because it promotes co-ownership, joint decision making, and mutual respect. The lack of participatory approaches to development means that project planning is top down rather than bottom up with serious implications for project outcome.

3.5. Commissions Lack Comprehensive Work plans

There is a lack of a comprehensive work plan developed in partnership with the people in the short and long term basis. This means that project choices and funds allocated to such projects could be unduly influenced or utilized for political patronage. 90% of the respondents stated that the commissions' work plan and budget were not developed in partnership with the oil producing communities; however, 10% said they were aware of the consultations for projects selection.

An inclusive and participatory process is needed in conjunction with host communities for developing 5-10-year work plans with the benefit of interagency planning and interlinkages of projects to avoid working in silos. However, in Edo state, EDSOGPADEC officials stated that their collaboration with SUBEB in building schools and providing universal basic education has leverage resources and accelerated progress. Also, OSOPADEC partnered with banks, construction companies, and oil companies to leverage resources.

3.6. Commissions' structure and membership of the Board

Apart from operational challenges some structural gaps in terms of the board's membership were also identified. Some respondents stated that the current structure of the commissions has not been effectively meeting the needs of oil producing communities. Although the law provides for indigenes of oil producing areas/communities to be members of the board, this was not strictly adhered to. In some states such as Imo, Delta and Edo states, membership of the commission is not exclusive to oil producing areas. In fact, Imo and Delta states membership is drawn from each local government area and it is not clear the wisdom behind this if not to short-change oil host communities. The manner of commissioners' selection is seen by many as political compensation to party loyalists hence in some states, representatives of oil-bearing communities were marginalized and left out in the membership of the oil producing commissions.

The sidelining of village communities in managerial positions cuts across every state, strata and signals marginalization that should be addressed. There is the need to ensure that oil producing wards/LGAs are considered to be part of the commission members who often decide on project priorities. Also, civil society should be given the space to nominate representatives into the Boards of the Commissions. This will provide some level of expertise and improve transparency and accountability in the management and operations of the commissions.

3.7. The Personnel of the Commissions

Personnel are a key component that will make or mar any organization. The study shows that the way the personnel were hired negates due process. While some staff were seconded from the civil service, others hired lacked the prerequisite experience for rural development work. 90% of respondents stated that some staff of the commissions are not qualified to conduct rural development work because of the manner of their employment that was done in secrecy and not based on merit. In most cases, there was no public advertisement for staff recruitment hence the hiring process was subject of nepotism or political gratification. Staff recruitment should follow due process with emphasis on rural development. Also, staff capacity building and in-service training are required to build their capacity for project delivery while involving development practitioners to evolve development planning and delivery through participatory approaches.

There appears to be a high propensity to spend more on recurrent costs and overheads within the commissions. Recently, DESOPADEC's introduction of biometric verification of staff saved N380 million that had been part of their wage bill.[xxxvii] Some respondents interviewed stated that a high percentage of the fund received are dedicated to overheads and recurrent expenditure, rents and miscellaneous, thereby leading to reductions in the budget for capital projects.

Also, awareness on the commissions' operations was low as 80% of respondents posted, 'don't know'. The low level awareness is worse with majority of the general public unable to describe the commissions' impact and niche. The commissions should prioritize awareness raising to showcase their success stories.

3.8. Resolving Legal and Structural Gaps in the Oil Developing Commissions

The commissions need to improve performance through the reforms of both the states laws establishing the commissions, and Section S162 (2) of the federal constitution for urgent review and amendment to ensure transparency and accountability in the commissions' structures and operations. 90% of the respondents support the need for an overhaul of the commissions' structure and project delivery to ensure anti-corruption and enhanced effectiveness.

They include the following:

i. Legislation for direct transfer of 13% derivation fund to target beneficiaries.

This can be done by the establishment of a Community Trust Fund with the commissions so that the 13% derivation funds allocated are disbursed directly to them. The reform is required to overcome the strong opposition of oil producing state governors to any idea of disbursing derivation funds directly to communities. The governors are banking on 13% derivation fund to shore up state revenue hence the strong opposition. They are opposing through a counter legislative bill as part of their contribution to a six-man committee headed by the Delta state commissioner for finance to prepare amendments that they would submit to the amendment panel constituted by the President of the federation.[xxxviii]

ii. The second critical legislative hurdle that needs to be addressed is the arduous provisions under S.9 of the federal constitution for amendment of constitutional provisions. S.9 of the constitution provides that 2/3 majority of all members of both chambers of the national assembly must support an amendment to scale the first hurdle while ¼ of the 36 state houses of assembly must support the amendment. Even if the national assembly could summon the will to revise S162 (2) the state houses of assembly may be unwilling to follow through with the amendment considering the enormous control that governors exercise over their state houses of assembly. It will be a tall order to expect that the required ¼ of all state houses of assembly will vote to remove the derivation fund from under the control of state governments.

Notably, the current constitutional alteration process does not include a resolution to revise S162 (2), hence the need for CSOs engagement in the on-going constitutional reforms. An agenda setting for CSOs to partnering with local communities and advocate to make an electioneering issue out of this clause to utilize the power of their vote to elect only those who express a firm desire to effect the changes required to make the derivation revenue work for oil producing areas.

Importantly, they should conduct policy advocacy to pressure states like Akwa Ibom, Bayelsa and Rivers states that are yet to establish oil producing areas development commissions to do so without further delay.

CHAPTER 4: PROJECT FUNDS ALLOCATION AND SHORTFALLS

4.1. Commissions Budget and Disbursements

There have been some concerns over the 13% derivation funds allocated to the commissions. Table 2 shows the 13% derivation fund that has accrued to the Niger Delta States from 2016 - 2021 and the share that accrued to the respective oil and gas commissions based on the percentage dedicated to them as specified in the enabling laws that established the various commissions. The Table shows that over N458 billion was disbursed to the five states commissions under review. The breakdown shows that Delta State Oil Producing Areas Development Commission (DESOPADEC) got the highest derivation amounting to N368,925,390,401.89, followed by Edo State EDSOGPADEC and Ondo OSOPADEC with N32,739,699,122.21 and N32,039,143,625.11 respectively. While Imo state ISOPADEC received N16,336,766,868.11, Abia State ASOPADEC got the least amount of N9,215,755,480.38.

	Table 2 showing funding to the Oil and Gas Commissions				
	STATES				
YEAR	**ABIA**	**DELTA**	**EDO**	**IMO**	**ONDO**
2016	1,732,590,368.52	43,509,165,365.91	3,487,729,176.89	1,914,703,017.45	10,472,652,121.71
2017	4,386,945,557.50	90,840,643,535.49	8,885,503,266.03	3,916,884,253.51	15,538,448,385.42
2018	7,889,575,831.68	168,984,674,278.94	20,747,262,356.10	6,415,652,044.62	18,237,678,799.11
2019	6,883,927,695.41	165,743,843,505.71	18,331,195,461.57	9,792,403,216.42	13,529,650,111.84
2020	5,000,120,945.95	125,509,348,331.71	13,121,996,566.21	8,673,595,823.83	10,646,023,479.60
2021	4,826,024,535.55	143,263,105,786.02	17,275,560,978.72	10,128,678,814.46	11,673,406,165.08
TOTAL	30,719,184,934.61	737,850,780,803.78	81,849,247,805.52	40,841,917,170.28	80,097,859,062.77
APPLICABLE %	30%	50%	40%	40%	40%
ALLOCATION TO THE COMMISSIONS	**9,215,755,480.38**	**368,925,390,401.89**	**32,739,699,122.21**	**16,336,766,868.11**	**32,039,143,625.11**

National Bureau of Statistics: Compilation of FAAC publication of monthly disbursement to states.[xxxix]

On the whole, the study shows that only an average of 40% of 13% derivation funds disbursed by the federal government got to the five commissions showing persistence in the practice of shortchanging the commissions by the state governments. The sharp drop shows that funds released by the federal government are either misappropriated or diverted. This negates the purpose of the 13% derivation fund and how it can best serve host communities.

The study findings are similar to the conclusions of previous reports and studies. A similar study conducted by ANEEJ in 2016, shows that actual disbursement to DESOPADEC[xl] and EDSOGPADEC[xli] was found to be less than the budgeted amount. A recent study in 2021 shows that derivation fund totaled N6.587 trillion to the oil producing states from the Revenue Mobilization and Fiscal Allocation Commission (RMFAC) from 2009 to 2019.[xlii] Another study on 13% derivation fund accrued to the Niger Delta states shows that over N9 trillion has been received between 1999 and 2019.[xliii] For example, Table 3 shows that N1.6 trillion disbursements have been made to the five states under study covering 2009 to 2019. The various states allocation from the 13% derivation fund shows staggering shortfalls in the total receipts. According to the statistics, Delta State top the list with N1.1 trillion revenue, however, only 50% was actually allocated to DESOPADEC representing a shortfall of 50%. Ondo state budgetary allocation was N189 billion with an agreed 40% disbursement. While Edo state budgetary allocation was N118 billion, it allocated less than 50% to the EDSOGPADEC, that of Abia and Imo states were relatively small. Imo received N58.6 billion with 40% allocated to ISOPADEC while Abia was N55.8 billion budgeted and allocated 23% to ASOPADEC.[xliv] It also shows that the percentage of received funds spent on Water, Education and Health were highly inadequate.[xlv]

The differences in the low figures on Table 2 compared to the high figures on Table 3 are accounted for by the lowering revenue from price fluctuations, reduced production, insecurity, and the impact of Covid-19 on the oil and gas sector.

Table 3: Disbursed derivation fund and shortfalls 2009 -2019

State	Allocation over 10 years 2009-2019	Revenue management agency	Stipulated percentage (%) of the 13% set aside for the commission and how much was disbursed	Percentage spent on Education, Health and Water in 2017 -2018
Abia State	N55.8 billion	ASOPADEC	No stipulated percentage but an average of 23% was provided to the commission in 10 years	Within the period 33.4% was spent on education, health, and water
Delta state	N1.1 trillion	DESOPADEC	Stipulated 50% of fund to be allocated to DESOPADEC	Only 6% of this fund was spent on education, health, and water
Edo state	N118 billion	EDSOGPADEC	The stipulated allocation is 50% of derivation fund. But less than this was disbursed	Only 17.8% was for Education, health, and water
Imo state	N58.6 billion	ISOPADEC	Stipulated 40% disbursement to the commission	1.5% spent on Education, Health, and Water
Ondo State	N189 billion	OSOPADEC	40% was the agreed disbursement but the state government disburse 75%	30.2% spent on Education, Health, and Water

Source: Adapted, Adesanya, (2021) www.acioe.com

4.2. Increased Funding for Oil Producing Areas Development Commissions

The question whether the commissions are poorly funded and would require increased funding met with mixed reactions. Some commissions' staff stated, 'we have done well. If we receive more funding, we will do more.' While there was consensus by the respondents across the five states demanding increased funding, however, the modalities canvassed differ.

First, only 20% of the respondents agreed to increase the funding by increasing the 13% derivation principle to between 25% and 30% if they are to make greater impact on the lives of the people. From the foregoing, there is the need to take cognizance of the fact that oil price fluctuations and price shocks contribute to the uncertainties about funds allocation to the commissions.[xlvi] Oil prices are high right now but because of oil theft, artisanal oil refining and sabotage, Nigeria is struggling to meet its Organization of Petroleum Exporting Countries (OPEC) quota and could only produce 1.238mbpd in March 2022 down from over 2.5mbpd with plans to improve production to 4mbpd.[xlvii] The dwindling national oil revenue will in turn impact on the amount disbursed to the commissions.

Secondly, 100% of the respondents are unequivocal that fund accruing to the commissions by the 13% derivation currently directly under the state governors should be secured and fully committed to the intended beneficiaries in the oil producing communities. This will increase their funding by between 50-70% annually. While the effort of the state governments are recognized in using part of the fund to combat ecological challenges in the non-oil producing communities, such allocations some categorized as an act of illegality which denies them basic infrastructure and amenities while mortgaging their standard of living. Thus, to them, the issue of increasing funding to the commissions is one of strict compliance to the extant federal laws.

Thirdly, some officials of the commissions stated that instead of the whopping cut from the 13% fund, the enabling state laws should be amended to reflect that states receive 30% allocation and commissions receive 70% to improve funding for the commissions.

From the analysis, increased funding for the commissions is important if the massive infrastructural and social development deficit that faces oil producing communities are to be adequately addressed. A more favourable disposition is the consensus towards enabling laws for direct transfer mechanism to ensure 100% remittances of the 13% derivation fund by the states to the commissions. Similar sentiments have been expressed in the past. For example, a former Senior Special Assistant to the President on National Assembly Matters, Ita Enang, suggested that derivation fund be allocated directly to the communities and not the state governments.[xlviii] To them, an amendment to the extent that the 13% derivation fund is paid directly to host communities is expedient. To curb the incessant white elephant projects or abandoned projects associated with the commissions such amendments should also specify a list of inclusivity and exclusivity of the nature of projects and expenditure allowable or prohibited from such fund. In a nutshell, the precedent set by state governors in the last 10 years clearly makes the case for appropriate structures before any upward review of the derivation principle is feasible.

The houses of assembly should consider amending the enabling legislations setting up the commissions to put the disbursement of funds for the commission as first line charge in each state ensuring that funds to the commission are released immediately derivation funds are transferred by the Federal Accounts Allocation Committee (FAAC). State governments will likely resist this amendment but the law makers as the voice of the people should stand for justice and be on the side of the people to make their votes count during elections.

4.3. Lack of transparency and accountability

In general, there are evidences of transparency initiatives related to maintaining websites and social media outreaches. There are also contacts and telephone numbers and emails made available to the public but responses to inquiries were low. Further, most of the websites were not properly set up and not functional. The websites display old or stale information and are not regularly updated. The commissions maintain the lists of projects executed but they are not uploaded or updated. Further, the more fundamental documents such as procurement details, quarterly and annual reports and audited accounts exist but they are not uploaded to the websites or made available to stakeholders. For example, it is mandatory for EDOSGPADEC to provide quarterly reports, but it is made exclusively to the executive governor of the state. Published accounts of the amount received on a monthly basis and aggregate sums per annum will provide real-time information and transparency.

If transparency was low in the commission's operations, accountability fared worse. The commissions' duty-bearers willingness and commitment to accountability through stakeholders' engagement were scant and even non-existent. The commissions' consultation with communities during project planning phase is not replicated for accountability purpose. Also absent were citizen's knowledge, ability, and willingness to sanction the commissions' officials through formal and informal spaces on cases of underperformance, mismanagement of funds, and other operational lapses. Since neither the duty-holders nor duty-bearers show willingness and capacity to devolve accountability, statutory provision that addresses this vacuum is required. This will include mandatory meetings between the commissions and the target communities involved.

4.4. Summary of key advocacy messages

Stakeholders, particularly the government agencies and the civil society should work together to ensure that the key demands are addressed. Table 4 presents some key advocacy messages that will help the commission to perform more effectively and in a more transparent and accountable manner.

Table 4: Advocacy messages and strategies for the commission's operations and anti-corruption measures

SN	Message	Strategy	Stakeholders	Responsible Agency
1	The need for transparency and accountability	Town hall meetings, Advocacy, Monitoring team Establishment of Liaison Offices in Host Communities	Traditional rulers, Community leaders (male, female and youth groups), State House of Assembly Members (Representatives from Host Communities Local Government Chairmen of host communities. Media SCOs, FBOs CBOs	State Governments, State Oil and Gas Commissions

2	Promoting civic education among host community members	Regular town hall meetings and sensitization	Host Communities, CSOs and government, oil and gas commissions	State Oil and Gas Commissions, CSOs, Host community leaders
3	Political interference in projects selection and contract awards	CSOs and community engagement with state governments and the commissions	The Commissions, state government officials, States House of Assembly (SHOA), CSOs and Host communities	The Commissions, state government officials, SHOAs, CSOs and Host communities
4.	Inadequate funding: 70% of the 13% derivation fund should be allocated to the Commission or Host Community Trust Fund and 30% to the State.	Advocacy and engagement with state governments and SHOAs	The Commissions, state government officials, SHOAs, CSOs and Host communities, Ministry of Planning and Budgeting Ministry of Finance Office of the Auditor General, Accountant General	The Commissions, SHOAs, National Assembly (NASS) SHOAs
5	Social inclusion (women, youth & Persons with disabilities (PWDs) should specify percentage of funds	Advocacy to SHOA, NASS, oil and gas commissions	CSOs, Media, PWD networks, Women groups	NASS, SHOA

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

Despite the shortcomings of the oil producing areas development commissions, there is evidence of their relevance in the development of oil host communities and improving the quality of lives. The following recommendations are made to improve the operations of the commissions' legal and administrative structures to enhance effective and efficient project delivery in the host oil communities. Some of the recommendations seek strict compliance with relevant laws while others are seeking reforms to addressing the gaps identified. The recommendations are directed to the levels of governments, the commissions, civil society, and oil-bearing communities requiring concerted efforts of stakeholders that could reverse the resource curse associated with oil.

5.1. To the Federal Government of Nigeria

5.1.1 Law reform to amend Section S162 (2) of the federal constitution: The federal government should prepare an executive bill and present before the national assembly to amend S.162 (2) to provide clear objectives, guidelines and an appropriate framework that ensures that derivation funds are paid directly to oil producing areas development commission as has been done under Ss.235, 238 and 239 of the Petroleum Industry Act.

Although amending a constitutional provision is difficult and time consuming, however, it is important that the historical mistake that the framers of S162(2) made of believing that state governments will exercise good judgment by utilizing the funds for the good of people in oil impacted communities be corrected forthwith.

5.2. To the National Assembly

5.2.1. Compliance to 13% derivation fund to the commissions: The National Assembly especially those who represent oil producing communities in Nigeria should take up the gauntlet and sponsor a private member bill to amend S162(2) of the constitution if the executive arm is slow or unwilling to do so. They should consider amending the enabling legislations setting up the commissions to put the disbursement of 13% derivation fund for the commission as first line charge in each state ensuring that funds to the commission are released immediately derivation funds are transferred by the Federal accounts allocation committee (FAAC).This will certainly bring pressure to bear on state governments and even the federal government.

5.3. To the State Houses of Assembly

5.3.1. Improved funding: The states houses of assembly especially those who represent oil producing communities in Nigeria should sponsor a private member bill to amend S162 (2) of the constitution if the executive arm is slow or unwilling to do so. They should consider amending the enabling legislations setting up the commissions to put the disbursement of 13% derivation fund to be remitted in full for the commission as first line charge.

-State Houses of Assembly should enact a law to further amend existing laws to provide for a robust framework and put in place a structure that has a governing board, a board of trustees and the commission itself as a strong independent framework for monitoring and evaluation process that will enhance the capacity of the commission to deliver development to host communities.

5.3.2. Membership of the Commissions' Boards

-Law reforms to ensure that indigenes of oil host communities should have a say in the nomination/appointment of their representatives in the commissions.

-Provisions of the law should be amended to reflect the number of specified commissioners to be narrowed to oil producing communities and indigenes. This is because some of the commissions carry a huge financial burden by the number of serving civil Commissioners provided for by the enabling laws, and have over-bloated workforce which takes a huge chunk of overhead costs.

-The laws should be amended to specify the roles CSOs can play in the commissions including the nomination of CSOs representative into the Boards of the Commissions.

5.3.3. Establish oil producing areas commissions for defaulting states: State Houses of Assembly members in Akwa Ibom, Bayelsa and Rivers states should sponsor private member bills to set up their oil development commissions for improved transparency and accountability.

5.4. To the Commissions

5.4.1. Participatory Development Model for the Commissions

Local participation beyond stakeholder consultation meetings should be improved by adopting a participatory planning approach that encourages bottom-up rather than the current top-down model of development. This approach will help to prioritize projects so that the commissions do not become all-purpose agencies that are thinly spread out.

-Develop short and long-term community development work plans using participatory approaches that will promote community ownership geared towards enhancing rural livelihoods, education, and health and water delivery infrastructure.

-Ensure inclusive participation that encourages gender mainstreaming within the structures of the commissions and membership of the boards.

-Ensure public awareness raising on the commission's projects, impacts and challenges to bridge the gap of information.

5.4.2. Counterpart funding: Encourage counterpart funding with NDDC, banks and other development agencies to increase budgets for capital projects and ensure scaling up of projects with regional focus and harmonized project deliveries to allow for counterpart funding with other agencies for greater impact and outreach.

5.4.3. Transparency and accountability measures: Ensure that transparency and accountability measures are put in place including functional websites, maintenance of comprehensive database of projects including funds receipts and disbursements.

-Ensure the publication of periodic reports to enhance awareness of the public and feedback mechanism to target groups including showcasing achievements on a quarterly basis.

-Capacity building for the commission's board members and staff to ensure that they commit to the tenets of transparency and accountability.

5.5. To Civil Society Groups and Communities

5.5.1. Set up advocacy and engagement strategy for law reforms and compliance: Civil society should build a broad-based advocacy platform able to engage decision-makers and conduct evidence-based advocacy for the changes outlined.

-Ensure states compliance to the 13% derivation fund allocation. CSOs should also conduct advocacy and policy engagement with policy makers for policy reform that will allow FACC to disburse 13% derivation fund directly to the commissions, or Community Trust Fund. The institutional framework provided in the Petroleum Industry Act would serve as a good precedence with some modification for oil producing areas development commissions.

-CSOs should advocate for the increase of derivation fund from its present 13% on a long-term basis. The agreement at the 1995 constitutional conference had framed 13% as the minimum that should go to oil producing areas.

-CSOs should lead the way to ensure that those states yet to establish oil producing commissions should do so immediately.

5.5.2. Capacity building for transparency and accountability

Since neither the duty-holders nor duty-bearers display willingness to evolve transparency and accountability, there is the need for a statutory provision that empowers citizens to demand accountability and transparency from duty-bearers. This requires capacity building for both the rights-holders and duty-bearers.

5.6. Developing guidelines and best practice for the use of the 13% derivation fund

There was consensus that the 13% derivation fund has not been properly managed, and that transparency and accountability was lacking. **Respondents agreed that best practice and guidelines on how to utilize the 13% derivation fund should be designed to support the work of the commissions.** The guidelines should include the following:

5.6.1. Scope of project delivery and impacts

-project streamlining as the scope of the projects were too broad for the commissions, there should be a framework to specify what the 13% derivation fund should be used for, best practice should be researched, this will promote maximum impact.
-Ensure that the commissions conduct needs assessment using participatory techniques of development with community development experts.

5.6.2. Commissions extent of imbibing the culture of transparency and accountability

-involvement of community members in the project planning and implementation process.
-Design a short and long term comprehensive work plan covering 5-10 years period.
-Organising stakeholders meeting for transparency and accountability in project implementation
-address political interference/interest by conducting regular engagement and meeting with the commissions by CSOs to address the issues of political interference and interest of political leadership.

-Address the absence of a monitoring framework with CSOs and communities inclusion hence the commissions should set up a framework that will facilitate the participation of CSOs and community representatives in project monitoring and reporting.

- Encouraging communication between host community and the commissions

5.6.3. Design a model website and basic requirements for projects reporting and dissemination of information to the public.

-timely uploading of projects reports including quarterly and annual reports and audits
-Genuine procurement process put in place.

5.6.4. Timely disbursement of fund

-Timely disbursement of funds for both capital and recurrent expenditures
-The extent to which maximum of 13% derivation are deployed in the commissions rather than the current lopsided split in favour of state governments.

5.6.5. Incentivising best practices

-CSOs should also work on how to create incentives for the commissions especially through counterpart funding for some projects from local and international development partners.
- Stiff penalties for defaulting and non-performance.
-stipulate recognition/rewards for excellence.

References

[i]ANEEJ (2015) Oil of poverty in the Niger Delta.
[ii]Ibid. See also: Moffat, D., Olof, L. (1995) Perception and reality: assessing priorities for sustainable development in the Niger Delta. *Ambio*.Pp.527-538.
[iii]Tamuno, T. N. (2011) *Oil Wars in the Niger Delta*. Ibadan, Nigeria: Stirling-Horden publishers Ltd.
[iv]Kadafa, A.A. (2012) Environmental impacts of oil exploration in the Niger Delta of Nigeria.*Global journal of Science Frontier Research, Environment and Earth Sciences.* H12 No.3:19.
[v]Federal Republic of Nigeria Constitution. 1999. Section 162(2) of the 1999 Constitution as amended.

[vi] PWC. (2016) The impact of corruption on Nigeria's economy. Source: https://www.pwc.com/ng/en/assets/pdf/impact-of-corruption-on-nigerias-economy.pdf

[vii]Kaniye S., Ebeku, A. (2020) Assessing the Performance of the Niger Delta Development Commission (NDDC) 2001-2020: Another Failed Dream. *International Journal of Law and Society*.Vol. 3, pp.78-90.
[viii]ANEEJ, 2015.Oil of poverty in the Niger Delta.
[ix]Ekpo, A.H. (1994) Fiscal federalism: Nigeria's post-independence experience, 1960-90. *World Development*, Vol.22, Issue 8, pp.1129-1146.
[x]Tonwe, D.A., Ojo, G.U., Aghedo, I. (2011) Greed and grievance: the changing contours of environmentalism in Nigeria's Niger Delta region. *Journal of the Historical Society of Nigeria*.Vol.20. Pp.45-66.
[xi]Osuji, C. (2022) Abaezi forest explosion, National tragedy foretold but nor averted.*Guardian*. 1 May.
[xii]Tamuno, (2011). Oil wars
[xiii]Olofin et al (2007) Fiscal Federalism in Nigeria: A Cluster analysis of revenue allocation to states and local government areas, 1999-2008, *CBN Journal of Applied Statistics*, vol 3 No 1, Article 4.
[xiv] Ibid.
[xv] Adebayo A.G. (1993) *Embattled Federalism: History of revenue allocation in Nigeria, 1946-1960*, American University Study series XVI, Economics, 0741-2150; vol. 9.
[xvi]Nwogwugwu and Okoronkwo (2015) Effective Revenue Mobilization and Sustainable Development in Lagos state, Nigeria. *Journal of Business and Management*, N2, Vol.17, issue 5, V.II pp 15 -21.
[xvii]Ekpo A (2004) Intergovernmental Fiscal Relations: The Nigerian Experience, paper presented at the 10th year anniversary of the Financial and Fiscal Commission of South Africa, Cape Town, South Africa.
[xviii] Transparency and accountability Initiative (2017) How do we define key terms? *Transparency and accountability glossary*. 12 April. Source: https://www.transparency-initiative.org/blog/1179/tai-definitions/
[xix] Ibid.
[xx]Federal Republic of Nigeria Constitution. 1999. Section 162(2) of the 1999 Constitution as amended.
[xxi]Adebowale, A. (2021) Analysis: How state governments cheat oil-producing communities in use of 13% derivation Fund. Premium Times, 23 April.
Source: https://www.premiumtimesng.com/news/headlines/456847-analysis-how-state-governments-cheat-oil-producing-communities-in-use-of-13-derivation-fund.html
[xxii]https://osopadec.gov.ng

[xxiii] Source: https://osopadec.gov.ng/departments/project-planning-and-development/

[xxiv]Delta State Government. 13% derivation: Okowa not against communities agitation. Source: https://www.deltastate.gov.ng/13-derivation-okowa-not-against-communities-agitation-spokesman/

[xxv]Uzoma, J. (2021) ISOPADEC completes 13 projects in one year, 38 near completion. Tribune, 5November.https://tribuneonlineng.com/isopadec-completes-13-projects-in-one-year-38-near-completion-—-md/

[xxvi]Osuji, C. (2022) Abaezi forest explosion, national tragedy foretold, but not averted. Guardian, 1 May.

[xxvii]Ogugbuaja, C. (2020). 10 billion suit over N.3.6 billion ISOPADEC fund. The Guardian, 17 August.

[xxviii]Osuji, C. (2020) Panel indicts Okorocha, reps over N6b ISOPADEC funds fraud. Guardian, 9 January.

[xxix]https://asopadec.ab.gov.ng

[xxx]Oko, S. (2022) 10 feared dead as explosion rocks illegal refinery in Abia.VanguardNews, 9May.

[xxxi]Ihegwuruike, C. (2020) Abia communities hot NDDC over abandoned projects, labels ASOPADEC conduit pipe. The Examiner, 25 April.

[xxxii]Boye-Akelemor, E.E., Otto, G. &Ohale, L. (2018) Delta state oil producing areas development commission (DESOPADEC) provision of social amenities and the development of oil host communities in Delta state. *PALGO Journal of Business Management*, Vol. 6, Issue 1, pp163-168.

[xxxiii]Iruoma, K. (2019) Investigations: How DESOPADEC awarded contracts to fictitious firms, littering oil-producing communities with abandoned health centres. 28 December. Source: https://www.rcdij.org/investigation-how-desopadec-awarded-contracts-to-fictitious-firms-littering-oil-producing-communities-with-abandoned-health-centres/

[xxxiv]Onoyume, J. (2020) Nigeria: DESOPADEC urged to revisit abandoned projects, timely payments to contracts. 4 August. Source: https://www.rcdij.org/investigation-how-desopadec-awarded-contracts-to-fictitious-firms-littering-oil-producing-communities-with-abandoned-health-centres/

[xxxv]Urowayino, J. (2022) DESOPADEC indigenes contractors protest over alleged non-payment.Vanguard. Friday, 1 April.

[xxxvi] See also: https://osopadec.gov.ng/departments/project-planning-and-development/

[xxxvii]Okafor, L. (2021) DESOPADEC saves N380m from biometrics, unveils projects, Guardian. Source: www.guardian.ng/news/desopadec-saves-n380m-from-biometrics-unveils-project

[xxxviii] Source: www.marketdigestng.com/economy/petroleum-industry-act-loopholes/

[xxxix]Source: National Bureau of Statistics (NBS) Compilation of FAAC Publication of Monthly Disbursement to States - nigerianstart.gov.ng

[xl]ANEEJ (2016) Improving effectiveness of Delta State oil producing areas development commission.Policy paper.

[xli] ANEEJ (2016) Enhancing effectiveness of Edo state oil and gas producing areas development commission. Policy paper.

[xlii]Funmi A. ACIOE Associates, January 2021.

[xliii]Adebowale, (2021).

[xliv] The Guardian (2022) Governors differ over alleged diversion of 13% oil derivation funds. 15 November. Source: https://guardian.ng/news/governors-differ-over-alleged-diversion-of-13-oil-derivation-funds/

[xlv]Adesanya. F (2021) Impact of the 13% Derivation Fund www.acioe.com

[xlvi] ANEEJ (2015) Coping with oil price shocks: A civil society perspective.

[xlvii]Nigeria oil production rate for March 2022. Source: www.tradingeconomics.com

[xlviii]Eboh, M. (2020) Governors misappropriating 13% derivation funds –Ita Enang. Vanguard, 10 September.