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*Review Paper*

## **Federalism and Oil Bearing Community Rights in Nigeria and the United States: A Comparative Interrogative**

**Iwara Eno Iwara and Ukwenga Glory Nneka**

Lead City University, Ibadan

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**This work addresses itself to comparative analysis of the allocation of oil-bearing rights in the federations of Nigeria and the United States, and to the central question as to what should be done with the oil-bearing community crisis in Nigeria. Using the descriptive analysis, the study confirms the practical importance of the United States' model of oil and gas law, with regard to ownership rights, in federal stabilization, governance and development. The study accentuates the argument that the 'state capture' and control of natural resources through the use of totalitarian federal might portend a danger of federal disintegration. To this extent, we suggest a revision of the Land Use Decree/Act 1978, enshrined in Article 44(3) of the 1999 Constitution of the Federal Republic of Nigeria, to allow all States of the federation the rights to explore and exploit their natural resources to develop their communities, while paying appropriate tax to the Federal Government of Nigeria.**

**Key words:** Comparative, Federalism, Nigeria, Oil-bearing Community Rights, United States.

### **INTRODUCTION**

Federalism is a system of government which operates like an entity of different territorial groups such as ethno-regional, or national groups, coming together under one nation-state. This system of government, anywhere it is found in the world, is usually erected on the basis of federal conditions. Accordingly, some writers see federalism in terms of the federal conditions, while deemphasizing the federal mobilizers or processes which make the federal system to endure. Federal conditions include multi-national composition of a given geographical area, large territorial size, large population, differing belief systems, and geographical contiguity of the nationalities (Iwara, 2009: 1-16). The federal mobilizers, on the other hand, include the willingness of the nationalities to stay together under one central government, common challenges, such as security, identity, infrastructure, natural resource rights, power and entitlements sharing.

The significance of mobilizing factors that make federations work or endure cannot be over emphasized. It is not usually the case that the polemics in any federation occur as a result of disagreement over federal conditions, but usually because of the processes or mobilizing factors of running the federation. It is a well known fact that in some federations of the world, are found, for instance, contentious power sharing issues, resource control and entitlement rights' issues. These issues, if not properly managed, could cause the break-up of a federation. This was the case of Yugoslavia. This is already causing disaffection or conflicts in the Nigerian Federation.

Essentially, therefore, the establishment of a federal system of government should inspire discussions, serious negotiations and agreements over both structure (federal conditions) and processes (federal mobilizers) of the federation. Federal mobilizers essentially constitute the political behaviour and management of the nationalities and people under which the federation is either sustainable or unsustainable. In essence, therefore, federations that rise and fall, do so depending on the degree of endurance of the federal mobilizers. Many of the federations that have been established by Colonial Masters ignore the processes of running federations, which ought to have involved the effective participation of the federating units, perhaps for reasons best known to the colonial masters. For instance, in establishing the Nigerian federation, the British colonial government largely ignored the issue of natural resources entitlement rights. The federal misshapes created in Nigeria by British colonial rule have made the country, perpetually embroiled in conflict with itself, in view of several unresolved issues, such as resource control and the rights of groups in the union.

It was on this basis that Awa (1976:6) argued that the British Colonial rule's established federations in Africa, particularly in Nigeria, merely for the purpose of bringing under one government, ethno-national groups which had no business being ruled together. It can be recalled that the British Empire in the 20th century created federal unions where the British colonial rule had its dominion, to make for easy management

of their colonial territories (Eteng, 1997: 1-31). Thus, federations were created in such areas as Australia, New Zealand, South Africa, and Nigeria, etc. (<http://en.wikipedia.org>), and accordingly annexed all her federations into the British Empire. Some of these federations, including Nigeria, are operating like unitary systems in line with the foundations laid by the British colonial rule. Thus, the federation of Nigeria, for instance, is like a union among strange bedfellows. Some of the States, particularly those of the minority groups, are treated like conquered people. This situation has created hegemonic relations, where leaders of dominant States, in conjunction with their primordial units in the federation, act as tormentors of the minority States of the federation. This reflects in the laws and the policies that are being made for the administration of the federation. Thus, as a consequence, the Nigerian federation fails to fulfill the expectations of the federating groups.

Some of the works in the area of federalism, including that of K.C. Wheare (1964:16), acknowledge the significance of true federation, which differ significantly to the British model of federalism. True federalism emphasizes, among other necessities, a process of government which encompasses fiscal federalism, where component units of a federation are allowed to develop at their own pace. It is a major distinguishing factor between federal and unitary systems of government. This however, is the missing link in the Nigerian system, and it defines the persistent polemics in the body politic of the federal system of Nigeria, concerning oil-bearing entitlement rights. Just as this work acknowledges the differing characteristics of federations, that federations may differ in administration, the basic fact is that no system should run at the risk of group freedoms and entitlement denials, in contrast with the purpose of the system. Many scholars in the area of federalism have accentuated the basic purposes of federalism, especially those that motivate groups to federate. Wheare, for instance, accentuates the issue of fiscal federalism, such other writers like La Nauze (1972:8) and Mc Grath (2003:21) have stressed on such other federal mobilizers as identity, infrastructural issues and security, all of which defines 'who gets what?' in the federation. Therefore, a federation becomes elusive to the federating units when the primary issues of who gets what, when, and how much, among the units of the federation, are not properly addressed.

Nigeria appears to be in federal quagmire over disagreements on fiscal federalism, particularly between the oil-bearing communities of the South-South of Nigeria, and the federal government dominated Northern States of Nigeria, who are always apprehensive of consequences of true federalism. At the National Conference constituted by President Jonathan in 2014, the discussion over the issue of fiscal federalism, particularly over Community or State oil and gas bearing rights was dead-locked (The Guardian July 2014:4). There is presently an uneasy calm in the country over fiscal federalism and regionalism. The situation demands that we study how other countries that are also plural societies, and have oil and natural gas, as well as being federal, are organized. It is against this backdrop that this study sets out to examine oil and gas entitlement rights in the U.S with a view to revealing some lessons that could help in addressing the problems besetting Nigeria's federal structure.

The choice of the U.S for this study is based on three premises: (i) Nigeria's system of government is copied from the U.S; (ii) the U.S, like Nigeria, is a plural society, with oil and natural gas in some States, like in Nigeria; and (iii) Nigeria and the U.S had the same colonial master. This study is aware that the U.S is more developed than Nigeria, but still feels that

there is nothing wrong with Nigeria borrowing from the U.S experience.

In Nigeria, oil-bearing communities have over decades basically remained persistently short-handed in the oil and gas production and exchange relations. In other words, the communities are socio-economically disempowered, and psychologically alienated. The Nigerian State, through its federal government, by virtue of its centrality in political governance, controls the oil-bearing resources and the processes of distribution of accruable oil wealth. Appeals by oil-bearing communities for amelioration of their conditions have usually been met with State repression or at best, token gifts to militants in the area (Oviririe, 1997:35-41). Thus, a major objective of this Study is to find out how the U.S federation is handling its situation with its oil-bearing communities or States.

The work adopts the analytical approach in view of its resolve to provide illuminating insights into the issues that characterize the paper. The discourse is contained in six sections. The first section is the introduction and the problem statement. Section two takes on the conceptual background, where the major concepts are defined and related. The third section brings in the comparison of the background of the U.S and Nigerian federations. Section four compares the oil-bearing Community Rights in the US and with those of Nigeria. Section five discusses the implications of the findings, and section six concludes the discourse. The study proceeds with three claims: (i) that, in view of the crucial nature of oil and gas in the life of the Nigerian economy, oil-bearing community rights are sacrosanct for a peaceful and stable federation in Nigeria. (ii) that the United States' experience would be very useful for the Nigerian federation, and (iii) that the continual existence of a federation can be assured by the proper management of basic federal mobilizers.

## Conceptual Background

In this section, we undertake an exploration of the major concepts used in this work. This ensures a substantial intelligibility of the concepts and enables the way the concepts are applied and related to the subject matter of the work. The concepts are: federalism; oil-bearing communities; and, community rights.

### Federalism

Federalism, like many other concepts in political discourse, can be seen from the mirror of several images. As multiple as the definitions may look, they seem to manifest certain convergences, especially with regard to federal primacies such as power relations and management of diversities. It is along these lines that K. C. Wheare, who is a frontline scholar in the area of federalism, defines federalism as a principle for organizing power (Wheare, 1964:15). For him, federalism enables the demarcation of responsibilities amongst the levels of government in a political system. Stressing the view point of Wheare (1964) over the power sharing attribute of federalism, Awa (1976:4) points out that, in the process of power sharing, each level of government is coordinate, and independent. Livingston (1952), cited in Burgess (2006:29), in his sociological view, notes that federalism is a principle which attempts to provide a framework for the management of diversity in plural societies. Along the diversity conception, Elazar (1985:17-34) sees federalism as the creation and

maintenance of unity and diffusion of power in the name of diversity.

So far, what is clear is that most of the definitions of federalism in the extant literature available to this work appear to emphasize on either the structure or the process of federalism with little or no emphasis on the continuous existence of the federal systems. It is also clear that the Federalists and anti-Federalists seem to concentrate on the degree of movement of power to the Centre and component units. It is against this backdrop, having considered both the structure and the process of federalism as critical, that this paper sees federalism as a system of government which manages the structure and process of federated nations in a just and equitable manner to ensure the continued existence of the federal union.

### **Oil-Bearing Communities**

At a glance, it could be considered that the concept of 'Oil-Bearing Community' is self explanatory, but its ecosystem and its attendant paradox and problems, necessitate further explanation. Perhaps, the concept is more associated with Nigeria than in other oil producing countries that have made such enclaves receive less mention. Essentially, oil-bearing communities describe enclaves that coexist with crude oil wells and wealth. The oil-bearing communities of the Niger Delta of Nigeria, for instance, have sensitive and fragile ecosystem, which, in spite of the vast resource endowment and its crucial socio-economic importance to the economic life of Nigeria, have their environment threatened and the people impoverished as pollution endangers aquatic life and agricultural production, which are the main occupations of the people. Though oil bearing States in the U.S may face similar environmental challenges, but management measures differ. Some measures could be more efficient than others.

### **Community Rights**

Like individual rights, communities also have rights. Galtung 1994 suggests that the most significant way to think about human rights is to start with the idea that such rights are supposed to serve basic human needs. For him, there is a broader view of rights which holds that people and groups not only have the right not to be specifically abused, but also have collective human rights for instance, to a quality of life based on human dignity, race, and other demographic traits. Community rights are contained in certain municipal laws which promote the idea that communities and groups have the right not to be denied their means of basic existence. In the UK for instance, the Localism Act 2012 was enacted by the Northumberland County Council to take care of neighbourhood planning, right to build businesses and shops, right to bid in order to keep the assets of community value, and so on.

The Community Rights and Sustainable Development Initiative (CRIDI), a non-governmental Agency domiciled in Nigeria, sees community rights as the management of natural resources and community efforts at adapting to climate change and environmental sustainability. For the agency, community rights also involve policies made for the sustenance of the environment of the community people and their land occupations (<http://genda.climate.org>). In view of the above conceptions, this work considers Community Rights, as rights allowed communities to have access to the assets they are naturally endowed with such as land and other natural resources, and also the right to challenge external interests on their assets by forces external to the communities. Reasoning

from this, the work examines the oil-bearing communities in Nigeria, particularly with regard to the federal government's Land Use Act 1978, which holds that "all lands in the federation with properties there-in belong to the Federal Government of Nigeria".

### **Establishment and Dynamics of Federalism in the U.S and Nigeria**

This section of the paper comparatively discusses the evolution of federalism in the U.S and Nigeria. The United States and Nigeria were colonized by Britain. Whereas real colonialism of the contemporary U.S was 1770s, Nigeria was officially colonized from the year 1896. It is also important to note that whereas the U S federation gradually developed from the interactions of the American peoples, the Nigerian federation was a British imposition. The synopsis of these federal developments will now be examined.

#### **The United States**

The United States of America waged a war of independence against Britain (colonial master), following the United States' declaration of independence in 1776, at the second continental congress. With a large military with financial aid from France, coupled with the able and patriotic leadership of General George Washington, the American Army rebelled against British rule successfully by 1783, (O'Conner and Larry, 1993:71). After independence, the United States established a confederation as a form of government created as a league of sovereign states. The deficiencies experienced in the Articles of Confederation prompted its repeal and the ratification of a new constitution which created a federal system of government in the United States. The American people themselves debated the issues concerning state sovereignty and supremacy of federal authority before acceding to the doctrines of the federation and its philosophy. Within the context of federalism however, the United States (US) has been navigating from one phase of federalism to the other (Elazar, 1985:17-34).

From 1789 to 1901, the U.S practiced what is termed 'dual federalism' which involve an infinitesimal collaboration between the national and state governments. The period between 1901 and 1960 ushered in the era of 'cooperative federalism', which was essentially the period power moved back and forth between the centre and state governments depending largely on the distribution of responsibilities. What was regarded as the period of 'creative federalism' came on board during the regime of President Lyndon Johnson. It was a system that shifted power in favour of the national government between 1960 and 1968. From 1970 to date, the United States has witnessed shifts in intergovernmental grants system, the growth of unfunded federal mandates, concerns about federal regulations and continuing disputes over which the US 'contemporary federalism' distributes power between the centre and state governments (Meyer, 2009:8).

#### **Nigeria**

Nigeria was under the British colonial rule from 1861 to 1960 (Mohammed, 2012:5). The country did not go through the process of group discussions and consciousness of coming together as a country. It was amalgamated in spite of the uniqueness of each pre-colonial socio-cultural group. The British colonial quest annexed Lagos in 1861, after the Oil

Rivers Protectorate declared in 1885. In 1900, the Niger Coast protectorate was established, comprising of the oil rivers protectorate and the Yoruba Land were amalgamated, usually described as first amalgamation. The second process of amalgamation involves the bringing together the colony of Lagos and the Oil Rivers protectorate into what they described as the colony and protectorate of Southern Nigeria. Northern Nigeria was conquered in 1903. After the conquest, the British colonialists in 1914 accomplished the third and final phase of amalgamation, when the colony of Lagos and the protectorate of Southern Nigeria, as well as the protectorate of Northern Nigeria were amalgamated to form the country called Nigeria and administered by the British Colonial rule. In the course of the British colonial rule, Nigeria was divided into three regions by the 1946 Richard Constitution, with each of the regions mutually distrustful of the others.

In 1951, under Macpherson constitution, the colonial government adopted a federal system of government after the Ibadan conference in 1950. The Lyttleton Constitution of 1954 granted regional autonomy to the three regions. The British colonial administration encouraged vertical relations between individual communities and the colonial administrators. Close

horizontal relations among Nigerian groups was missing in line with the interest of the British colonizers. The co-existence of Nigerian groups who hardly knew about each other very well nor interacted in a substantially horizontal manner, constitute the initial myths which affected federal relations in Nigeria even after the political independence of 1960. The colonial federation of Nigeria operated like a unitary system of government as it involved fiscal hegemony of the centre. Federal elements, however, emerged in Nigeria's first republic which lasted between 1960 and 1966. The three regions were granted fiscal autonomy, and they exploited the natural resources in their regions, and operated marketing boards which promoted economic activity in the regions.

However, the centre-state fiscal parity was terminated by the military government which came through a coup in 1966. The military intervention which was precisely on the 15th January 1966 and the counter coup in July of the same year established a prolonged military rule which terminated the elements of true federalism of the first republic and by implication killed the essence of federalism itself in Nigeria (Ebegbulem, 2011: 218-229)

**Table 1:** Synopsis of Dynamics of federalism in U.S and Nigeria

United States	Nigeria
1776-1783- War of Independence	1960- granted political independence
1776-1789- Confederation period	1914- 3 <sup>rd</sup> phase of Amalgamation
1789-1901- Dual Federalism	1951- federal system adopted by colonial powers
1901-1960- Cooperative federalism	1954-1966- True federalism
1960-1968- Creative Federalism	1966-1979- Unitary-(Military)
1970-till present- Contemporary federalism	1979-1983- Quasi-federalism 1983-1999- Unitary (federal) Military 1999-till present Quasi-federalism

**Source:** Compiled by the Authors from the analysis of this work

From Table 1 above, the long years of U.S experience on federalism is very clear. The US has been transiting from one phase of federalism to the order. Each of the phases from confederation to contemporary federation, was based on federal mandates and in each phase, the constitution was amended to accommodate changes. The contemporary federalism in the U.S came to effect after the tenth amendment. The various phases of the U.S federal mandates were all responses to concerns about federal regulations and continuing disputes over the nature of the federal system. According to Meyer (2009: 11), two questions have often been generated:

- (i) What is the nature of the union?
- (ii) What powers, privileges, duties and responsibilities does the constitution grant the State, the Central government, and the people?

For Meyer, during the 208 years of history of the United States' constitution, the answers to these questions have been debated time and again, and have shaped and been shaped by the Country's political, social, and economic history. The Nigerian federal situation is a complete contrary of the U.S situation. As shown in Table 1, apart from constant military interventions in governance, which of course operated a unitary form of government, the civilian regimes, save the first republic (1960-1966) which ran fiscal federalism, from 1999 up till date, Nigeria has been operating quasi federalism which is more of a unitary system than a federal system. The expectations of the people of Nigeria meanwhile that have

been so expectant of federal dividends are dashed. Most of the problems Nigeria is facing at the moment are as a result of misshapes of the system of governance adopted which does not take cognizance of the socio-cultural diversity of the country.

### Oil and Gas Entitlement Rights in the U.S and Nigeria

The oil and gas resources have in recent years become important geographical factors of national power. This section of the work examines the oil and gas entitlement rights of Oil-Bearing Communities or States, with a view to revealing the rights of Oil-Bearing Communities, the nature of federal union, and how the Oil-Bearing States cling into the federation. United States Oil-Bearing Entitlement Rights: The Oil and gas law in the United States deals with ownership rights in oil and gas both under the soil before discovery and after its discovery, and its capture ([www.hg.org/oilandgaslawshtml](http://www.hg.org/oilandgaslawshtml)). According to this source, these laws differ from those of other countries, European countries inclusive. In the U.S, extraction of oil and gas is regulated by the Oil-Bearing States through statute and common law. Oil and gas rights may be owned by private individuals, corporations, Indian tribes, local governments, state or federal government. The rights extend vertically downward from the property line, unless explicitly separated by a deed. The rights of oil and gas may be bought, sold or transferred like other real estate property ([www.hg.org/oil.and.gas.law.html](http://www.hg.org/oil.and.gas.law.html)). The rights are owned by the surface land owner. Offshore oil and gas are owned by either

the state or the federal government and leased to oil companies for development.

The tide lands controversy involve the limit of state ownership. The laws of ownership prior to the extraction and after the exercise are almost universal in the U.S, though it may vary from State to State. Whoever owns the 'fee' of the land eventually owns everything below the surface but limited by the extension of surface rights. This was the case between "Del Monte Mining and Milling Company vs. Last Chance Mining and Milling Company". Also in the case between "Kelly vs. Ohio Coy", the Law held that:

Because oil and gas are fluid, they may flow on the surface across property boundaries. In this way, an operator may permissibly extract oil and gas from beneath the land of another, if extraction is lawfully conducted in his own property ([www.hg.org/oilandgaslawshtml](http://www.hg.org/oilandgaslawshtml)).

In the U.S, oil and gas producing companies do not always own the land they are drilled on, but most often, the company (Lessee) leases the mineral rights from the owner (lessor). Major points in a lease increase the description of the property, the term (duration) and the payments to the lessor. Payment to the lessor takes three forms bonus, rental and royalties as negotiated by the parties. The traditional royalty rate for oil and gas is 12.5% (1/8) for some states including Pennsylvania.

#### Nigeria's Oil-Bearing Entitlement Rights

The oil and gas sector in Nigeria is going through a serious crisis, due partly to a sharp reaction from the oil producing Communities who are naturally endowed with the oil and gas, and who suffer the grievous hardships resulting from the Petroleum Act 1969, Petroleum Act Cap350 of the Laws of the federation 1990, Land Use decree/Act 1978, enshrined in section 44(3) of the 1999 Constitution of the federal republic of Nigeria. The Act states that:

Notwithstanding the foregoing provisions of this section, the entire in 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 the exclusive economic zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.

There were also instruments, measures, and other regulatory methods employed by the federal government and oil Companies to manipulate and control the reactive Oil-Bearing Community agitations (Eteng, 1997:1-31). This set of rules and practices not only fundamentally disequibrated oil-bearing communities' relations with the Nigerian State, but also fundamentally disequibrated State established endowment/ownership entitlement scheme in the prevailing exploration relations (Iwara, 2007:155-167). In Nigeria, entitlement royalties to the federal government in its bipartite relations with Oil Companies, is on the basis of the depth of drilling. This is shown on the table below as follows:

**Table 2:** Showing Royalties to the Federal Government on the basis of depth of drilling

Depth	Royalty
On Shore	20%
0-100m	18.5%
101-200m	16.6%
201-500m	12%
501-800m	8%
801-1000m	4%

**Source:** <http://sixmaritime.com/legal-participation>

It is however important to state that the federal government, being the one that collects royalty from oil and gas and most other important sources of revenue, establishes when necessary, a formula of making allocation to other levels of government such as States and Local Governments of the Country. It is on the basis of this that the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) was established. The current revenue allocation formula gives the Federal Government 52.68%, States 26.72%, and Local Governments 20.60%. Within the context of horizontal sharing on the States

allocation, is also what is considered a derivative principle which is 13% of the allocation to oil-bearing States. Meanwhile, the Oil-Bearing Communities are left without any direct entitlement from the oil and gas resources in their surroundings, save the token of sometimes abandoned projects embarked upon by their State governments or the Niger Delta Development Commission (NDDC). All these misshapes make agitations hardly abate, a situation which makes solution, a fundamental necessity.

**Table 3:** Synopsis of Oil and Gas Laws and Oil-Bearing Entitlement in United States and Nigeria

	United States	Nigeria
Regulation	Oil and gas regulated by oil bearing states	Oil and gas regulated by the federal government, managed as presented by National Assembly.
Ownership Rights	Surface land owners, private individuals, corporations, Indian tribes, local governments, state or federal government.	Federal government, surface land owners, not allowed.
Market system	Inclusive open market, involving lessees and lessors	Exclusive system between the federal government and multi-national oil companies.
Basic Entitlement	12.5% or one-eight royalty to oil bearing owners. May vary from state to state.	Royalties on basic drilling depth, ranging from 4% to 20% to the federal government only.

**Source:** compiled by the authors from the analysis of this work

Table 3 vividly states the regulatory authorities of oil and gas in U.S and Nigeria, ownership rights, the market system, and the entitlement bundle.

## Discussion

There are certainly very serious implications flowing from this study which this section is devoted to dealing with, for us to make a very reasonable contribution to shore up the federal practice in Nigeria. The first is that we have found that the U.S federation was established after a protracted discussion among groups in its plural society at that time such as, the Filipino Americans, Chinese Americans, Asian Americans, African Americans, Mexican Americans and Japanese Americans (Wheare, 1951:3), where the peoples of the U.S. themselves tabled and discussed critical issues bothering on the U.S federalism. The discussions led the US to make amendments to the Confederation Constitution which was earlier in vogue. The Nigerian State must learn from the various levels of group interactions which enabled the people to arrive at an acceptable federal system of government for the people of the United States, at least for now. The U.S and Nigeria share some common basic factors such, as multi-ethnic society, mineral resources such as oil and gas in some States of the Country, geographical contiguity of the federating units, and so on, and yet the States that produce the largest percentage of the U.S oil and gas include Texas (30%), California (17%), North Dakota (12%) and Gulf of Mexico (17%) (<http://en.m.wikipedia.org>) are allowed to hold rights of ownership in the federation. This development has not set any State or Zone in US against others, and yet there is a high level of political and economic development in U.S.

The Nigerian case is a different scenario. The people of the Country did not have proper opportunity during the Colonial rule to engage in meaningful multi-layered bottom-up discussion en-route to the Ibadan Conference of 1950 convened by the Colonial Masters for the purpose of declaring Nigeria a federation (Eleazu and Nwankwo <http://www.vanguardngr.com>). Thus, Nigerians did not frankly discuss to the point of decision making and so the regions at that time did not quite understand how they were going to cling on the federation. The political elites were merely assembled at meetings convened by the Colonial Government to discuss constitutions, such as those of Macpherson, Clifford, Littleton, and Richard, having been handpicked by the Provincial Colonial Officers among their loyalists, giving the impression that the ethnic groups in the Country were fully represented. The 2014 National Conference convened by the immediate past President Jonathan, offered Nigerians a big opportunity to

improve the Country's federal System as every section of the Nigerian society was adequately and ably represented, but one issue that was not resolved is resource control which has proven to be why the country has not been able to have true federalism. The question is why are some States in Nigeria afraid of fiscal federalism?

What is certain, however, is that the debate over resource which has generated so much emotion in the country shall remain a feature of Nigerian political discourse so long as the system of government the country prefers remains quasi-federal structure. Chief Obafemi Awolowo, cited by Dafinone (2001), asserted that resource control is capable of linking the people with public wealth. Already, Nigeria's resource control debate at the commencement of the 2014 national conference produced extremist and moderate arguments. Some extremists argue that the Country should revert to the 50:50 revenue sharing formula of the first republic. Some other extremists alternatively argue that revenue repatriation should be abrogated. In between these extreme positions are those with the view that the 13% derivation should be adjusted upwards. This is the dilemma that confronts Nigeria as a nation-state.

The paradox is that this very dilemma facing the Nigerian State would have to be resolved in affirmative for the various States of the Country to use the resources in their States to develop. A situation where States of the Country are all idle expecting revenue from the federal government is not helpful. An inventory from a geological survey by the Nigerian Ministry of Mines, Power and Steel, cited by Nwoke (2013:16), stated the enormous untapped mineral resources spreading almost throughout the Country. Nwoke grouped the minerals on the basis of their utility as follows: Building and Construction minerals, such as bitumen and polished stones found across Nigeria; Fuel minerals involving coal, crude oil, natural gas and lignite found largely in the South-East of Nigeria. Steel industry minerals which include chromites, columbite, manganese ore, found largely in Northern Nigeria. Non-ferrous minerals which includes zinc ore, tantalite, and copper, found in the South and North of Nigeria. Industrial and manufacturing minerals such as ceramics, kaolin, and bauxite, glass sand, and baryte, found in the South and the North of Nigeria.

The minerals highlighted above show that Nigeria is potentially rich to make a buoyant true federation. Therefore, the dissipation of energy to the superficial that has captivated the interest of political elites over the sharing of national cake is unnecessary. The fear also of some zones in the Country,



over the ownership rights, is also unnecessary because, as stated above, all zones of the country have untapped mineral deposits that could help the economic development of their peoples.

On the Oil and Gas-Bearing Rights, the U.S legislation stands out. Individuals, communities or groups, states and the federal government have ownership rights. The U.S Oil and Gas laws are based on democratic ethos, as the rights of all persons are secured under the laws. It is surprising that the civil rule in Nigeria has allowed the military decrees that are undemocratic and unacceptable, and which confiscated or captured all lands in the country to persist and determine land use and rights under civil rule. This negates the demand that federalism, to a large extent, survives in a democratic context and an atmosphere of justice.

## Conclusion

This study has revealed that, in the relatively stable United States, oil and natural gas legislations and regulations, are the responsibility of the oil-bearing States, while the ownership rights are given to land surface owners, which imply that, individuals, communities, corporations, as well as State or federal that own surface land where oil and gas are found, are given ownership rights. The Nigerian situation is by far different. The U.S oil and gas ownership rights lead to stability, and the ever expanding political and economic development, the Nigerian oil and gas ownership rights on the other hand, breeds instability, conflict, and underdevelopment, both political and economic, as events in the country in recent times clearly indicate.

Given the situation above, Nigeria, which, is the primary focus of this study, has two options, which is generally open to development theorists and practitioners (Eteng, 1997:30). The first, is that Nigeria may keep the on-going system hook, line and sinker, with its irrationalities, sentiments, paradoxes and conflicts; the second, is that it may correct visible problems in the system, as most liberals do, using the U.S oil and gas sector experience, to put the Country in good stead to stabilize its federation. This study recommends the second option, and in addition, feels that the new administration in the country should re-visit the mineral resources legislation, with a view to

carrying out the total transformation of the sector by giving all the States in the federation, the right to explore and control their environment, since studies have found that there are mineral resources in almost all the geopolitical zones in the country.

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