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OWNERSHIP OF CRUDE OIL UNDER NIGERIAN LEGISLATIONS – WHICH WAY FORWARD

BOSE LAWAL

INTRODUCTION

“Petroleum” commonly referred to as hydrocarbon comprises of two components namely: hydrogen and carbon which can be in solid, liquid or gaseous form.¹ However, the most commonly known hydrocarbon is crude oil or mineral oil mostly referred to as “Petroleum”.² In a nutshell, petroleum means mineral oil (or any related hydrocarbon) or natural gas as it exists in its natural state in strata, and does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.³

The importance of crude oil in the development of Nigerian economy cannot be over emphasized as it presently accounts for 84% of the total estimated revenue while the revenue, from other sectors represent 16% for 2007 budget.⁴ According to Fabunmi,⁵ mineral oil accounts for over 90% of the national revenue and it is currently the largest national foreign exchange earner. The importance of this “natural resource” makes it imperative that there should be a clear understanding of its ownership.

The pertinent issue to be addressed in this paper is who owns crude oil or mineral oil?⁶ Is it the Federal, State, Local Government or person(s) whose land is embedded with oil? This question comes to mind as a result of controversy surrounding the sharing formula of the revenue derived from it and civil unrest between the Federal Government and those whom God has endowed with the land under which the oil lies.

**** Lecturer, Department of Business Law, Faculty of Law, Lagos State University, Ojo, Lagos**

1. Yinka Omorogbe, (Malthouse Press Ltd. 2001) 1
2. Though the term “Petroleum” covers other types of hydrocarbon
3. Section 15, Petroleum Act, Cap. P10. Laws of the Federation of Nigeria, 2004.
4. [http://www. News-watcher.com/editorial/all-access/special/11016210007.htm](http://www.News-watcher.com/editorial/all-access/special/11016210007.htm)-delivered by former President Olusegun Obasanjo on 16th of October, 2006.
5. Fabunmi, J.O “The legal framework of National Control of Mineral Oil Resources in Nigeria” - *University of Ife Law Journal*, (Jan-July 1986) 40. See also, Adetutu Oshineye “The Petroleum Industry in Nigeria: An overview” - *Modern practice Journal of Finance and investment Law*, vol. 4 No 4 2000 at p. 325.
6. On the application of the maxim *quicquid plantatur, solo solo cedit*. See Francis V. Ibitoye (1930) 13 N.L.R. p. 11, Ezeani & Anor. V. Ejidike (1964) 1 All N. L. R 402, Odogbolu V. Okeluwa & Anor. (1981) N.S.C.C. 275, Ekpan V. Uyo (1986) 3 NWLR pt 26, p 63.

The owners of the land or State Government of those "lands" where the oil is embedded have argued that as the owner of the "lands", there must be certain percentage from the proceeds of the sales to be accrued to them while the Federal Government on the other hand projected a smaller percentage on the ground that the Government (Federal) owns the crude oil on behalf of all the citizen and for even development of Nigeria as a whole.

Also, in the world today, instances abound here and there ranging from the Niger-Delta in Nigeria down to Iraq, Kuwait, Iran etc. where the politics of ownership and control of crude oil have generated a lot of tension leading to hostage taking, terrorism, invasion and annexation or attempted annexation of weaker countries by stronger ones.

In this paper, attempt will be made at examining the framework of ownership of crude oil in Nigeria, the position of United Nations as regards this concept, the position in other jurisdictions, the rationale behind such ownership and suggestions on practical administration of our legal system in order to avoid anarchy and chaos.

Legal Framework Of Ownership Of Crude Oil In Nigeria

Nigeria was for many decades a protégé of Britain in which both nations belong to the same common law jurisdiction with the former's laws in important areas like Companies, Land, Natural resources etc. fashioned after those of latter. As constitutional developments led to the transfer of government to Nigerians, the crown became replaced by the state which assumed sovereignty over the mineral oil resources previously vested in the crown.⁷

As a colonized country, the first pieces of legislation in Nigeria, made by the British colonial masters was the Minerals Act of 1946.⁸ The Act is to the effect that the entire property in and control of all minerals and mineral oils, in, under or upon any lands in Nigeria shall be vested in the state. By this law, the colonial lords apparently divested private and communal ownership of natural resources and vested same on the state, which was the crown in England.

Also, the Republican Constitution of 1963 enlisted mines and minerals including oil fields, oil minings, geological surveys and natural gas under the exclusive list.⁹ However, all minerals including crude oil located in the continental shelf of any region of Nigeria belong exclusively to that

7. See generally *Fabunmi J.O (n.5) 40-57*.

8. *Minerals Act Cap. 121 of the Laws of Nigeria 1946*, Now *Cap. 226 of the Laws of Federation of Nigeria, 1990*. However, the Act has been repealed by S. 257(1)(a) of the *Minerals and Mining Act, Cap. M12 LFN 2004*.

9. Item 25 of the 1963 Constitution

region. Thus, for the purpose of exploitation of crude oil amongst other minerals, the continental shelf of a region was deemed part of that region.¹⁰ The "State" ownership of natural resources was made firm when in 1969 the first indigenous law on petroleum, the Petroleum Act was enacted. The preamble to this Act states:

An Act to provide for the exploitation of petroleum from the territorial waters and the continental shelf of Nigeria and to vest the ownership of, and all on-shore and off-shore revenue from petroleum resources derivable therefrom in the Federal Government and for all other matters incidental thereto.

In addition, it is clearly and unequivocally stated that the entire ownership and control of all petroleum in, under, or upon any lands in Nigeria, or under the territorial waters of Nigeria, or forms part of the continental shelf shall be vested in the state.¹¹ Undoubtedly therefore, this piece of legislation appropriates the entire proprietary rights in petroleum found in Nigeria and its waters and vests it in the State.¹²

The combine effects of the 1963 Republican Constitution and the 1969 Petroleum Act were that, while the state owns and controls natural resources including oil in Nigeria, revenues accruing therefrom were shared on fifty-fifty bases signifying that while there was no resource control within that period, there was however increase in revenue allocation to regions where these resources were extracted from.

As a result of enormous wealth generated from natural resources after the civil war in Nigeria in addition to increased agitation for resource control from regions where the resources were got from, the Federal Government decided to embark on absolute ownership and control of all natural resources thereby curtailing all the previous fifty percent allocation of proceeds previously granted the regions.

The Offshore Oil Revenue Act 1971¹³ was enacted to repeal Section 140 of the 1963 Constitution thereby abrogating the rights of the States of the Federation in respect of ownership and title of any minerals located within their continental shelf and territorial waters as well as royalties, rents and other revenues derived from or relating to the exploration, prospecting or searching for, winning or working of petroleum from the seaward appurtenances of the States.

10. *Ita sagay*, "Ownership and control of Nigeria Petroleum resources, A legal angle" published in the book: *Nigerian Petroleum Business, Advent Commis* Ltd, 1997. See also S. 140(6) of the 1963 Constitution

11. S.1(1) and (2) of 1969 Act.

12. Meaning the Federation of Nigeria Represented by the Federal Government.

13. S.1(1) (a)

For the first time, the Federal Government enacted the Exclusive Economic Zone Act of 1978¹⁴ to vest upon itself the exclusive rights of exploration and extraction of natural resources of the sea-bed, the sub soil and superjacent waters of the exclusive economic zone¹⁵ which the earlier legislation has not covered.

In addition to all the above mentioned legislations conferring ownership of natural resources on the Federal Government of Nigeria is the Land Use Act. The age long doctrine of quicquid plantatur, solo solo credit is an exception to the ownership of land in which mineral oil is found as legislative incursion has vested ownership of minerals in such lands in the Federal Government of Nigeria. Basically in Nigeria prior to the enactment of the Land Use Act of 1978, lands were owned and controlled by individuals or communities in terms of families through ancestral heritage. However, with the introduction of the Land Use Act in 1978, the traditional land ownership / tenure system was consequentially abolished and the ownership and control of all lands became vested in the State Governments. To affirm the validity of the law, the Act Provides:

... all lands comprised in the territories of each State in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act¹⁷

Although, the Governor(s) under the Act is trustee of all land in the State(s) of the Federation, he does not have the sole responsibility for the control and management of the lands within the State; his control is

14. S.2 of the Exclusive Economic Zone Act, Cap. E17, Laws of the Federation of Nigeria, 2004.

15. The Territorial Waters Act Laws of the Federation of Nigeria 2004 has reverted the zone to 12 nautical miles as opposed to the 30 nautical miles. This position can however be altered depending on the developments in International Laws and Agreement with other coastal states. See also Okagbue, I.E., "The Law and Development of Natural Gas in Nigeria" (Monograph) Nigeria Institute of Advance Legal Studies Occasional Paper No. 9.

16. He who owns the land, owns everything attached to it or buried therein. See Gaji V. Payne (2003) 8 NWLR (Pt 823) 583 S.C.

17. S.1 of the Land Use Act of 1978, Cap. 202 L.F.N 1990, now Cap. L5 L.F.N 2004. See also: Savannah Bank of Nig. Ltd. & Anor. V. Ajilo & Anor. (1987) 2 N.W.L.R pt 57 p.421.

Madam Salami and others V. Oke (1987) 4 N.W.L.R. (Pt. 63) 1.. Makantunla & Anor. V. Chief Balogun (1989) 3 N.W.L.R pt 108 P.192

primary.¹⁸ While the Governor is responsible for the allocation of land in all urban areas to individuals resident in the State, similar powers with respect to rural areas are conferred on Local Government's Chairman.¹⁹

However, the rights of the individual to use the land being allocated to them either by the State or Local Government can be taking away by the (Government for over-riding public interest.²⁰ What constitutes "over-riding public interest" though exhaustive includes requirement of any land within Nigeria for the purposes of mining and or extraction of natural resources including oil found on or under it and thus pay appropriate compensation.²¹

The exclusive power of the State to own, control and regulate the activities of minerals, mineral oils and its by products is also firmly affirmed by the Constitution of the Federal Republic of Nigeria, 1999.²² This exclusive power includes "mines and minerals including oil fields, oil mining, geological surveys and natural gas."²³

The 1999 Constitution is a consolidating enactment as it provides:

Notwithstanding the foregoing provisions of this section, the entire property 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 Federation²⁴ and shall be managed in such manner as may be prescribed by the National Assembly.²⁵

Although Section 44(1) of the Constitution of the Federal Republic of Nigeria, 1999 frowns at compulsory acquisition of moveable property or any interest in an immovable property in any part of Nigeria save there should be prompt payment of compensation amongst others, it is however clear that the purport of Section 40(3) is to exclude the payment of compensation for the minerals, mineral oils (crude oil) and natural gas²⁶ as by definition, "land" excludes "crude oil" even though it is a thing

18. Ajomo, M.A "Ownership of Mineral Oils and the Land use Act" - Nigerian Current Law Review, (October 1982) 330-340 at 336.

19. Ss. 5 and 6

20. S.28

21. S. 29; see also S. 44(1) of 1999 Constitution

22. See also the 1979 Constitution of the Federal republic of Nigeria.

23. Item 37, Second Schedule, Part 1, 1999 Constitution

24. Emphasis mine

25. Sec. 44 (3), 1999 Constitution of Federal Republic Of Nigeria.

26. But the Surface rights in Land enclosing the mineral oil are subject to compensation.

permanently attached to the earth and could be regarded as immovable property or an interest in an immovable property.²⁷

Furthermore, the Constitution adopted the provisions of the Land Use Act giving it equal force to the fact that nothing in the Constitution shall invalidate amongst other enactments, the Land Use Act which shall have effect as federal enactment and as if the Act related to matters included in the exclusive legislative list of the Constitution.²⁸ We can therefore conclude that though the Act bestowed ownership of land on the Governor,²⁹ he is however bereted of powers to make laws concerning land within his state. He can however grant licence to persons to enter upon any land for the purposes of extracting or removing materials required for building or production of building materials but cannot grant oil exploration licence, mining lease, mining right, oil prospecting licence or exclusive prospecting licence³⁰ which only the Minister can grant.³¹ In reality therefore, the actual construction of the Constitution shows that the power to legislate on land as far as the Land Use Act is concerned resides with the Federal Government.

The most recent of all laws dealing with petroleum and fashioned in line with Petroleum Act of 1969 is the Petroleum Act.³² Wherein it reiterated the position that the entire ownership and control of all petroleum in, under or upon any lands in Nigeria, or under the territorial waters of Nigeria or forms part of the continental shelf or forms part of the Exclusive Economic Zone of Nigeria shall be vested in the state.³³ Though this Act is fashioned in line with the 1969 pioneer Act on petroleum, it is however more detailed than that of 1969 Act as it encompasses territorial waters, continental shelf and Exclusive Economic Zone.

Conclusively, the combined effect of all the laws above discussed operate to vest the property and ownership of mineral oil in the federal government of Nigeria wherever found in the offshore, territorial waters, exclusive economic zones or continental shelf as rightly pointed out by Ogwuegbu J.S.C. in Attorney General of federation of Nigeria V. Attorney General of Abia State and others³⁴ that

27. See *Ajomo, M.A* (n.18) 333 and 339.

Fekumo, J.F "Ownership and control of Minerals and Mining activities in Nigeria: Another Perspective" Paper presented at the National Workshop on the Review of the Minerals Act (1946) and Allied Laws and Regulations, 2nd-6th of May, 1993 pp.1-14 at p.1.

28. See S. 315 (5) and (6)

29. S.1 of Land Use Act

30. S.12 of Land Use Act

31. See S. 2 of Petroleum Act Cap. P10 Laws of the Federation of Nigeria, 2004.

32. Cap P. 10 LFN 2004, See also, Petroleum Act, Cap. 350 L.F.N 1990.

33. S.1 (1) (2) and (3), Petroleum Act (n.3)

34. (2002) 6 NWLR (pt. 764) 542

*It is Nigeria as a sovereign state which can exercise jurisdiction and rights as a coastal state over her territorial waters, contiguous zone, other zone in which she has special interest and the high seas and not her littoral states.*³⁵

Ownership Of Crude Oil In Other Jurisdictions

The laws regulating the ownership rights and incidents of crude oil (mineral oil) vary from jurisdiction to jurisdiction. For instance, it could be owned exclusively by the state or in some cases by individuals or private enterprises. It could also be owned jointly by the state and the private sector.³⁶

For proper understanding of various concepts of ownership rights which subsists in various jurisdictions apart from Nigeria, attempt shall be made at examining some states such as Great Britain, Libya, United State of America, Canada and Zambia amongst others to examine the assertion of right being practised in the domain over their crude oil amongst other natural resources.

United State of America

In the United States of America, two types of ownership of oil theory are being practiced, the qualified ownership theory as exemplified by such states of Oklahoma, California, Indiana, Louisiana etc. and the ownership theory recognized in Texas, Pennsylvania and Arkansas³⁷

Under the qualified ownership approach, the landowner has no title to the oil beneath his land in severalty, nor does he have title as a tenant in common to an undivided share of the oil in the common reservoir equivalent to the amount of oil beneath his land. All what he has is a co-equal right with the other land owners to the opportunity to secure his proportionate part of the oil in the common reservoir by wells drilled upon his land and a qualified interest in the oil as one of the collective owners.

35. *At. p* 828-829.

36. See *Ajomo, M.A* (n. 17)

37. Keith W. Blum, Claude Duval, Honore Le Leuch, Andre Pertuzio - *International Petroleum Exploration and exploitation Contracts*, (Euromoney Publications, 1986) Ch. 1 p. 24.

Articles "of the State of Louisiana Mineral Code provides that ownership of land does not include ownership of oil, gas and other minerals accruing naturally in liquid or gaseous form. However, the landowner has the exclusive right to explore and develop his property for the production of such minerals and to reduce them to possession and ownership.

Thus, in *Frost-Johnson Lumber Co. V. Sallings Heirs*,³⁸ the court held that it is the settled law of the state that oil and gas in place are not subject to absolute ownership as specific things apart from the soil of which they form part and a grant or reservation of such oil carried only the right to extract such mineral from the soil.³⁹

In term of ownership theory (absolute), the landowner is regarded as having title in severally to the oil and gas in place beneath his land. This theory does not create the right of co-ownership even when the reservoir straddles lands owned by different persons. Here, a landowner loses his right of ownership to the oil underneath his land at any time such migrates to the adjacent land and it is produced from the neighbour's well.

In *Barnard V. Monogahela Natural Gas Co.* the court refused to stop drilling by an adjacent land owner alleged to be drilling the petroleum reservoir under the plaintiff's land. The court recognized the vagrant nature of the petroleum in porous sand rocks and held that the plaintiff's remedy is self help by drilling his own well.⁴⁰ Thus, this theory recognized the fact that the ownership of petroleum occurred when it was actually produced and reduced to possession.⁴¹

The above mentioned two theories as operate in the United States of America is generally known as the "accession system" which provides that private, state or federal interests in the ownership of petroleum can co-exist within a state.

Canada

Title to petroleum in situ may be held in Canada by the Federal Government, a province or an individual. Between these three principal elements exist a dynamic interplay.⁴² This system is known as "the shared ownership theory". Canada's unique system of federalism grants ownership of petroleum and other natural resources to the provinces

38. 150 La. 756 at 858 (1922).

39. See: *Westmoreland & Cambria Natural Gas Co. V. Dewitt* 130 p. 235 18 All 724 (1989); see also *Kelly V. Ohio Oil Co.* 57 Ohio St. 317. 49. NE399 (1897).

40. 216 Pa. 362, 65 A. 810 (1906) mentioned in *Blinn, Duval, Le Leuch and Pertuzio, (n. 35)*.

41. Commonly referred to as "Rule of Capture"; see also *Williamson V. west Virginia Trans. Co.* 28, W. Va. 210 where the court held that oil and gas in place is real estate and subject as such to absolute ownership.

42. Alexander, J. Black, "Jurisdiction over petroleum operations in Canada" - *International and comparative Law quarterly* Vol. 35, April 1986 p. 446.

where particular resources were found while the federal government owns and administers resources on Canada's frontier lands.

Section 109 of the Constitution Act enacted in 1867 provides that all lands, mines, mineral sand Royalties belonging to the several provinces shall belong to the several provinces

Also, Section 117 is to the effect that the provinces shall retain all their respective public property and otherwise disposed of subject to the right of Canada to assume any lands on public property required for fortification or for the defence of the country.

In addition to the ownership feature, the province also has the power to enact laws regulating intra-provincial exploration and exploitation.⁴³ As a result of the power of control by the provinces, local administrators are mostly directly accountable to the citizen of the province rather than the federal Government.

Middle Eastern And African Oil Producing Countries

Out of the fourteen middle Eastern and African oil producing countries including Algeria, Angola, Chad, Egypt, Iran, Kuwait, Libya, Nigeria, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates and Yemen, thirteen exert complete national jurisdiction over petroleum operations with only United Arab Emirates not providing for national ownership of oil.

These thirteen countries operate National or Dominal system of ownership over their resources by vesting the ownership of mineral oil in the government or sovereign authority. For instance, the Libyan Petroleum Law declares all petroleum in its natural state in strata to be the property of the state and no person may explore or mine or produce petroleum without a permit or concession.

Also, the Zambian Mines and Minerals Act of 1976 vests the property in all minerals in the state for the common benefit of the people notwithstanding any right of ownership or otherwise which any person may possesses in and to the soil or under which minerals are found or situated.

The arguments in favour of this type of system amongst others is that the state is responsible for the defence of the general interest of all and the need to distributes evenly the great riches of mineral resources in

43. See: *Re Continental Shelf offshore Newfoundland* (1984) S. C. R. 86 cited in *Oil and Gas Law in Nigeria*, (Second Edition, New Era Publications 2004) 20

44. S. 92(5), *Constitution Act*, 1867, Canada.

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countries where because of pervading poverty, government programmes should aim at even development and increased standard of living.⁴⁵

Moreover, the capital and technical know-how for the exploitation of minerals is lacking mostly in developing countries. Thus, the need to vest the ownership on the sovereign who then contract out the exploitation of the petroleum to foreign enterprises under specific conditions. To this end, legislation defining the conditions for exploration and exploitation applicable to all concerned are enacted. Holders of Licenses/leases are therefore required to conform to the enacted law and the agreements they enter into with the state. These agreements are to establish the existence of the Licensee's/Lessee's rights and to cover certain secondary matters which have been left out in the law.

United Kingdom

The Great Britain also exercises national ownership of oil. The Petroleum Production Act of 1934 vest in the crown the property in all petroleum in situ together with the exclusive right of searching and boring for it.

From the countries above discussed, we can conclude that virtually all nations operate national ownership of their resources. Although national ownership of petroleum seems likely to reduce the potential for regional, sectarian or ethnic conflict over natural resources, the opposite may also result. Sovereign ownership of mineral oil may potentially create friction between central and regional/provincial governments over revenue, geographical boundaries and or regional wealth disparities.⁴⁶

The United Nations Approach To The Concept Of Ownership

The discussion in this paper will be incomplete without mentioning the United Nations' stand on the issue of ownership of natural resources of which petroleum deposits form part since the principles laid down in the United Nations Resolutions reflect in the majority of the states' laws.⁴⁷

Prior to United Nations intervention on this issue, there was no clearly defined global legal position. While the developed countries had used economic and technological advancement to explore and exploit natural resources within their areas of jurisdiction, the developing countries were heavily pillaged and plundered by the agents of developed world.

45. *Ajomo, M.A "The 1969 Petroleum Decree: a Consolidating Legislation, Revolution in Nigeria's Oil Industry" - Nigerian Annual of International Law Vol. 1 (1976) p. 57-78 at p. 62.*
46. *For instance, In Nigeria. See also, Attorney General of Federation of Nigeria v. Attorney General of Abia State and Others. (Supra)*
47. *Blim, Daniel, LeLouch, Pertuzio, (n. 35) 29*

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particularly the multinational companies.⁴⁸

The pre United Nations intervention also marked a period of "traditional concession" under which the state granted rights over vast expenses of territory, for a long duration, for exploration and exploitation purposes with little or no financial benefits.

In 1952, the United National General Assembly adopted a Resolution to the effect that:

*The right of people freely to use and exploit their natural wealth and resources is inherent in their sovereignty*⁴⁹

In 1962, a further guarantee was provided by the United Nations General Assembly through the adoption of Resolution title "Permanent Sovereignty over Natural resources" providing inter alia that:

*The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interests of their national development and of the well-being of the people of the state concerned*⁵⁰

Also in 1974, the General Assembly adopted Resolution No. 3281 (XXIX)⁵¹ to the effect that every state shall freely exercise full permanent sovereignty, including possession, use and disposal over all its wealth, natural resources and economic activities.

The combined effect of all the above mentioned Resolutions reveal a trend away from the emphasis on individual ownership of petroleum resources as prevalent in the United State of America and tends its way towards national ownership of oil as practiced in virtually all the nations of the world.

CONCLUSION AND RECOMMENDATIONS

Today, crude oil continues to be the most important sources of energy and its future availability is assured as long as the earth continues in its present form. Despite the environmental problems associated with oil exploration and production, oil will remain the largest internationally traded commodity.

48. *Walter Rodney, How Europe Underdeveloped Africa (Washington, D.C. Howard Univ. Press, Washington, D.C, 1974) 13.*
49. *Resolution No. 626 (VII) of 1952.*
50. *Resolution No. 1803 (XVII) of December 14 1962.*
51. *Styled as: Charter of Economic Rights and Duties of States (CERDS).*

Comparatively, mineral oil in-situ is capable of being owned by private individual in Canada and United States of America as an exception to the general rule vesting ownership of mineral oil in the sovereign in majority part of the world. Under the Nigerian legislations and latest case law on this issue,⁵² the law is that ownership of crude oil in Nigeria vests in the Federal Government. However, the Federal Government has performed below expectation as regards the development of the oil producing communities although several bodies have been set up to see to the developmental and environmental problem facing the area.⁵³

We respectfully suggest that while the ownership of mineral oil should continue to vest in the Federal Government, the government should put the interest and well-being of the people concerned into account.

There is the need for more legislation to control and monitor oil exploration and exploitation activities. Environmental authorities and the government should study all legislations dealing with the control of oil spill in other countries and to ensure strict enforcement of legislations. Also, compensations must be fashioned out to compensate the people for their lands and particularly the depletion of their aquatic life.

Furthermore, the word "state" as used in Section 1(1) of the Petroleum Act should be changed to "Federal government" in line with Section 44(3) of the 1999 Constitution. With this, there will be no more confusion as to whether the authority on whom the ownership is vested is the "state" as in component states or the "state" as used in international parlance indicating the Federal government and the distinguishing factor under Section 15(1) of Petroleum Act will no more arise.

A learned writer⁵⁴ suggest a tripartite system of ownership as a solution to the myriad of problems facing the oil producing communities of Nigeria wherein the Federal Government's ownership of oil should be restricted to 10%, the state government's share should be 30%, while the local government area of the oil producing communities share should be 60%. I however humbly oppose this view as this will lead to uneven development of all the component states of the nation. Instead, state revenue allocation to the oil producing state should be increased.

52. *Attorney General of Federation v. Attorney General of Abia State & Ors* (Supra).

53. *For Instance, The Oil Mineral Producing Areas Development Commission (OMPADEC) and The Niger-Delta Development Commission. (NDDC).*
54. *Lawrence Aisegbua, Oil and Gas in Nigeria, Theory and Practice* (n.43), 8.

It has also been suggested that each State should own whatever natural resources being discovered in their area. By this, each state will be geared towards the discovery and development of their potentials. I also oppose to this view as a result of the peculiar nature of Nigeria as country and personal idiosyncrasies of people living within the country, such will not work positively.

The effective maintenance of law and order is a critical success factor in the realization of national development. Currently, there are serious problems facing the oil and gas industries. There has been a spate of attacks on oil and gas facilities, staff and contractors by the host communities; hostage taking to press for demands has also become rampant. This problem demands prompt and proper attention for if not resolved, it could pose a major set back for the development of the oil industry which is of utmost importance to Nigerian economy. It is suggested therefore that government should ensure that both the oil producing communities and the public at large respect the rule of law and follow proper process for resolution of disputes and disagreement.

Though some of the multinational oil companies are involved in the scholarship scheme for the indigenous student of the oil producing communities, engaged in social responsibility and youth training has been introduced, for instance, shell Nigeria expenditure on community development has risen from 82 million per year in 1960s to over 330 million in 1997,⁵⁵ there is still more to be done in the area of youth empowerment.

In conclusion thus, ownership of crude oil in Nigeria should continue to be vested in the Federal Government but all laws obnoxious to the course of development of oil communities and indeed the whole citizenry must be expunged so as to come in terms with the United Nations standard:

*...in the interest of their national development
and of the well being of the people of the state
concerned.*⁵⁶

In this way, restiveness amongst the Niger-Delta indigenes would be curbed.

55. *Mr. Egbert, U. Imomoh, "The Benefits of Oil and Gas Exploration and Development for Nigeria", (A paper presented at the Nigeria Institute of Advanced Legal Studies, University of Lagos, 17th-18th Of March, 1999).*
56. *United Nations Resolution 1803(XVII) of 1962* (Supra).