SOME DEVELOPMENTAL PROBLEMS IN THE NIGERIAN OIL AND GAS INDUSTRY*

1.1 INTRODUCTION

By some strange twist of luck, the stumbling upon oil in the Nigerian earth's bowel in about 1951 – 1956 turned out to mark the beginning of a new era of energy source production for the country. Not just a common era but one that was going to have significant impact on the world market place. By the end of the eighth decade of the last century, crude oil the principal source of petroleum and allied energy bloomed. This marked the advent of petrol dollars for some nations, and the pervasive spread of petrol dollar based corruption of a democratized magnitude among such nations a notable one of which is Nigeria.

Just as a fourth dimension scatters a three dimensional concept; so the oil and gas industry has fast replaced Agrarian superiority. Described as the future of the world, its rebound in billion dollars has made it the most coveted of modern minerals.

In Nigeria, the search for oil began as far back as 1908 and was first legislated upon in 1917[1] the later laws of 1946[2] and the petroleum Act of 1969[3] decidedly vested ownership of all oil resources on the government of the federal republic of Nigeria. Providing with an unmistakable clarity, section 1 (1) of the Petroleum Act which is currently the principal regulatory law on oil and gas in Nigeria; provides

> *"The entire ownership and control of all petroleum in under or upon any hands to which this section applies shall be vested in the state".*

Land as contemplated in the Act covers all varieties of land, including "under water" and over and under the ground[4]. In addition to the scope described above, the exclusive economic zone (EEZ) also forms part of the scope of land over which state ownership applies[5].

While the plausibility and equity of the above position has been called to question, [6] considering its colonial and expropriatory character, this paper avoids the controversy as it is delimited to, and concerned with another, viz development implication of the policy and practice in the oil and gas sector.

Thus it shall leave that aspect to be best treated under a befitting heading as subject matter of a distinct inquiry. In this paper, focus shall be directed at the development patterns of the Nigerian oil and gas industry, the developmental impact of identified problems in the sector and the need for a more effective and participatory involvement of Nigerian citizens in the development of Nigerian oil and gas industry in an atmosphere devoid of industrial disharmony.

2.2 THE PECULIARITY OF THE OIL AND GAS INDUSTRY

The oil and gas industry in Nigeria exhibits two serious and peculiar characteristics. Like all such sectors around the world, the industry is both a high risk and a capital intensive sector. The cost of prospection is put at millions of Naira and this is a pre production inquiry that may result in a dry well, without oil or gas to exploit, which would mean that the entire millions invested in that enquiry goes unrewarded, completely wasted.

The effect of this cost intensive characteristic is that the industry is only available to operators who can muster up the required billions of naira to stay in the industry. Consequently most citizens are left handicapped and incapable of participating in the sector, irrespective of the degree of interest and technical know-how they possess. The second effect is that it has left the sector mostly dominated by foreigners, multinational companies and corporations that possess investable capital to the high degree demanded by the industry. While we can not say with certainty that the states are equally incapacitated from investing in the sector, we must admit that the statutory stipends handed monthly to the states could not have been safely invested in the industry as the stipend serves immediate social services such as salary payment and sundry service payments. Thus, even the unit states become ill equipped to invest in the sector in view of their enormous social responsibility and its capital intensive nature.

The second unique feature of the sector is its high risk character which demands the highest possible standard of safety. All over the world, the oil and gas industry is recognized as being about the riskiest of the risky industries. Responsible nations and governments impose scrupulous safety standards,[7] while their breach attract the stiffest penalty possible[8]. At the global level, the conservation of biological diversity is a common concern of human kind an issue in respect of which all states must co-operate in search of solution[8A]. Thus there is an international safety standard in effect[9] and its demands on participants in the sector are correspondingly high[10]. That this stringent measure is necessary is illustrated by the dire consequences of error in the oil and gas sector. Like action which speaks louder than words, the Bhopal gas leak incident in India which wreaked grave havoc of monumental proportions in terms of human, material and environmental costs, best describes the extreme gravity of breach in the gas sector, while oil leakages and gas blow-outs extol no less havoc on men and the ecology. These factors perhaps have informed government participatory pattern in oil and gas development in Nigeria.

3.3 WHAT IS DEVELOPMENT?

Development is a concept, which has assumed pivotal position in modern polemics and socio-economic discourse. Recognized globally in 1986 as an inalienable human right[11], the expression development describes the process of assessing a higher, fuller and richer standard of living by personal or indigenous effort. Development is a process and not a project. As Ake has observed, it is the process by which the subject matter recreates its life circumstances by attaining through self effort, higher and richer standard of living in accordance with its needs, values and aspirations[12]. It thus stresses self elevation, for a circumstance to be development; it must therefore be uplifting and result from self effort of the developer.

The challenge of development in the broadest sense is to improve the quality of life. At the level of the individual, development implies increased skill and capacity, greater freedom, creativity, self discipline, responsibility and material well being[13], while at the collective level, a society develops by recording a generally better quality of life which manifests in higher incomes, and encompasses as ends in themselves, better education, higher standards of health and nutrition, less poverty, a clean environment, more equality of opportunities, greater individual freedom, and a richer cultural life[14].

In effect, a nation develops when its citizens by their own effort, and indigenous industry, stimulate the attainment of the above qualities in their society. It would therefore not be development if the qualities are attained by external assistance or if the character of the attainment is foreign and completely or fundamentally at variance with the needs, values and aspirations of the particular developing society.

It is important to understand the human character of development as the human being is at the very root, center and end of the process. As has been beautifully espoused by the United Nations,

> *"The human person is the central subject of the development process development policy should therefore make the human being the main participant and beneficiary of development"* [15].

Ake shares this view when he posits that the people must be the means and end of the development process[16]. It is urgent and important to stress this point as the prevailing view in Nigeria would appear to be the enriching of government coffers and the continual enlargement of its content, with little or no reference or interest to the peoples direct involvement in the process or outcome.

4.4 THE OIL AND GAS SECTOR IN THE NIGERIAN ECONOMY

The Nigerian economy has over time grown from a multi-sectoral to a mono-sectoral economy. Oil and gas is not just the major sector of the economy, it is to all intents and purposes, the Nigerian economy. Coming from a relatively obscure position at Nigerian Independence in October 1960, the sector grew in leaps and bounds and by the late 1970s had overtaken the entire economy, leaving the previous main-stays of the economy – cocoa; palm oil and ground nut in a comatose state in which they have remained.

Oil and gas currently represents over 90% of the Nigerian economy, and accounts for over 80% of the nation's revenue[17]. It has overshadowed the Agricultural sector and relegated every other source of revenue in the economy to an insignificant second place. Nigeria is currently rated as one of the world s leading oil producing countries with the recent development of the natural gas sector pushing it up on the scale of energy source producing nations.

Oil and gas has had great impact on the Nigerian economy since its inception. Besides changing the economic character of the country from an agrarian, to energy producing country, oil and gas has raked in so much money that Nigeria upon the maturity of the sectors has been counted as one of the most endowed nations that should rank among the most affluent. That Nigeria is not yet there, would appear not to be a result of inadequacy of resources, but a function of mismanagement, corruption and the economics of prebendal politics, which unfortunately also came in the wake of the oil boom.

5.5 REGULATION AND PARTICIPATION IN THE OIL AND GAS SECTOR

Regulation of the oil and gas industry in Nigeria is an exclusive preserve of the government. The operative policies in the sector are to be found in the provisions of several laws that have been enacted across time by the government of the federation in exercise of her constitutionally vested powers: These include laws such as:

1. The Oil Pipelines Act, Cap 338, Laws of the Federation of Nigeria 1990
2. The Mineral Oils (safety) Regulation of 1963
3. The Oil in Navigable Waters Act Cap 337, Laws of the Federation of Nigeria 1990
4. The Oil in Navigable Waters Regulation, 1968
5. The Petroleum Act Cap 350, Laws of the Federation of Nigeria 1990
6. The Oil Terminal Dues Act, Cap 339, Laws of the Federation of Nigeria 1990
7. The Petroleum (Drilling and Production) Regulation 1969
8. The Associated Gas Re-injection, Cap 26, Laws of the Federation of Nigeria 1990
9. The Federal Environmental Protection Agency Act, Cap 131, Laws of the Federation of Nigeria 1990
10. The Harmful Waste (Special Criminal Provisions etc) Act, Cap 165, Laws of the Federation of Nigeria 1990
11. The Environmental Impact Assessment Decree No. 86 of 1992
12. The Nigerian National Petroleum Corporation Act, Cap 320, Laws of the Federation of Nigeria 1990

These laws collectively, declare ownership of the resources provide for licensing of operators, set safety standards and protect the environment, regulate activities in the sector, establish monitoring agencies and prescribe civil or penal liability as the case may be. These policies are of course on ground. Whether or not they are functioning effectively is certainly open to debate. While we may admit that ample legal provisions have been made, it remains apposite to state that the implementation of the laws still leave much to be desired [10A] and adversely affects the nations desire to attain meaningful development of a sustainable character.

Regulation of the oil and gas sector is vested in the Nigerian National Petroleum Corporation established under chapter 320 of the laws of the

Federation of Nigeria 1990[18]. Headed by the Federal Minister for Petroleum Resources, who is the chairman, the corporation comprises the following other members:

(a) Director – General, Federal Ministry of Finance and Economic Development.
(b) The Managing Director of the Corporation; and
(c) Three persons to be appointed by the National Council of Ministers, being persons who by reason of their ability, experience or specialized knowledge of the oil industry or of business or professional attainments are capable of making useful contributions to the work of the corporation[19].

The corporation is empowered to engage in all commercial activities relating to the Petroleum industry and to enforce all regulatory measures relating to the general control of the petroleum sector[20] through its petroleum inspectorate department. The corporation is further charged with the duties of:

a. Exploring and prospecting for, working, winning or otherwise acquiring, possessing and disposing of petroleum;
b. Refining, treating, processing and generally engaging in the handling of petroleum for the manufacture and production of petroleum products and its derivatives;
c. Purchasing and marketing petroleum, its products and by-products;
d. Providing and operating pipelines, tanker-ships or other facilities for the carriage or conveyance of crude oil, natural gas and their products and derivatives, water and any other liquids or other commodities related to the corporation's operations;
e. Constructing, equipping and maintaining tank farms and other facilities for the handling and treatment of petroleum and its products and derivatives;
f. Carrying out research in connection with petroleum or anything derived from it and promoting activities for the purpose of turning to account the results of such research;
g. Doing anything required for the purpose of giving effect to agreements entered into by the Federal Government with a view to securing participation by the Government or the Corporation in activities connected with petroleum industry in the overall interest of Nigeria; and

h. Undertaking such other activities as are necessary or expedient for giving full effect to the provisions of this Act[21].

The Act further sets out powers of the corporation as including inter alia;[22]

a. To purchase or otherwise acquire or take over all or any of the assets, business, properties, privileges, contracts, rights, obligations and liabilities of any other company, firm or person in furtherance of any business engaged in by the corporation;
b. To enter into contracts or partnerships with any company, firm or person which in the opinion of the corporation will facilitate the discharge of the said duties under this Act; and
c. To establish and maintain subsidiaries for the discharge of such functions as the corporation may determine.

A very significant provision in the Act, is the establishment of the Department of Petroleum Inspectorate[23] to be headed by an official to be appointed by the Petroleum Minister. It is an integral part of the NNPC charged with the regulatory responsibility of;

a. Issuing permits and licences for all activities connected with petroleum exploration and exploitation and the refining, storage, marketing, transportation and distribution thereof; and
b. Acting as the agency for the enforcement of the provisions of the said Acts and any relevant regulations made there under by the minister;
c. Carrying out such other functions as the minister may direct from time to time.

The major responsibility of the department therefore, is to regulate the activities of all persons and entities who are interested in participating in the up stream or down stream sector of the petroleum industry.

In exercise of the powers granted the corporation under the Act, the NNPC has established subsidiaries to handle different aspects of its responsibility under the Act[24]. And in discharge of its duties, NNPC has also gone into joint venture agreements with selected companies, to exploit the Nigerian oil and gas reserves for commercial purposes. Possessing 60% of the equity share of previous licencees in the sector, the NNPC in 1977 joined the major producing companies in the development of the petroleum sector in Nigeria. The leading operators as at 1985, were

1. Shell Petroleum Development Company Nigeria Limited
2. Gulf Oil Nigeria Limited

3. Mobil Oil Nigeria Limited
4. Philips Oil Company Nigeria Limited
5. Nigerian Agip Oil Company
6. Texaco Oil
7. Cheveron Oil
8. Elf Nigeria Limited
9. Ashland Oil Nigeria Limited
10. Pan Ocean Oil Company (Nigeria) Limited[25]

Following criticism and outcry for opening up of the sector to indigenes, some more companies have been licensed. These include:

1. Summit Oil
2. Dubril Oil and
3. Consolidated Oil[26]

These companies are all indigenous in character as distinguished from the first category of foreign companies, which are really the main operators in the sector.

6.6 SOME DEVELOPMENTAL PROBLEMS IN THE SECTOR

The present state of oil and gas development in Nigeria poses serious problems of developmental dimensions. Organized as the sector may appear, its effect rather than develop the sector retards it deeper and further into underdevelopment.

I Shall examine only six of these effects to highlight the developmental implications of the status quo. These are

1. Dual role of the Federal government
2. Foreign participation in the sector
3. Citizens and development of the sector
4. Development of the oil and gas sector of the economy
5. Environmental management and
6. Industrial disharmony.

a. **Dual Role of the Federal Government:**

It is the traditional function of government, especially in modern times to inter alia;

- Secure its territory against internal insurrection and especially external aggression;

- To protect life and property of citizens in particular and residents at large.
- To preserve the environment and ensure judicious management of natural resources and the economy to the over all advantage of the constituent peoples of its state;
- To develop the economy by regulating activities therein, to provide a level playing field for all participants, and enable citizens and others invest in its economy with a view to making profit, providing capital and social services and contributing to public development through taxation[27].

These responsibilities are effectively secured to the Nigerian government by the constitution of the Federal Republic of Nigeria[28].
It is pursuant to the last two of the above responsibilities that the department of petroleum inspectorate was established in the NNPC Act, to regulate and stipulate the terms and conditions of participation in the Nigerian oil and gas sector.

The establishment of the NNPC itself, made the government sole investor in the oil and gas sector, in such a way that all other participants are and can only be permitted to do so, as partners to the government through the corporation[29].

This makes the government the regulator and sole investor in the oil and gas sector. This portends serious clash and conflict of interests, with government torn between revenue for self preservation and effective regulation for environmental preservation giving the primacy of self preservation; it is hardly surprising that the former prevailed. This has manifested in the following result:

- Partisan regulation of the sector towards government monopoly,
- Ineffective enforcement of operational standards and safeguards as the regulator is a partner in the breach and has thus become a reluctant enforcer.
- Repression against complaining host citizens aimed at quietening them to ensure continued operation at all cost in pursuit of revenue for the government.

The above perhaps accounts for the fact that in all the years of operation without regard to safety standards, no participant has been penalized.

b. Foreign Participation

Oil and gas as valuable resources of economic significance were first identified by the colonial government, the development of whose home country had necessitated the prospecting drilling, exporting and refining of oil and gas as energy sources. They thus emerged at a time when Nigerian economy and society had not known, let alone understood their economic and developmental value. Sequel to the above, oil exploration understandably started with foreign companies. The Nigeria Bitumen company[30] was the first company to drill wells around Lagos in 1908, albeit unsuccessfully, while Shell D' archy later known as Shell B.P[31] became the first company to strike oil in commercial quantity in Oloibiri in the Niger Delta Area of Nigeria in 1956. Expectedly, the colonial government then in its end years, licensed Shell B.P, to drill oil and prospect for same in what is now half of the nation's oil fields[32].

Since the said colonial penultimate days many more foreign companies have been licensed to prospect for and participate in the up and down stream sectors of the industry, as at 1985, it was observed[33] that ten companies alone had been licensed to participate in the sector, all ten companies were foreign without exception.

There were of course very good reasons for this state of affairs, first the complexity and sensitive nature of the industry demanded high technology and very specialized operators, these were on inception lacking as they largely still are today among local society and citizens.

Secondly, the sector as we have observed herein, is a capital intensive sector, the prospecting cost of which is already almost beyond the material government. Only the foreign companies could muster up the huge capital required for such a dollar heavy venture.

Thirdly, the dynamics of a globalising economy arising from the understanding and co-operation of the world's leading nations/economies[34], also ensured that for many years till date, the secrets of exploration technology were securely guarded and producing nations, through the class relations of nations[35], are kept in ignorance of the means of production of such very important energy source.

The problem identifiable here, is the externalization of the development and exploitation of such a major sector of the economy. The approach which has retained the colonial traditions of exploitation of natural resources in colonies to service "home country" industry[36] has left the Nigerian economy under foreign control. This is especially so in the present capitalist world economic outlook in which industrialized countries, acting through the market forces factor unilaterally determine the price of sale of oil and other primary products, while also fixing the cost at which refined products will be bought by the primary producer / consumer nations.

The externalization of control of the economy has many implications, which transcend economic and straddle socio-political and developmental realms[37]. The security and political stability of many third world oil producing nations have largely depended on the extent to which they have obeyed external neo-colonial instructions from such imperialist countries acting through the multi and trans national companies, international economic regulatory and advisory bodies such as the Bretton woods institutions[38].

c. **Nigerian citizens and the development of the oil and gas sector:**

A follow up to the above point, is the fact that Nigerians are by reason of the above facts, precluded from participating in the development of the oil and gas sector in Nigeria. The reason of course is that they lack the technical "know how" and the capital with which to invest in the sector, at individual level. But even this has a price. Nigerians were not, and never will be involved effectively in the development of their economy in general and the sector in particular as they will never have the opportunity so to do. If development is developer dependent, that is, about what a developing person or subject can do to increase and or advance his capacity to live and enjoy a better life, it follows that a person does not develop if he is not part of the development process[39]. Of necessity the Nigerian oil and gas industry can only be said to be undergoing development if its owner – Nigerians are involved in its exploitation and particularly if Nigerians, not just their government, can apply the proceeds of its exploitation towards enhancement of their standard of living.

The development consequence of the present scenario, is therefore that the oil and gas sector can never sufficiently and properly be developed from a domestic point of view. The Nigerian state will continue to be a renter state, knowing nothing about the actual quantum of its rented property, and knowing nothing of the technology and intricacies of its exploitation.

Considering our status as a consumptive cum non producing economy, even the rent soon goes back to the payer through purchase of finished products and we are left as we were, with nothing, not our natural resources not its proceed.

d. **Environmental Management:**

The environment is our common heritage. It is not just our habitat, it is indeed "us" for without the environment there can not be a people, as even the people themselves are an integral part of the environment. It is for this reason that the due management of the environment and its safeguard has been considered a collective responsibility of every person natural or corporate, individual group or states[40]. Similarly, the need to preserve the environment has transcended municipal concern, to a global or universal quest. In line with the above, the United Nations declaration on the environment at the Stockholm convention, has sought to ensure the measured and reasoned exploitation and utilization of natural resources and the environment without prejudice to the right of unborn generations of mankind to meet, duely preserved, the same degree of environment. It can therefore be adequately described as, not a gift to squander, but a loan from our forebearers standing in credit to our future generations.

The present state of development in the Nigerian oil and gas sector, is not just ineffective, but highly promotional of environmental mismanagement and recklessness.

The power to monitor and manage the environment rests on the government, which doubles as a de-jure senior partner in the business of exploitation of the Nigerian environment[41], and a scrupulous promoter of aggressive and relentless exploitation and exploration of oil and gas, to generate revenue for funding of government[42].

As has been observed above, this makes government not only a reluctant protector of environment, but also the major partner in breach which therefore has greater need to conceal and suppress protests against environmental breach, while window-dressing the nation as one where the international standards of environmental management is largely observed[43]. The effect of this, is the emergence of emboldened foreign operators who disregard host community concerns and safety as the Nigerian government has guaranteed them undistorted operation through its agencies of coercion. What development impact? Of course several and serious.

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With the seat of government far removed from the host communities and environmental recipients of the spoil of oil and gas exploration, the government is preoccupied with the maximization of revenue and too removed, to be sensitive to its impacts, which include in destruction of flora and fauna and general gradual poisoning of the habitat.

Secondly, it has left the government turning blind eye to identified environmental malpractices by the operators[44], thus resulting in severe environmental dislocations and despoliation of the host communities, gradual destruction of its habitat and instalmental decimation of its people who are fellow citizens of the federal republic of Nigeria.

e. **Industrial Unrest:**

Scrupulous exploitation and exploration of oil and the despoliatory environmental effects, the insensitivity of the federal government to the environmental hazards and genuine complaints of its endangered host community people, coupled with the mobile policemen and other apparatuses of state coercion, has created serious unrest in the oil and gas sector[45].

Host communities feel alienated from their "God given" resources, and harassed by their own government. They are thus gradually losing their sense of belonging to the Nigerian state and losing confidence in the ability of its government to protect them and preserve their human / citizenship rights. This has led to an explosion of ethnic nationalism[46].

Similarly, relentless suppression of the people by government has led to relentless resistance to an apparent oppression. This has heightened insecurity in the operational areas of the sector, and led to several deaths of operation staff and host citizens, hijack of operation staff and frequent attacks on oil and gas installations[47]. This would appear to be natural as repression breeds increased resistance and dissent anomy oppressed people the world over. This sense of anomy and neglect has been directly responsible for the

There is an urgent need to revisit the policies regulating the sector and to rethink the practice of exclusion, expropriation and emasculation that prevail in the sector at present. To do this, bold steps of economic and revolutionary nature must be taken to bring desired radical but positive and development promotional change into the industry. Towards this change, I make the following contribution:

8.8 CONCLUSION

1. To be effective as a regulator of the industry, government should prune down its activities in the sector, to regulation. It should leave exploitation to the business class and concentrate on regulation and administration of tax with which it can effectively discharge its duties as other civilized countries do[49]. For this purpose the NNPC should be separated entirely from the petroleum inspectorate division, as it can not effectively discharge its duties both as a major participant and regulation enforcer in an industry as regulation demanding as the oil and gas industry.

2. In the alternative, an independent safety regulator like the federal environmental protection agency should be charged with the regulation of safety and standards in the sector. To ensure effectiveness its membership for the purpose of oil and gas, should include stake holders like "operations host community representatives as well as well known/reputable agencies of civil society such as Environmental Non-governmental Organizations (NGOs).[50] This is because inter governmental relations mired in bureaucratic timidity which is well established in third world nations like ours, will defeat the goal of monitoring, as it leaves the departments, fraternizing as separated institutions of state engaged in "cake sharing".

It is in the character of administrative agencies to get drowned in bureaucratic redtapism to the detriment of their functional objective. This point is instructively stressed by Maclaren when he observed concerning this issue that:

> *Regulatory agencies generally have displayed a number of disturbing tendencies. They may become enmeshed in the bureaucratic net created by the particular system of administration. An accord may be reached and maintained through agency officials moving to the industry side. They may fail to enforce their legislation perhaps on the basis of policy*

directives from their minister, but more likely, simply through inertia and fear of generating heat. [50A]

3. There is need for government to begin to take steps towards divesting from active participation in the exploitation sector of the industry. Government participation is not just uneconomic and distractive; it creates a false sense of economic growth centered on the government coffers, and thus is promotional of underdevelopment. Divesting the government will break its unhealthy monopoly in the sector, and thus open the sector to the entrepreneurial creativity of the business class; this will in turn enhance the investors financially, create more jobs and uplift the living standard of the citizens. This is the true index of development?[51]

4. Divestment as suggested here above, will still come to naught, unless deliberate effort is made to de-alienate the sector, by opening it up to indigenous participants. The current monopolization of the sector by the government, has cast a shroud, a semblance of "hallo" over the sector, keeping it out of indigenous reach for now and for always. Enhancing citizens to participate by according them financial and or technical assistance will bring out the best in the Nigerian investor and oil and gas practitioners[52]. It will be only a matter of time, and they will prove themselves equal to the task as their compatriots who have acquired foreign citizenship following the brain drain, are presently proving themselves around the world. It is in this regard that the ongoing privatization of the industry must take into consideration the peculiarity of the Nigerian condition and ensure that privatization must mean more than transferring control from government hands to the private sector[53]. It must mean vesting the economic destiny of Nigeria in the hands of its people.

5. The people of the host communities of oil and gas operations must be integrated into the process, if the sector is to experience any semblance of industrial peace. As I have argued previously[54], the greatest security of oil and gas operators will come not from the barrels of the federal guns, but through the co-operation and participation of the host communities[55]. It is as pertinent as it is urgent, that such communities be availed shares or percentages of the proceeds from exploitation of their natural resources. This will make them see themselves as stake holders which they are, and co investors who will necessarily protect the investments and materials as their own knowing that it's proceeds is partly theirs and that it also serves their needs[56]. This is

particularly so, when they are as suggested in 2 above, equally involved in the safety regulation and can therefore ensure that operations of the industry takes into strict account, their health, safety and environment; as Omoweh agrees,

> *"... the people would also have the feeling that they are part and parcel of both the decision-making as well as the development process. And with this sense of belonging, the protection of the environment would be the collective responsibility of all, while incidences of protest would be minimized."*

It is obvious that the oil and gas sector is a high risk sector as well as a capital intensive one, it is also self evident from the above presentation, that the current approach of the Nigerian state towards development of the sector is riddled with serious defects that will leave the country in perpetual dependency on the external sector, as it is reduced to a rent collector who knows neither the quantum nor the output of the investment over which he is entitled to levy tax. It is also clear that the present state leads the nation away from the paths of development, far into the depths of chronic undevelopment, where it will perpetually remain endowed with natural resources but know and learn nothing of how to exploit it to serve its needs nor how to harness it to service its own industries.

Unfortunately, the state will predictably not benefit from researches and recommendations of the nature made here as it presently lacks the political will and industrial sincerity required, yet it is the lot of all patriots to individually and collectively think aloud and persuade or compel this nation to cast off its toga of colonial philosophy and policy of development, and rediscover its great potential and destiny that it may free and perfect itself and its citizens. The oil and gas sector is a veritable tool of such self liberation in view of its primal place in the all important global energy sector. Whether Nigeria succeeds in this bid will depend on its ability to make radical changes, and refocus development on its citizens, as only indigenous driven development can be sustainable. In doing so, we must realise as the world has come to do, that

> *The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the*

> *world; it is the urgent desire of the peoples of the whole world and the duty of all government....a point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance of indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depends.* [57]

The Nigerian environment is already massively harmed espe
production areas, the protection and preservation of what is
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END NOTES AND REFERENCES

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24. Examples here include the various Refining Companies at Port Harcourt, Kaduna and Warri respectively, Nigerian Petroleum Development Company Limited, the Nigerian Gas Company Limited, and integrated Data System Nigeria Limited.
25. See Okagbue, A. The Law and Development of Natural Gas in Nigeria. 1985 NIALS, Lagos P.4 also Ikein A. Op cit. p. 8 - 11
26. It is important to note that while some of these companies have already fizzled out, even while at their best, their existence did not make any significant difference, as what they controlled was insignificant. See also Sagay, I.E. op cit P.1
27. See for further details, Lee, s: HANDS OFF: Why Government is a Menace to Economic Health. 1996, Simon and cluster, P. 53.
28. See s. 44 (3) of the 1999 Nigerian constitution.
29. Following the establishment of NNPC in 1977 the government acquired majority shares in all major producing companies presently fixed at 60% except shell, which is 80%.
30. A German company, which initially set, out to explore for Bitumen and was stopped by the World War II
31. It was later nationalized into its present status as shell NNPC Nigeria Limited with owing 80% shares.
32. See Ikein, A. A. Op. cit 22 - 25
33. Ibid p. 1-4, see also Okagbue op. cit. p.4
34. The scramble for Africa at the Birlin conference of 1884 – 5 set the stage, while the Group of Industrialized nations, the Breton wood institutions such as the world bank and IMF have sustained the trend.
35. For details see Ake, C: Revolutionary Pressures in Africa 1978 Zed press, London Chapter 1
36. See Nkrumah, K: Neo Colonialism: the last stage of Imperialism. 1965 Thomas Nelson & Sons, pp.1 - 2
37. We have discussed these in Wokocha et al: "The legal and Regulatory challenges of Resources control in Nigeria" being a paper presented at the 38th law Teaches conference held in Lagos in 2002. pp. 9 – 11.
38. See Ake, C: The marginalization of Africa op cit. p. 18 - 19
39. Ibid p. 42
40. This will enable all such stake holders take positive and proactive steps towards protecting the environment from abuse.
41. By possessing 60% of the shares of participating companies

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41. By possessing 60% of the shares of participating companies
42. See sagay, I. E: op cit Note 6, p. 17 - 18
43. This has become the unofficial policy of the Government's image launderers, especially since these protests began in about 1992.
44. A glaring example is the case of citing of gas plants in Obagi and Obrikom Communities of Rivers State without base line studies, protested by the host communities in 1999. See Newswatch of 16th April 1999, p. 23
45. See chokor, B.A: Appraising the structural. Aspect of the crisis of community development and environmental degradation in the Niger Delta in Oshuntokor (ED). Environmental problems of the Niger Delta, Friedrich Ebert foundations, 2000 p. 72 - 73
46. See for detailed study, Ofeimun, O: renewed Nationalist Agitations and the politics of subverted federalism in Nigeria" in boiling point 2000 CDHR, Lagos, p. 66 – 77.
47. This trend has been frequent since 1996 especially after the Ogoni killings
48. Chokor, B. A: op cit. Also see generally, Oyerinde, A: "Oil disempowerment And Resistance in the Niger Delta" in CDHR: Ken Saro-Wiwa and the Crises of the Nigeria State. 1998, p.55-70.
49. This is commonplace among progressive economies like U.S.A UK and Canada.
50. Such organizations as Green Peace, save the Earth, Friends of the Earth, are already similarly actively involved in Environmental Monitoring in advanced countries such as the U.S.A, Canada, Italy and the U.K. They are usually neutral and effective.
50A. Maclaren, J. P. S op cit P. p. 507 (1972)
51. See Marx, K.: A contribution to the critique of political economy in feuer, L.S. (Ed) Marx & Engels Basic writings 1969, Fontana, 84. also Omoweh, D: infra note 55.
52. Ahiauzu, A. I. Has stressed this point of industriousness in private sector among Africans generally in his book The African Industrial man 1999 CIMRAT, P. II.
53. This general view of privatization presently predominates Government thinking in Nigeria.
54. Wokocha R. A. "Development Right concerns in the Niger Delta" in Wokocha R. A. (Ed) Development Right issues in the Niger Delta 2002 Jite Books, p. 34.
55. Ibid. See also Omoweh, D. A: "Nigeria: "Oil Exploration and Production Theoretical overview" in Boiling point 2000 CDHR, P. 41.
56. Ibid.
57. Declaration of the UN Congress on the Human Environment at 2 UNDOC. A/ CONE 48/14 et. Seq. 1972.