

MEMORANDUM SUBMITTED

to the

**HOUSE OF REPRESENTATIVES
COMMITTEE**

ON THE

PETROLEUM INDUSTRY BILL 2009

by

**IJAW, ISOKO & ITSEKIRI LEADERS FORUM
OF DELTA SOUTH SENATORIAL DISTRICT
DELTA STATE**

IJAW, ISOKO & ITSEKIRI LEADERS' FORUM
MEMORANDUM TO THE SENATE JOINT
COMMITTEE ON THE
PETROLEUM INDUSTRY BILL 2009

INTRODUCTION

This Memorandum is submitted by the Ijaw, Isoko and Itsekiri Leaders Forum of Delta State of Nigeria pursuant to an invitation published by the Joint Committee of the Senate of the Federal Republic of Nigeria in The Vanguard newspaper of Tuesday, July 21, 2009. at page 24.

The Ijaw, Isoko & Itsekiri ethnic nationalities occupy Bomadi, Burutu, Patani, Isoko North, Isoko South, Warri North, Warri South & Warri South West Local Government Areas of Delta South Senatorial District of Delta State. Ugborodo Community in Warri South West Local Government Area is host to the Chevron/Texaco Escravos Tank Farm and the Escravos Gas To Liquid (EGTL) Projects in Escravos, while The Forcados Terminal is in Burutu Local Government Area. The Delta South Senatorial District produces oil and gas, both offshore and onshore.

That this Bill is coming at a time when the Federal Government is employing all tactics to arrest the crisis in the Niger Delta from where oil & gas is extracted is, perhaps, divinely appointed to correct the age-old injustices being done to the people of our Region for over 50 years.

Before and after independence in 1960, when cocoa, groundnut and palm oil were the main sources of Nigeria's revenue, ownership of resources was left to the Governments of the various Regions. When suddenly petroleum became the largest source of revenue, the rules of the game changed: all revenues from petroleum are thrown into a melting pot and shared between the Federal, States, and Local Government Councils, using various phony principles like population, equality of states, land mass, terrain, etc. This led to agitations disguised as conflicts over revenue allocation. The Federal Government thus between 1982-1992 gave 1.5% for derivation: and later increased it to 3% and now it is 13%.

What really lies at the bottom of the agitations in the Niger Delta is demand for fiscal federalism and resource ownership. The Ijaw, Isoko, and Itsekiri strongly believe that the agitation is well founded. Perhaps, apart from Nigeria, there is no country in the world that practices federalism that vests ownership of natural resources in the Central Government. Even in Sudan, there is a petroleum sharing arrangement that gives greater share to Southern Sudan, which has the smallest population but is the main source of petroleum production.

It is worthy to note that the Presidential Technical Committee on the Niger Delta in its report at page 124 in volume 3 noted:

“...fiscal federalism and resource ownership are necessary to address the yearnings of the people of the Niger Delta that produce most of Nigeria’s revenue”.

We identify with this position.

Following from the above, it is our submission that ownership of petroleum resources be vested in the States in which petroleum is found and produced in Nigeria **in trust** for the **petroleum producing communities**. This should be inserted in the proposed Petroleum Industry Bill 2009,

COMMENTS ON THE PETROLEUM INDUSTRY BILL, 2009

In view of the foregoing we submit that this Bill should therefore be amended to reflect this demand in addition to the few suggestions below.

1.0 SECTION 1, PART 1

The draft Bill proposes

“Property and Sovereign ownership of petroleum within Nigeria, its territorial waters, the continental shelf, the Exclusive Economic Zone and the extended continental shelf shall vest in the sovereign state of Nigeria for and on behalf of the people of Nigeria”

OUR COMMENTS/RECOMMENDATIONS

This Section should vest the property and sovereign ownership of petroleum within Nigeria, its territorial waters, the continental shelf, the Exclusive Economic Zone and the extended Continental shelf in the States in which petroleum is found and produced in Nigeria **in trust** for the **communities where petroleum is found and produced**. In line with our position we recommend that the Bill should read as follows:

“Property and sovereign ownership of petroleum within Nigeria, its territorial waters, the Continental Shelf, the Exclusive Economic Zone and the extended continental shelf shall vest in the State in which petroleum is found and produced in Nigeria, in trust for the communities where petroleum is found and produced.”

2.0 SECTION 9 OF CHAPTER I OF PART II:

The draft Bill states: “The Minister in charge of petroleum resources shall be responsible for the co-ordination of the activities of the petroleum industry and shall have overall supervisory functions over petroleum operations and all the institutions of the industry”.

OUR COMMENTS/RECOMMENDATIONS:

For a sustainable peace in the Niger Delta, this section should read:

“9. The Minister in charge of Petroleum Resources who must come from a petroleum producing community, shall be responsible for the co-ordination of the activities of the petroleum industry and shall have overall supervisory functions over petroleum operations and all the institutions of the industry.”

3.0 **SECTION 13 OF CHAPTER II OF PART II:**

This draft Bill states the functions of the National Petroleum Directorate (NPD) will serve as the secretariat of the Minister.

OUR COMMENTS/RECOMMENDATION:

Following our recommended amendment to Section 1 above to vest ownership of petroleum in the States in which petroleum is found and produced in Nigeria in trust for **the communities where petroleum is found and produced**, maximum benefits from all contracts and fiscal arrangements entered into in the industry, should accrue to the States in which petroleum is found and produced in trust for the petroleum producing communities.

The following subsections, namely, 13(d), 13(m)(iv) and 13(q) should be amended as recommended below:

3.1 **SECTION 13(d):**

This Section should be amended to read:

“(d) ensure that the petroleum producing communities, derive maximum advantage from

all petroleum contracts and fiscal arrangements that may be entered into by any of the institutions and companies for the economic benefit of the communities.”

3.2. SECTION 13(m) (iv):

We propose that this should read:

“(iv) Petroleum producing communities”

3.3 SECTION 13(q)

We propose that this should read:

“(q) hold, on behalf of petroleum producing communities, all unallocated acreages of crude oil and natural gas”

3.4 Section 41 (1) (e)

The sub-section should read five persons to be appointed by the President from the oil producing communities on the recommendation of the Governors of the five highest producing states who shall ensure that the persons recommended by them are not only from the major oil producing communities of their states, but also have the ability and experience to enable them make useful contribution to the work of the Inspectorate.

3.5 Sec. 79 (1) (e)

To be amended as in Section 41 (1) (e)

3.6 Sec. 117 (1) (e)

To be amended as in 41 (1) (e)

- 3.7 **After sec. 200 (2) (g)**
Add sub-section (j) to read "A representative of the oil producing communities".
- 3.8 **226 (1) (a)**
Add after the words "or abroad" the following "Provided that at least 60% of the beneficiaries of the scholarships and bursaries shall come from oil and gas producing communities".
- 3.9 **Section 227 (2) (d)**
Add immediately after the word "President" the following: "Provided that such persons shall come from oil/gas producing communities".
- 4.0 **Section 403 (1) (a)**
Immediately after the words "Board of Directors" in this sub-section, add "Provided that 60% of the said ninety five percent shall come from oil producing communities where the holder of the lease operates" and
- 4.1 **Section 403 (1) (b)**
This sub-section should read "The numbers of Nigerian citizens in anyone such grade shall not be 60% of the total; provided that 60% of the percentage shall come from the oil producing communities".
- 4.2 In this memorandum, the word "communities" or "community" includes ethnic nationalities.

5.0 REQUEST TO REPEAL THE FOLLOWING LAWS

Following our request above and in order to promote fiscal federalism and resource control, we demand that the following enactments be repealed from the proposed Bill.

- a) The Land Use Act, CAP L5.2004
- b) The Petroleum Act, CAP P10.2004
- c) Lands (The Vesting etc) Act (Decree No. 52 of 1993)
- d) Territorial Waters Act, CAP T5 2004
- e) Petroleum Equalization Fund (Management Board etc) Act, CAP P11.2004
- f) Petroleum (Special Trust Fund) Act, ACT P14.2004
- g) Oil in Navigable Waters Act, CAP 06.2004
- h) Oil Terminal Dues Act, CAP 08.2004
- i) Exclusive Economic Zone Act
- j) Sea Fisheries Act, CAP S4.2004
- k) Special Petroleum Offences Miscellaneous Decree
- l) Petroleum Drilling and Production Act
- m) The NNPC Act, etc.
- n) Section 44 (3) of the 1999 constitution

6.0 We also recommend that the head offices of all oil and gas producing companies should be located in the community where it carries out its operations.

7.0 CONCLUSION

In conclusion we must say that peace is not the absence of conflict but the presence of justice. For enduring peace in the Niger Delta justice must be done to the people. This Bill which intends to rob Peter to pay Paul is not in the interest of peace. Except petroleum producing communities receive a fair deal in the management of their God given natural resources, no amnesty can bring sustainable peace in the Niger Delta Region.

DATED THIS 28TH DAY OF JULY, 2009

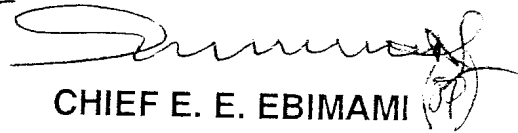
SIGNED FOR AND ON BEHALF OF THE IJAW, ISOKO AND ITSEKIRI
LEADERS FORUM OF DELTA STATE



SENATOR F. S. OKPOZO
(CHAIRMAN)



CHIEF I.O. JEMIDE
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CHIEF E. E. EBIMAMI
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